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European Charter for Regional or Minority Languages

APPLICATION OF THE CHARTER IN CROATIA

- 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 initial periodical report 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 its Part II and in more precise terms all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee's first task is therefore to examine the information contained in the initial 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 better evaluate 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.

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Strasbourg, 2 December 2000

European Charter for Regional or Minority Languages

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

presented to the Committee of Ministers of the Council of Europe
in accordance with Article 16 of the Charter

CROATIA

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Chapter 1 Background information

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. The Croatian authorities published the text of the Charter in their Official Gazette on 28 October 1997 (Year VI, Volume 18, ISSN 1330 0032).

2. In accordance with Article 15.1 of the Charter, Croatia presented its initial periodical report to the Secretary General of the Council of Europe on 19 March 1999. The initial periodical report of Croatia has not been distributed to interested parties in Croatia. The authorities informed the Committee that the report would be published on the official internet web site of the Croatian Government, but so far the report cannot be found on the official government website (<http://www.murh.hr>). The report has therefore not been made public in accordance with the requirement in Article 15.2.

3. This report was adopted by the Committee of Experts on 1 December 2000.

1.1. The work of the Committee of Experts

4. After the Committee of Experts had made its preliminary examination of the report, a questionnaire was drawn up and addressed to the Croatian authorities. Upon receipt of the replies, the Committee examined the report in detail and prepared a document for the authorities to reply to before its “on-the-spot visit” organised in Croatia in October 1999. During the “on-the-spot visit”, the Committee met representatives of regional or minority language associations, the Office for National Minorities and the Council of National Minorities. The Committee furthermore met members of the Parliamentary Committee for Human Rights and its Sub-Committee on National Minorities. On the same occasion the Committee had the opportunity to consult with representative of relevant ministries. The Committee travelled to the Eastern Slavonian region in Croatia, and visited schools where regional or minority languages are used, courts, and local administrations. These institutions provided the Committee with information on the use of the various languages in Croatia.

5. On the basis of the information gathered from the initial periodical report, the questionnaires and the “on-the-spot visit”, the Committee of Experts was better able to prepare its evaluation of the application of the Charter in the Republic of Croatia even though it considered that further clarification by the authorities could have been useful for many items covered in this report.

6. The Committee has established a list of general proposals for the preparation of recommendations by the Committee of Ministers to the Croatian authorities, in this case Croatia, as required in Article 16.4 (Chapter 3.2 of this report). Furthermore, where necessary, the Committee has made, in the body of the report, more detailed observations which it encourages the Croatian authorities to take into consideration when developing their policy with regard to regional or minority languages.

7. This report is based on the political and legal situation at the time when the Charter was ratified by Croatia and at the time when Croatia presented its initial periodical report to the Council of Europe. The Committee is aware of the political changes that have taken place in Croatia at a later stage and of the recently adopted acts on the use of and education in the language and script of national minorities in

the Republic of Croatia. The Committee believes that the legal situation concerning regional or minority languages has improved compared to the presentation in the initial periodical report and the information the Committee has gathered on the basis of that report. Further improvements are expected to be presented by Croatia in the next periodical report, due in 2002. The Committee has not taken all of these changes into consideration in its evaluation of the language situation in Croatia, since its task was to consider the situation as it was in October 1999.

1.2. Presentation of the regional or minority language situation in Croatia

8. In its instrument of ratification, Croatia identified the following languages as protected under Part III: the Italian, Serbian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian languages. Croatia has made a reservation to Article 7.5 of Part II of the Charter which excludes non-territorial languages from its scope of application. The instrument of ratification also contains a declaration which will be dealt with under paragraphs 19 and 20 of this report.

9. The Committee has noted the great wealth of regional or minority languages in Croatia and realises the efforts that the Croatian authorities have undertaken to reconcile and harmonise their policy with the aim of preserving Croatia's cultural diversity.

10. The last population census was carried out in Croatia in 1991. Two figures are provided for each language, one identifying the number of persons belonging to the minority and the second identifying the number of mother tongue speakers. The number of mother tongue speakers identified in the 1991 census is presented below, and not the number of persons belonging to the specific minority. The Committee is aware that the number of persons having command of a regional or minority language can be higher than the number of those that consider it a mother tongue. In accordance with the information received in the initial periodical report, the number of users of regional or minority languages and their geographical distribution is as follows:

Language	Mother tongue speakers (minorities)	Territory
Italian	26 580	Istarska county Primorsko-Goranska County
Hungarian	19 684	Osjecko-Baranjska County Vukovarsko-Srijemska County
Czech	10 378	Bjelovarsko-Bilogorska County
Slovak	5 265	Osjecko-Baranjska County Vukovarsko-Srijemska County
Ruthenian	2 845	Osjecko-Baranjska County Vukovarsko-Srijemska County
Ukrainian	1 430	Osjecko-Baranjska County Vukovarsko-Srijemska County

Language	Mother tongue speakers (minorities)	Territory
Serbian	207 300	Users of the Serb language are mainly dispersed over the whole territory of the Republic of Croatia with some concentrations in parts of Osjecko-Baranjska, Vukovarsko-Srijemska County, Šibensko-Kninska County, Zadarska County, Licko-Senjska County, Karlovacka County, Sisacko-Moslavacka County.

11. In addition to the languages covered by Part III of the Charter, the Committee also has to consider other languages that should be covered by Part II. The Croatian authorities have made a reservation to Article 7.5, thereby excluding non-territorial languages from the Charter. The Committee has received information to the effect that the Slovene and Bosnian languages should be considered traditionally used languages on the territory of Croatia and could therefore be considered as territorial languages under Part II of the Charter. The Committee is presently not in a position, on the basis of the information received, to decide whether or not the Charter should apply in this respect. The Croatian authorities are encouraged to clarify these issues in their next periodical report.

12. Essentially, the Committee has noted that there is a clear lack of up-to-date information regarding the number of users of the languages protected under Part III of the Charter. This is understandable in the light of Croatia's recent history, which has created difficulties in providing accurate information.

