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EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

**APPLICATION OF THE CHARTER IN MONTENEGRO**

**1st monitoring cycle**

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

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 improving its legislation, policy and practices. The central element of this procedure is the Committee of Experts, set up under 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 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 subsequent periodical reports that a Party is required to submit to the Secretary General. The report should be made public by the State. This outline requires the State to give an account of the concrete application of the Charter, the general policy for the languages protected under Part II and, in more precise terms, all measures that have been taken in application of the provisions chosen for each language protected under Part III of the Charter. The Committee of Experts' first task is therefore to examine the information contained in the periodical report for all the relevant regional or minority languages on the territory of the State concerned.

The Committee of Experts' 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 of Experts gathers information from the respective authorities and from independent sources within the State, so as to attempt to obtain a fair and just overview of the real language situation. After a preliminary examination of an initial periodical report, the Committee of Experts submits, if necessary, a number of questions to each Party to obtain 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" by a delegation of the Committee of Experts to the State in question. 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 of Experts to evaluate more effectively the application of the Charter in the State concerned.

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

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

adopted by the Committee of Experts on 10 September 2009 and presented to the Committee of Ministers of the Council of Europe in accordance with Article 16 of the Charter

### **Chapter 1 Background information and preliminary issues**

#### **1.1 The Charter's ratification by Montenegro**

1. The European Charter for Regional or Minority Languages (hereafter "the Charter") was signed by Serbia and Montenegro on 22 March 2005. The Assembly of Serbia and Montenegro adopted the Law on the Ratification of the Charter on 21 December 2005. After the ratification by the President of Serbia and Montenegro, pursuant to Article 18 of the Charter, the instrument of ratification of Serbia and Montenegro was deposited with the Secretary General of the Council of Europe on 15 February 2006.
2. After declaring its independence from the State Union on 3 June 2006, Montenegro sent a letter to the Secretary General in which it made a declaration of succession to treaties, meaning that it declared that it would "respect and implement all Conventions and Protocols of the Council of Europe that the State Union of Serbia and Montenegro has signed and ratified so far". Then, at their 967th meeting, the Deputies took note of this declaration and agreed to consider Montenegro as a signatory or a party to the conventions and protocols signed or ratified by Serbia and Montenegro (which included the Charter). The instrument of ratification was updated by a letter from the Ministry of Foreign Affairs of Montenegro on 13 October 2006. The Charter entered into force for Montenegro on 6 June 2006. In Montenegro, international law takes supremacy over domestic law, in case the former differs from the latter.
3. The instrument of ratification is set out in Appendix I to this report. Therein, the Montenegrin authorities declared that the Charter applied to the Albanian and Romani languages.
4. Article 15.1 of the Charter requires States Parties to present their first report within the year following the entry into force of the Charter with respect to the Party concerned. The Montenegrin authorities presented their initial periodical report to the Secretary General of the Council of Europe on 16 July 2007. However, a Montenegrin member of the Committee of Experts was not appointed until 2009.
5. The Committee of Experts was not informed whether the Montenegrin authorities made their initial periodical report public. According to representatives of the regional or minority language-speakers, the local authorities and the speakers had not been fully informed of their rights and duties deriving from the Charter.

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

6. After the appointment of the Montenegrin expert, the Committee of Experts made a preliminary examination of the report. A questionnaire was drawn up and addressed to the Montenegrin authorities. A delegation of the Committee of Experts made an "on-the-spot" visit to Montenegro in June 2009. Meetings were held in Ulcinj and Podgorica with representatives of the speakers of the Albanian and Romani languages, including non-governmental organisations, journalists, educationalists and visits to elementary schools. It also met with representatives of the local and central authorities.
7. The Committee of Experts received some comments and additional information from representatives of the speakers. This information has been helpful in the evaluation of the application of the Charter and the Committee of Experts would like to thank them for their active input and participation in the monitoring process.
8. In accordance with Article 16 paragraph 4 of the Charter, the Committee of Experts has established a list of general proposals for the preparation of recommendations that the Committee of Ministers may wish to address to Montenegro. Furthermore, in the body of the report, where necessary, it has made more detailed observations, which it encourages the Montenegrin authorities to take into consideration when developing their regional or minority language policy.

9. This report is based on the political and legal situation prevailing when the Charter entered into force in Montenegro (6 June 2006), on the information presented by the Government of Montenegro in its initial periodical report to the Council of Europe (16 July 2007), and on information obtained by the Committee of Experts during the “on-the-spot” visit (June 2009), as stated above. The Committee of Experts adopted the present report on 10 September 2009.

### **1.3. Presentation of the regional or minority language situation in Montenegro**

10. The Montenegrin authorities did not provide any comprehensive information on the overall linguistic situation in Montenegro in their initial periodical report. The Committee of Experts asks the Montenegrin authorities to provide such information, including general statistical data, in the next periodical report.

#### *Albanian*

11. In the 2003 census, 32 603 persons declared Albanian to be their mother tongue. Most speakers are in the municipalities of Ulcinj (15 083 speakers = 72.14% of the total population of Ulcinj municipality), Podgorica (9 647 = 5.5%)<sup>1</sup>, Bar (3 505 = 7.61%) Plav (2 693 = 19.7%) and Rožaje (927 = 4.44%).

#### *Romani*

12. In the 2003 census, 2 062 persons declared Romani to be their mother tongue. The majority of speakers are in Podgorica (1 592). However, during the on-the-spot visit, the Committee of Experts was informed that another survey had been carried out in 2009 by the official statistics office Monstat, according to which approximately 11 000 declared themselves belonging to the Roma (compared to 2601 Roma in the 2003 census), which according to representatives of the Romani-speakers, seems to be more accurate, also in regard to the number of speakers.

#### *Particular issue concerning Serbian, Bosnian and Croatian*

13. The 1992 Constitution was replaced by the Constitution of Montenegro on 22 October 2007. Therein, Article 13 reads the following:

“The official language in Montenegro shall be Montenegrin. Cyrillic and Latin alphabet shall be equal. Serbian, Bosnian, Albanian and Croatian shall also be in the official use.”

14. In their initial periodical report (page 3), which was submitted before the adoption of the new Constitution, the authorities state that during the ratification process, the Bosnian and Croatian languages were omitted from the list of Part III languages. The authorities further state in their report that they do not deny the existence of these languages in Montenegro and that they could be added at a later stage, referring to Article 3.2. of the Charter.

15. The Committee of Experts however, points out that Article 3.2. concerns (less widely used) official languages of the state in question, not languages that are in “official use”, which are not identical in terms or in status.

16. On the other hand, according to Article 2.1. of the Charter, all regional or minority languages spoken within the territory of the State Party that comply with the definition contained in Article 1.a of the Charter are automatically granted protection under Part II of the Charter.

17. The question therefore arises whether Bosnian and Croatian, and - since the adoption of the new Constitution declaring Montenegrin as the official language of Montenegro - also Serbian, meet the definition of regional or minority languages.

18. In an attempt to clarify this issue, the Committee of Experts invited representatives of the Serbian, Bosnian and Croatian communities of Montenegro to a meeting in Podgorica during its on-the-spot visit. Although all groups had initially confirmed their participation, only representatives of the Bosnian community

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<sup>1</sup> The Committee of Experts understands that the majority of the Albanian-speakers in Podgorica live in Tuzi, which is a city municipality of Podgorica. However, the Committee of Experts does not have any statistics at its disposal on the breakdown of the numbers of Albanian-speakers within the municipalities of Podgorica.

attended the meeting. The Committee of Experts did not receive any written comments