1.3. Particular issues arising in the evaluation of the application of the Charter in Croatia

13. The situation in Croatia has to be evaluated in the light of the "the war situation and the post-war situation" that have existed for the past decade, and more specifically, with regard to the difficulties Croatia has faced with the reconstruction of a democratic State. A special situation exists for the reintegration of Eastern Slavonia, which occurred in 1997 as a consequence of the Erdut Agreement.

14. The situation in Croatia has also to be examined in the light of the effects of the return of refugees and displaced persons, especially in the Eastern Slavonian region. The Joint Council of Municipalities (JCM) was established to co-ordinate the interests of the Serb population in that region, and especially for advising on government policy and measures for the reintegration of the region and promotion of reconciliation. This is a very positive element in the reconstruction of Croatia and should be enhanced and encouraged. An obstacle to this is the economic situation in that region, which has a direct effect on the work of the JCM and on the return of refugees.

15. The situation presented in the previous paragraphs has obviously created difficulties for Croatia in implementing the Charter.

16. The Committee recognises that the Croatian ratification instrument provides for a protection that goes further than the existing legal provisions in Croatia at the time of ratification. This is ambitious and may be considered a step in the direction of effective regional and minority language protection.

17. The instrument of ratification has been drawn up in such a manner as to provide exactly the same level of protection for all the seven languages under Part III: Italian, Hungarian, Slovak, Czech, Serbian, Ruthenian and Ukrainian. The Charter, however, is constructed in such a way that the State can adapt the protection of the various languages to the real situation of each language. That is indeed the principal justification for the possibility offered to each State in Article 2.2 to choose among the provisions of Part III. This is clearly stated in paragraph 43 of the explanatory report of the Charter, which specifies that the State in question has to determine which paragraphs of Part III are to be applied to each particular language. The instrument of ratification indicates on the other hand that all the languages chosen should receive equal protection. This is, however, contrary to the actual situation of the languages because they in fact do have a different legal status in Croatia.

18. At the time of the presentation of the initial periodical report to the Council of Europe, the following legal acts and provisions were relevant to the application of the Charter:

- the Constitution of the Republic of Croatia, specifically Articles 12 and 15;
- the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia.

These two basic instruments prescribe the use of regional or minority languages in Croatia, with a specific reference to other legal acts implementing these provisions. These other "legal acts" had not, until recently, been adopted by the Croatian Parliament and have therefore not been taken into consideration in the examination of the application of the Charter by Croatia. Clearly this lack of legislation resulted in the inapplicability of certain basic rights enshrined in the Constitution and the above-mentioned constitutional law.

19. 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."¹

¹ Article 7:

"Members of all ethnic and national communities or minorities in the Republic of Croatia are entitled to the free use of their language and alphabet, both publicly and privately.

In those municipalities where members of a national or ethnic community or a minority represent the majority of the total population, the alphabet and language of that national or ethnic community or minority will be officially used together with the Croatian language and the Latin alphabet."

Article 8:

"Local self-governing units may decide to use two or more languages and alphabets, taking into account the number of the members and interest of national or ethnic communities or minorities."

20. The implications of this declaration are unclear. It can be interpreted in various ways. The Committee has concluded that the declaration has to be interpreted in the light of the other elements in the instrument of ratification and of the initial periodical report of Croatia.

21. Article 7 of the Constitutional Law provides that, where a minority represents more than 50% of the population, the relevant minority language becomes official in the concerned area. This in itself does not create a difficulty, apart from the fact that 50% represents a very high percentage of minority language speakers to use as the yardstick. This is true especially in cases where a municipality comprises more than one minority, since it will be difficult to reach this 50%. In Croatia this provision has never been applied.

22. However, under Article 8 of the Constitutional Law, if the percentage of users of the regional or minority language is below 50%, it is solely the responsibility of the local authorities to decide whether the language concerned should be officially used in the municipality.

23. The use of regional or minority languages in state administrations and the courts depends on a special law on the official use of minority languages which had not been adopted at the time of the presentation of the initial periodical report.

24. In the light of recent developments in Croatia, the Committee recognises that the Croatian authorities have already introduced changes in their legislation with the aim of furthering the protection of the regional or minority languages. It is convinced that some of the items highlighted in its findings have already been improved upon in the internal legal order and government policy. The Croatian authorities will therefore have the opportunity to present these changes in their next periodical report to the Council of Europe.

25. The Committee has tried, by its normal information-gathering procedures, to assemble as much information as possible on the language situation in Croatia. It has, however, been very difficult to obtain sufficient information to enable the Committee to gain a complete overview of all the regional or minority languages used on the territory of Croatia. The authorities have provided information as requested, but the Committee hopes that more comprehensive information will be submitted in the future, so as to facilitate the continuing evaluation of the application of the Charter.

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

26. The text of the Charter, when read in conjunction with the instrument of ratification, indicates the exact undertakings that apply in respect of the different languages in the areas covered by the Charter. The Committee has therefore evaluated how the State has fulfilled each undertaking in Part II (Article 7) and Part III (Articles 8-14), using the paragraphs and sub-paragraphs specified in the instrument of ratification.

2.1. The evaluation in respect of Part II of the Charter

27. Part II (Article 7) of the Charter sets out a number of general objectives and principles that a Party is obliged to apply to all the regional or minority languages on its territory. In their initial periodical report, the Croatian authorities have specified the German, Hebrew and Roma languages as non-territorial languages. The Croatian authorities have made a reservation to Article 7.5.

28. This article stipulates that the provisions of Part II of the Charter must be applied *mutatis mutandis* to non-territorial languages. This reservation results in the non-application of Part II of the Charter to the German, Hebrew and Roma languages. As mentioned in paragraph 11 of this report, the Committee has received information indicating that there could be other territorial languages than those covered by Part III.

29. In the light of the above, the Committee has evaluated the application of Article 7 to the languages that have been chosen under Part III of the Charter, namely: Italian, Hungarian, Slovak, Czech, Ukrainian, Ruthenian and Serbian.

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:

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

30. The Committee of Experts took the view that the constitutional recognition of the languages specified in the instrument of ratification (that is the Italian, Serbian, Hungarian, Czech, Slovak, Ruthenian and Ukrainian languages) could be considered as complying with this obligation. Croatia has furthermore recognised their existence by identifying them under Part III of the European Charter for Regional or Minority Languages.

- “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;”*

31. The reorganisation of territorial administration, since 1992, seems to have created an obstacle to the promotion of regional or minority languages. The Committee encourages the Croatian authorities to examine these new administrative divisions in order to provide for measures that promote the use of the languages.

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

32. In the light of the variety of language situations that may be encountered in the various European countries, the authors of the Charter did not regard it as feasible to provide a list of actions which might be considered as *“resolute”* according to Article 7.1.c. They assumed that the State would be apt to determine what kind of action was required to fulfil this undertaking, especially in the light of the different linguistic situations in European States and also the fact that this action should be adapted to the different specific needs of each language.

33. The Croatian State has taken initiatives that raise awareness of the need to protect and promote regional or minority languages. The establishment of the Governmental Office for National Minorities, and the work of the Parliamentary

Committee for Human Rights, and especially its Sub-Committee for National Minorities, are among them. It is also noted that parliamentarians belonging to the various minorities in Croatia are normally members of this sub-committee. Furthermore, Article 43.1 of the constitution as well as Article 4.2 of the Constitutional Law on Human Rights and Freedoms and Rights of Ethnic and National Communities or Minorities in the Republic of Croatia have been implemented by the establishment of the Council of Ethnic and National Communities or Minorities in the Republic of Croatia. This consultative body was established to enable representatives of minorities to have the opportunity to discuss officially with government representatives matters concerning minority protection policy, including the protection or promotion of regional or minority languages. This body is not restricted to discussing only the languages covered under Part III, but also those of all minorities in Croatia.

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

34. The users of all regional or minority languages in Croatia have the possibility of using their language in private and public life. The term “public life”, as understood by the Charter, is fairly wide and can include the use of the language in education, justice, administration, economic and social life, cultural life, the media and in transfrontier exchanges. This is developed in the second part of this chapter in respect of the implementation of Part III of the Charter. The Government Office for National Minorities furthermore co-finances programmes of associations that promote regional or minority languages.

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

35. The Council of National Minorities, established in January 1998, comprises representatives of minorities. It consults with government representatives on official matters relating to minority protection policy and proposes laws or amendments to laws. To a certain extent, this body in a sense fulfils the need of creating links between groups that use regional or minority languages in Croatia.

36. Representatives of users of other languages in Croatia are also members of this Council.

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

37. Considering education to be one of the most crucial factors in promoting a language, and especially in pre-school, primary and secondary education, the Committee encourages 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.

“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;”

38. The Committee found that no provisions exist to promote the teaching of minority languages to non-speakers of the language living inside the area where it is mostly used. The organisation of such classes is on the initiative of private organisers. Therefore the Committee concludes that there is no measure that

specifically facilitates the learning of a regional or minority language by non-speakers in the area where they reside and the language is spoken. The provision of these kinds of facilities is conducive to mutual understanding and tolerance between the speakers of the different languages spoken in a State.

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

39. Government funds granted by the Ministry of Science and Technology are available to finance research on the various regional or minority languages. This is a good initiative on the part of the authorities and should be continued.

“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.”

40. The Croatian authorities have taken initiatives to encourage and promote different types of transnational exchanges in the various fields covered by the Charter. The Committee considers that these initiatives are both a significant means of promoting regional or minority languages and an important element of European integration. They should therefore be continued for the benefit of the protection of all regional or minority languages that exist within the Croatian territory.

“Paragraph 2

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

41. Article 3 of the Constitution identifies “equality of nationalities” as being one of the highest values of the Republic of Croatia. There is a general non-discrimination clause in Article 14.1 of the Constitution, which guarantees the general requirement of this undertaking. Paragraph 2 of the same article guarantees equality before the law.

“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.”

42. This undertaking requires States to take concrete positive measures to promote respect, understanding and tolerance for all languages used on the territory of the State. Such positive measures could, for example, include informing the whole population of the existence and value of the regional or minority languages and the inclusion in the national curricula of the culture and history of the users of these languages. The Committee found, for example, during its visit to the Eastern Slavonian region that tolerance towards the use of the Serbian language is lacking. While recognising that the history of Croatia clearly influences the situation of the users of the Serbian language, the Committee strongly encourages 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.

The Committee considers that the Croatian authorities should take measures to improve respect, understanding and tolerance over the whole of the territory of Croatia in relation to regional or minority languages.

“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.”

43. The Committee was not able to establish whether the needs and the wishes expressed by the groups which use the regional or minority languages in Croatia had been taken into consideration at the time of the ratification of the Charter. Relevant bodies and associations may have been consulted when later legislation on the use of regional or minority languages was adopted, however at the time of ratification no consultation took place according to the information received by the Committee.

44. The Government Office for National Minorities in Croatia serves as a consultative body of the Government of Croatia with the principal role of providing expertise and carrying out tasks entrusted to it by the Government regarding policy undertaken in respect of national minorities. Its role is also to observe that rights established in the Constitution and its implementing legislation are applied in matters relating to rights of minorities. The Office furthermore allocates financial resources to the various national minorities. The representatives of the minorities or the minority languages are not involved in the actual work of the Office, even though the latter's main responsibility is for matters that are directly related to the protection and furthering of regional or minority languages in Croatia.

45. The Committee considers that the Council of National Minorities may act as the co-ordinating body through which users of regional or minority languages may express their needs and wishes on the protection of those languages. To fulfil this undertaking, the Croatian authorities are encouraged to allow the Council to play a more active role in policy formulation.

The Croatian authorities are encouraged to involve the Council of National Minorities in the work that relates to the protection and promotion of regional or minority languages, with special reference to the implementation of this Charter.

“Paragraph 5

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

46. The Croatian authorities have made a reservation to this paragraph, thereby excluding all protection and promotion of non-territorial languages under the Charter. The Committee hopes that the Croatian authorities, will nevertheless strengthen efforts to promote these languages, and will especially take into consideration the needs of the Romany language.

2.2. The evaluation in respect of Part III of the Charter

47. The Committee of Experts 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 Italian in the County of Istarska, the Czech language in the County of Bjelovarsko-bilogorska, Hungarian, Slovak, Ruthenian and Ukrainian in Osjecko-baranjska and Vukovarsko-srijemska Counties, and finally the Serbian language on the whole of the territory of Croatia. The reference to the various territories was made in the Initial Periodical Report of Croatia.

48. The paragraphs and sub-paragraphs that are quoted in bold italics are the concrete obligations chosen by the Republic of Croatia.

Article 8 – Education

“Paragraph 1

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

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.”***

49. Pre-school education exists to a certain extent in all the languages that are relevant to Part III. The Committee has, however, received no information as to whether there is a fixed number of pupils which is considered sufficient in order to apply one of the measures under Article 8, paragraph 1, *a i* to *ii* to minority languages, and if so what the number is.

50. The Pre-School Education Training Act (Official Gazette, No.10/1997) makes no reference to the minimum number of pupils required for the organisation of a class in a language or for the teaching of a language. This act makes reference to the State Pedagogical Standard Act, which has not been adopted and therefore the applicable provision is in Article 14 of the Decision on the Elements of the Pre-School Care Standard (*Official Gazette* 29/1983), which allows for groups in a minority language to be smaller than normal classes, but again without a reference to the actual number of pupils required. The Ministry of Education, however, has confirmed that regional or minority language classes are organised for a minimum of seven pupils.

51. The Committee must therefore conclude that pre-school education in a regional or minority language exists for the seven languages in certain regions. There is no information indicating if this is a right which families can invoke, should they request pre-school education in a certain language in sufficient numbers (in this case for a minimum of seven pupils).

52. The Committee also noted that summer schools have been organised for children at pre-school level in regional or minority languages. Even though these schools are not sufficient to fulfil this undertaking, the Committee acknowledged the effort made by the Croatian authorities in the organisation of these schools.

The Committee encourages the Croatian authorities to provide access to nursery school in a regional or minority language if families so request and if their number is considered sufficient, as well as to make this procedure more transparent. The State authorities should ensure that the municipalities which are responsible for organising this level of education, see to it that pupils have the possibility of benefiting from it in their language, at least in the case of those pupils whose families so request and whose number is considered sufficient.

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”***

53. According to the information received by the Committee, primary school education exists in all the regional or minority languages, except Ukrainian and Ruthenian. It is not clear whether there is a fixed number of pupils which is considered sufficient in order to apply one of the measures under Article 8 paragraph 1, *b.i to iii* to the different minority languages, and if so what the number is. The Committee must therefore conclude that primary school education exists in certain regions for five of the seven languages, but that there is no information to indicate whether or not this is a right which families can invoke if they request it in sufficient numbers. The obligation is not fulfilled for the Ruthenian and Ukrainian languages.

54. As for pre-school education, there is a lack of transparency and of an organised structure likely to provide sufficient access to education in a regional or minority language at least to those pupils whose families so request and whose number is considered sufficient.

The Committee encourages 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 wish to be taught a regional or minority language at primary school level.

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.”***

55. The Committee has received data showing that secondary school education exists in Hungarian, Italian and Serbian, but not in Czech, Slovak, Ruthenian or Ukrainian. The Committee has received no information as to whether there is a fixed number of pupils which is considered sufficient in order to apply one of the measures under Article 8, paragraph 1, *c.i* to *c.ii* to the minority languages, and if so what the number is. The Committee must therefore conclude that secondary school education exists in certain regions for three of the seven languages, but that there is no information to indicate whether or not this is a right which families can invoke if they so request in sufficient numbers.

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."***

56. The Committee has received information indicating that technical and vocational education exists in Italian, but not for the other languages that are covered by the ratification. The Committee has received no information as to whether there is a fixed number of pupils that is 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 is. The Committee must therefore conclude that the obligation is only partly fulfilled.

The Committee encourages 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.

University and higher education

- "e.ii. to provide facilities for the study of these languages as university and higher education subjects."*

57. The Committee has received information that the study of Czech, Slovak and Italian is available at university level. Studies of Hungarian and Ukrainian history and Serbian literature are also available, but not the study of the languages as a separate subject at university and higher education level. The Committee concludes that the obligation is fulfilled regarding Czech, Slovak, and Italian, but that the situation should be improved for the Serbian, Ukrainian, Hungarian and Ruthenian languages.

The Croatian authorities could improve facilities for the study of the Ruthenian, Ukrainian, Hungarian and Serbian languages at university and higher education levels.

Adult and continuing education

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

58. The Committee has received no information about the offering of adult and continuing education in any of the languages. The Committee therefore considers this obligation not to be fulfilled.

The Croatian authorities are encouraged 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.

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.”

59. The authorities have stated in their report that this is ensured, without providing any precise information or examples of how this has been incorporated into the education curriculum, and especially how the history and culture of the various languages are presented in the education materials used. The Committee encourages the Croatian authorities in the forthcoming report to provide more comprehensive information regarding the teaching of the history and the culture reflected by the languages in Part III.

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”

60. It is evident that in order to achieve successful implementation of paragraphs a to g it is necessary to have teachers that are capable of providing quality teaching in a regional or minority language.

61. The Committee has received information about a teacher training college in Pula for Italian, and about the establishment of a Serbian language department for teachers in the Pedagogical Faculty at the University of Zagreb, envisaged for the year 2000. The Committee was furthermore informed that there was an exchange programme with teachers from Hungary, the Czech Republic and Slovakia. Such initiatives are important for the enhancement of the quality of the teaching of the respective languages and contribute to remedying the lack of qualified teachers. In the long term, however, there should be a structured establishment of teacher training programmes for all the languages covered by Part III of the Charter. The obligation is considered fulfilled only for Italian.

Basic and further training of teachers should be arranged for the Serbian, Slovak, Czech, Hungarian, Ukrainian and Ruthenian languages.

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.i. to guarantee the accused the right to use his/her regional or minority language.”

62. It should be underlined that this provision, whereby the Parties undertake to guarantee the accused the right to use his/her regional or minority language, goes beyond the right of the accused, as laid down in Article 6 paragraph 3.e of the European Convention on Human Rights, to have the free assistance of an interpreter if he cannot understand or speak the language used in court. This measure goes further in the sense that speakers of a regional or minority language may use that language before a court of law, even if they are capable of communicating in the official language, thereby creating or enlarging the space for the use of these languages in the public sphere.

63. The initial periodical report states that this right is guaranteed in 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). Such a law that would enable a regional or minority language speaker to use his or her language in court has, however, not been adopted in Croatia. Therefore, the above-mentioned Article 7, cannot legally be implemented.

64. The exceptions to this are courts in Istarska County, where there is an obligation in accordance with the Osimo Agreement to use the Italian language in courts. This undertaking is therefore fulfilled for the Italian language, but not for the other languages covered by Part III of the Charter.

“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.”

65. With reference to the previous paragraph, the Committee of Experts does not consider this undertaking fulfilled with the exception of the Italian language.

<p><i>The Croatian authorities should make arrangements for the use of Czech, Hungarian, Slovak, Ukrainian, Ruthenian, and Serbian in criminal proceedings.</i></p>

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.”

66. The report explains that this right is guaranteed in Article 6 of the Act on Civil Procedure, which states 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) . As for criminal proceedings, this obligation has not been fulfilled owing to the lack of a legal act to implement the Act on Civil Procedure. The obligation to allow a litigant to use his or her regional or minority language in accordance with the requirements of this undertaking is furthermore detailed in Article 102 of the Act on Civil Procedure. However, this article is dependent on the existence of an implementing act that does not exist, and therefore this undertaking is not fulfilled. The sole exception to this is the Italian language, which can be used in accordance with the requirements of the Osimo Agreement.

“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.”

67. The report states that the requirement of this undertaking is guaranteed in Article 103 of the Act on Civil Procedure. However, since the law that should implement this undertaking does not exist, the Committee must conclude that the obligation is not fulfilled.

The Croatian authorities should make arrangements for the use of Czech, Hungarian, Slovak, Ukrainian, Ruthenian, and Serbian in civil proceedings.

in proceedings before courts concerning administrative matters

“c.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 – if necessary by the use of interpreters and translations.”

68. There is only one Administrative Court and the proceedings before it are exclusively in written form in accordance with the Law on Administrative Court Procedure. The Committee received no information about regional or minority languages in connection with the Administrative Court. Since the procedure before the Administrative Court is exclusively in writing, there seems to be no party or litigant appearing in person before the court. The present rules of procedure therefore prevent this undertaking from being fulfilled.

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

69. The Committee has been informed that as far as public, legally issued documents in a minority language are concerned, no specific legal provision excludes their validity explicitly. The possibility of allowing documents and evidence to be produced in a regional or minority language depends on the right to use a regional or minority language in a local administration, thus being a second hand right dependent on whether a local self-government unit is bilingual. Should a local

authority be bilingual and a document be presented accordingly in a regional or minority language, this document would be admissible and accepted as a legally valid document before the Administrative Court in Croatia. Article 88, paragraph 2 of the Court's Rules of Practice allows for the translation of court documents into regional or minority languages. The Committee considers this undertaking to be 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.”

70. Owing to the lack of a legal basis for implementing requirement in undertaking b.ii above, no legal possibility presently exists to use a regional or minority language in civil proceedings. The possibility to use interpreters and translators in those proceedings does not exist and therefore the undertaking is not fulfilled.

71. As for administrative proceedings, when there is a legal possibility to submit a document in a regional or minority language, which is always dependent on the decision of the relevant local government unit, this undertaking would be fulfilled in accordance with Article 88.2 of the Court's Rules of Practice.

“Paragraph 2

The Parties undertake not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language.”

72. The Committee has been informed that as far as legally issued documents in a minority language are concerned, no provision of any law excludes their validity and they do not seem to be refused in practice. The Committee considers this obligation to be 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.”

73. Article 7 of the Constitutional Law provides for the free use of regional or minority languages (including the choice of script) for members of all ethnic and national communities, both publicly and privately. Article 8 of the same law states that “Local self-governing units may decide to use two or more languages and script alphabets, taking into account the number of members and interests of national or ethnic communities or minorities”. This decision of the local self-government unit to adopt the official use of a regional or minority language is, however, binding only for the local self-government unit itself and the use of the languages within the local or regional administration. But, paragraph 1 of Article 10 of the Charter refers to action taken by the State's own administrative authorities and not those of local or regional government, thereby obliging the state administration to allow oral or written applications to reply in a regional or minority language. Such an obligation cannot however be deduced from Article 7 or 8 of the Constitutional Law, which does not

create any obligation for the central State to use the relevant language. Therefore the Committee does not consider this obligation fulfilled in respect of the Hungarian, Slovak, Czech, Serbian, Ukrainian and Ruthenian languages.

74. For the Italian language, the Osimo Agreement is implemented satisfactorily as concerns the use of Italian in state administration, and therefore this undertaking is fulfilled in respect of Italian.

The Croatian authorities should 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.

“a.iv. to ensure that users of regional or minority languages may submit oral or written applications in these languages.”

75. This obligation is included in sub-paragraph (a) option iii and the Charter provides that it may be chosen as an alternative to the other options of Article 10.1.a but not in addition to them. It is therefore redundant to the undertakings of Croatia, especially since there has been no indication that this undertaking should be applied in a specific area as distinct from sub-paragraph (a) option iii.

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

76. According to the information received by the Committee, certain forms are available in Italian in Istarska County and some municipalities use the Serbian language and cyrillic script on seals and stamps. There is no information regarding the other languages in this respect. The legal act that would guarantee the implementation of this undertaking has not been adopted. The Committee must conclude that this obligation is only partly fulfilled.

The Committee encourages 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.

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

77. Aside from the Italian language, this undertaking is not fulfilled by the Croatian authorities for the reasons that have been put forward with respect to the preceding sub-paragraphs of Article 10.

The Committee encourages 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.

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:”

78. Article 7 of the Constitutional Law states that in municipalities where members of an ethnic and national community or minority form a majority of the total population, the language and script of that ethnic and national community or minority shall be in official use along with Croatian and the Latin script. This provision has never been applied and therefore no municipalities or counties have adopted a regional or minority language as an official minority language. Article 8, on the other hand, has been applied in several counties for the various regional or minority languages, as presented in the table below:

Language	County	City/Municipalities
Czech	Bjelovarsko-Bilogorska County	➤ City of Daruvar ➤ Municipality of Dežanovac ➤ Municipality of Končanica
Serbian	Osječko-Baranjska County Vukovarsko-Srijemska County	➤ City of Beli Manastir ➤ Municipality of Šodolovci ➤ Municipality of Darda ➤ Municipality of Jagodnjak ➤ Municipality of Borovo
Hungarian	Osječko-Baranjska County	➤ City of Beli Manastir ➤ Municipality of Darda ➤ Municipality of Jagodnjak
Italian language *	Istarska County	➤ Cities of Buje, Buzet, Labin, Pazin, Porec, Pula ➤ Rovinj, Umag ➤ Municipalities of Bale, Brtonigla, Grožnjan, Kaštelir-Labinci, Oprtalj, Pican, Višnjan, Vodnjan, Vrsar

* The use of the Italian language is based on the Osimo Agreement and not on Article 8 of the Constitutional Law.

79. In respect of the concrete application of paragraph 2 of Article 10, it is necessary to examine the mandate of the local and regional authorities. As for regional authorities, it should be underlined that their competences are divided into 2 kinds, firstly those that belong to state administration, and secondly those that belong to the counties as local self-government units. In the latter competence only, the use of a regional or minority language is tolerated and only in Istarska County for the Italian language. The reason for this is that, at present, the decision by local self-government units on whether a given language is considered as an official language has no effect on the use of the respective language within the regional administration. According to present legislation it would, in fact, be unlawful for the regional administration to use the language, even if there was good will. The use of the minority languages in these counties is therefore limited to local authorities.

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

80. In those local self-government units where a regional or minority language is in official use in accordance with Article 8 of the Constitutional Law, there is the legal possibility to use the respective languages within the framework of the local authority. This has been applied only to the Czech, Serbian, Hungarian and Italian languages. However, according to the information that the Committee has received, the local authorities appear not to use the minority languages within the local authority in everyday practice.

81. No use is made of the Ukrainian, Ruthenian and Slovak languages, since no local authority has applied Article 8 in the areas where those languages are used.

82. No use of any of the regional or minority languages is provided for at regional level.

The Croatian authorities are encouraged to create a legal basis for the use of regional or minority languages within regional authorities.

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

83. In local self-government units where a regional or minority language is in official use in accordance with Article 8 of the Constitutional Law there is, according to the Croatian legislation, a legal possibility to submit oral or written applications in that language. This has been applied to Hungarian, Czech, Serbian and Italian, but is not fulfilled for the other languages.

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

84. The right to introduce a minority language in official use is an exclusive right of the local authorities. There exists no such right for regional authorities as far as the Committee has been informed. This obligation seems therefore not to be fulfilled.

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

85. This obligation is fulfilled in accordance with Article 8 of the Constitutional Law.

“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.”

86. The Committee has been informed that there is at present no special regulation concerning this matter, but in accordance with a long-standing tradition this is the practice in all municipalities and towns that have introduced the official use of a minority language. Where the users of the minority language are concentrated in a specific territory, public use of place names in that language seems to be possible in that area. On this basis, the Committee concludes that the obligation is fulfilled in practice.

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.”

87. The Committee received no information from the Croatian authorities as to which public services the local authorities are responsible for and which public services are under the responsibility of the state or regional authorities (and consequently do not provide for the use of a regional or minority language).

88. 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 are distributed as follows:

- i. 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;
- ii. the main public service within the exclusive competence of regional authorities is the running of hospitals;
- iii. public services with shared competences of the local and regional authorities are family welfare services, welfare homes, water and sewage, refuse collection and disposal.

89. The Committee received no information concerning the existence of public services using Slovak, Ruthenian or Ukrainian. On the basis of the available information, the Committee concludes that the obligation seems to be partly fulfilled regarding Italian, Serbian, Hungarian and Czech, but not for Slovak, Ruthenian and Ukrainian.

The Committee encourages the Croatian authorities to ensure that public services use the relevant regional or minority languages.

“b. to allow users of regional or minority languages to submit a request and receive a reply in these languages”

90. This obligation is an option if a Party has not subscribed to paragraph a. The obligation is a part of (a) and therefore it is redundant in the present instance.

“c. to allow users of regional or minority languages to submit a request in these languages.”

91. This is the “lightest” option under paragraph 3, and has no effect when a Party has subscribed to paragraph (a) or (b).

Family names

“Paragraph 5

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

92. According to the initial periodical report, the Personal Name Act regulates how a name is registered, and how a name may be changed (Articles 6 and 8). The Committee therefore concludes that the law guarantees this right and that the undertaking is fulfilled.

Article 11 - Media

“Paragraph 1

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

- 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.”***

93. Article 6 of the Law on Croatian Radio and Television contains a provision on the obligation of Croatian Radio and Television to produce and broadcast programmes that offer informative materials for users of regional or minority languages. The legal obligation to make adequate provision for broadcasters to offer programmes in a regional or minority language therefore exists. In practice Croatian Radio/Television provides 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. This programme is presently broadcast in the early evening on a weekday.

94. The authorities presented very little information about existing radio programmes produced in any of the regional or minority languages covered by Part III of the Charter. The Committee is, however, aware of the fact that various radio programmes are actually produced in most of the regional or minority languages concerned. The Committee considers this undertaking to be fulfilled for the Italian, Hungarian, Czech and Serbian languages. No information has been provided for the other languages.

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

95. According to information received, no special measures have been adopted to encourage or facilitate these kinds of productions, but there are open competitions announced for the financing of such works on equal terms as for other works. Funds for the financing of cultural activities of members of minorities may also be used for the production and distribution of audio and audiovisual works. The Committee received no information showing that such projects had received financial support or how such financial aid was announced. The provision states that the authorities should encourage and/or facilitate the production and distribution of audio and audiovisual works in the regional or minority languages. The Committee understands this provision in the sense that active measures should be undertaken. However, the

Committee has not received information about any active measures. From the initial periodical report this undertaking cannot be considered as fulfilled.

The Committee encourages the Croatian authorities to introduce measures to facilitate the funding of production of audio and audiovisual works in the languages covered by this undertaking.

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

96. The right to publish newspapers and articles in a regional or minority language is specifically guaranteed in Article 10 of the Constitutional Law. The right is based on Article 38 of the Constitution of Croatia, which guarantees freedom of expression.

97. The undertaking of Article 11 e.ii of the Charter goes further than the basic requirement of freedom to publish in minority languages. The State is obliged to encourage and/or facilitate the publication of newspapers, magazines and books in the languages covered by Part III.

98. According to the information gathered from various sources, numerous publications (newspapers, magazines, etc.) are produced in minority languages and are supported within the framework of financial assistance for the cultural activity of members of minorities. The Committee received no specific information relating to all the languages covered by this obligation or to the financial support schemes which were employed. The Committee is aware that the Government Office for National Minorities, as part of its functions, handles the distribution of funds to finance publishing activities that fulfil this undertaking. A transparent approach should be taken by the Government Office making it evident that all relevant languages receive funding for the publication of newspaper articles.

“Paragraph 2

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

99. The Committee was informed that there are no restrictions on direct reception of radio and television broadcasts from neighbouring countries and that there is no restriction on the retransmission of national broadcasts. The Committee concludes that this obligation is fulfilled. It should also be pointed out that Croatia signed the European Convention on Transfrontier Television on 7 May 1999.

“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.”

100. The Committee of Experts has not received any information from the Croatian authorities as to how this undertaking is fulfilled, either in legal terms or in practice.

The Committee considers that the Croatian authorities could encourage and make 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.

Article 12 Cultural activities and facilities

“Paragraph 1

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

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

101. The Committee has been informed that types of expression and initiative specific to minority languages are encouraged through various support schemes, financed through the Ministry of Culture and the Governmental Office for National Minorities. Access to works in minority languages is fostered through financial support to festivals and art exhibitions. In addition, Croatia has established central libraries for minorities. The Committee has received no information regarding audio or audiovisual works. Concrete information regarding each language covered by Part III is also lacking. In general, however, it seems that the obligation is fulfilled.

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

102. The role of the State is to encourage bodies that undertake or support cultural activities (and the cultural associations) to directly involve representatives of the regional or minority languages in their work. When such bodies are an integral part of the state administration, “to encourage” means that direct participation should be secured. The report states that the Ministry of Culture encourages direct participation of representatives of certain regional and minority languages in planning cultural activities by part-financing national reviews and folk art. There is legal freedom for users of regional or minority languages to establish institutions for cultural activities and societies. Such institutions are free to apply for financial support from the State. However, the information received gives 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 thus concludes that the undertaking is only partly fulfilled.

The Committee recommends that the Croatian authorities actively involve the representatives of regional or minority languages in the decision-making body responsible for organising and granting financial assistance to cultural activities.

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

103. All written publications, including those in minority languages, are kept in Croatian archives, and every publisher must, in accordance with the Libraries Act, provide copies of publications to the National Library. The Committee has received no information for audio or audiovisual works. The Committee concludes that this obligation is fulfilled with respect to written publications.

Article 13 – Economic and social life

“Paragraph 1

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

- a. to eliminate from their legislation any provision prohibiting or limiting without justifiable reasons the use of regional or minority languages in documents relating to economic or social life, particularly contracts of employment, and in technical documents such as instructions for the use of products or installations.”***

104. The initial periodical report states that there are no legal prohibitions that would exclude or limit the use of minority languages. The Committee considers therefore this undertaking to be fulfilled.

- “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”***

105. Relevant legislation does not contain any elements which oppose the use of minority languages in internal regulations of companies and private documents. However, there is no information about any prohibition of clauses which exclude or restrict such use of minority languages as is mentioned in Article 13 paragraph 1, sub-paragraph b. The Committee considers that there should 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. Consequently the Committee concludes that the obligation is not fulfilled.

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

106. The initial periodical report indicates that practices designed to discourage the use of minority languages will be opposed, but gives no information on how that will be done. The Committee encourages the authorities to guarantee with specific measures that practices that would discourage the use of regional or minority languages in connection with economic and social activities would be opposed.

107. The initial periodical report also deals with Article 13 paragraph 2 sub-paragraphs b and e. However, since they are not included in the instrument of

ratification, the Committee has not considered those paragraphs or sub-paragraphs in its evaluation.

Article 14 – Transfrontier exchanges

“The Parties undertake :

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

108. The information received states that the bilateral agreements with Italy and Hungary regulate different aspects of minority rights and that joint bodies monitor their application. Croatia is taking steps to conclude bilateral agreements with other States that are interested in co-operating at this level. Certain steps have been taken in co-operation with the Czech Republic, the Slovak Republic and Ukraine. The Committee concludes that this obligation is fulfilled.

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

109. The Committee has been informed that cross-border co-operation between local authorities is free and is carried out in accordance with the European Outline Convention on Transfrontier Co-operation signed by the Republic of Croatia (ETS n° 106, signed on 7 May 1999). The Act on Local Self-Government, adopted in 1992, but amendments to which have not been adopted, should underline this freedom. The Committee concludes that this obligation is fulfilled.

Chapter 3 Findings

The Committee of Experts hereby presents its general findings on the application of the Charter in Croatia.

A. The Committee of Experts' evaluation of the situation of regional or minority languages in Croatia is based on the information obtained from the initial periodical report, on the answers given by the authorities to written questions of the Committee and on information obtained in Croatia during the "on-the-spot visit". Nevertheless, the Committee had difficulties in assembling comprehensive information for all the languages covered by the Charter. Moreover, the Croatian authorities did not publish the initial periodical report and therefore the speakers of the regional or minority languages were not in a position to react to its contents as the Charter provides in its Article 16.2. As a result, the monitoring procedure in Croatia has not been fully operational.

B. The Committee has not received sufficient information to be able to assess whether other languages than the seven specified for in Part III are covered by Part II of the Charter. Since Croatia has made a reservation excluding non-territorial languages from the scope of Part II, only territorial languages should be included. There are some indications that other languages, such as Slovene or Bosnian, could fall under Part II.

C. The information gathered by the Committee indicates that the new administrative divisions introduced since 1992 have created obstacles to the promotion of regional or minority languages in Croatia.

D. The Republic of Croatia has undergone drastic changes over the past 10 years. Croatia has been monitored closely by the international community and great efforts have been made to achieve the reconstruction of a democratic State. These efforts include the attempt to improve existing legislation, by proposals for constitutional changes and the adoption of legal acts implementing the constitution. This is a crucial necessity because until now these laws have been in a certain sense a "dead letter". The recently adopted Laws on Education in the Language and Script of National Minorities and on the Use of the Language and Script of National Minorities in the Republic of Croatia are an improvement, though it still remains to be seen how these laws will implement the existing constitutional arrangements.

E. The use of regional or minority languages in the field of media and culture is on the whole supported and well-organised. The authorities offer many programmes that promote the culture linked to the various languages. The initiative to devote a one-hour programme to the minorities every week is encouraging. The major drawback to the application of the Charter in these two fields is the lack of participation by the users or representatives of the regional or minority languages in the organisation, planning and funding of activities in this field.

F. As regards education, Croatia has a long-standing tradition of organising regional or minority language teaching. Special classes are organised with supplementary teaching in minority languages. This is promising, though clearly it functions only in relation to some languages covered under Part III of the Charter in certain areas. The efforts by the education authorities are therefore not very comprehensive, for the whole arrangement leaves a large degree of discretion to the local and regional school authorities, thus not ensuring this as a right in the relevant territories. A further drawback is the lack of teacher training and teaching materials in the respective languages.

G. The use of regional or minority languages in the courts and state administration has up to now been seriously hampered by the lack of a legal basis for any official use of such languages (aside from the Italian language). At the moment regional or minority languages are in use only in those local authorities that have chosen to introduce languages in official use in accordance with Article 8 of the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities in the Republic of Croatia.

H. The Croatian authorities have with their ambitious ratification instrument not only attempted to incorporate the current legal structure and practice into their undertakings, but have also given a signal that they want to develop the current legal structure and practice. This is in itself encouraging. Moreover, one must acknowledge that even if some of the undertakings of Croatia have not been fulfilled, the authorities have stated that there is the political will to achieve successful implementation of the Charter in the longer term. Many of the observations in this report are therefore to be understood as an encouragement for the Croatian authorities to continue furthering the protection of regional or minority languages, for which there is a long tradition 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 765th meeting on 19 September 2001, 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 OF THE REPUBLIC OF CROATIA



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 selfgovernment 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 OF THE REPUBLIC OF CROATIA ON THE REPORT OF THE COMMITTEE OF EXPERTS OF THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES ON THE IMPLEMENTATION OF THE CHARTER BY CROATIA

The authorities of the Republic of Croatia have carefully considered the Report of the Committee of Experts of the European Charter for Regional or Minority Languages on the implementation of the Charter by Croatia, elaborated pursuant to Article 16 of the Charter. In this view, they would like to express the overall satisfaction with the quality of the Report, its balanced character and relevant recommendations for possible improvements in the field of legislation and practice.

However, as it is mentioned in the introductory part of the Report, important legislative changes have occurred in Croatia, since the end of the period to which the Report applies (end of October 1999). Therefore, Croatian authorities would like to take this opportunity to submit a few information on some important legislative developments, which are of particular relevance in respect of some previously existing shortcomings pointed out in the Report.

In May 2000 the Parliament adopted amendments to the Constitutional Law on Human Rights and the Rights of Ethnic and National Communities or Minorities in the Republic of Croatia. At the same time, the new Law on the Equal Official Use of Language and Script of National Minorities in the Republic of Croatia, as well as the Law on the Education in Minority Languages have been adopted, providing for a distinctively new legal framework concerning the use of and education in minority languages in Croatia.

By virtue of the provisions of the new Law on Equal Official Use of Language and Script of National Minorities in the Republic of Croatia, great majority of the obstacles concerning the use of minority languages in the bodies of public administration and judiciary, which have been pointed out by the Expert Committee in its Report, ceased to exist. Furthermore, the Law on the Education in Minority Languages enables the inscription of children which are not members of the respective minority in the educational institutions or classes established for the purposes of education in minority language, while the lack of such possibility has clearly been pointed out in the Report as a serious shortcoming in the application of the Charter at the national level.

Further positive developments concerning the official use of minority languages in Croatia are expected in the very near future, while pursuant to the provisions of the new Law, the official use of language in municipalities and regions is mainly linked to those units of local self-government where persons belonging to minorities represent a majority of the population. In this view, it should be noted that the first statistical results of the population census, which will be the main criteria for the application of the Law are expected in the very near future.

Following the Conclusions of the Parliament, the Government of the Republic of Croatia is currently preparing the Draft of the new Constitutional Law on the Rights of National Minorities, which aims at the thorough and systematic regulation of the

rights of persons belonging to national minorities. The Draft Constitutional Law is being elaborated in close co-operation with the European Commission for Democracy through Law (the Venice Commission), and is expected to be adopted in the near future.

As regards the publication of the Initial Report of Croatia on the Implementation of the Charter, it should be noted that the said Report was published at the web site of the former Ministry of Public Administration, which ceased to exist after the general reconstruction of the public administration system. The Ministry of Justice, Public Administration and Local Self-Government, which took over the responsibilities of the former Ministry of Public Administration, is currently in the process of the establishment of its web site. It is intended that the Croatian Initial Report, the text of the Charter and the respective legislation concerning the use of minority languages will be published at the respective web site in the forthcoming months.

Finally, Croatian authorities would like to inform that the more detailed information concerning the content of the new legislation in the field of the use of minority languages as well as the evaluation of the practice will be provided in the next Croatian periodic report on the implementation of the Charter which is due in the course of 2002.



European Charter for Regional or Minority Languages

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

(adopted on 19 September 2001 at the 765th meeting
of the Ministers' Deputies)

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Recommendation RecChL(2001)2 on the application of the European Charter for Regional or Minority Languages by Croatia

*(Adopted by the Committee of Ministers
on 19 September 2001
at the 765th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Bearing in mind the instrument of ratification submitted by the Republic of Croatia on 5 November 1997;

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

Having taken note of the comments submitted by the Croatian authorities on the content of the report of the Committee of Experts;

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

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

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;
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;
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;
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;

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;
6. strengthen its mechanisms for monitoring the implementation of its undertakings, thus providing more comprehensive information;
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;
8. provide adequate financing for the measures intended to comply with the commitments undertaken under the Charter.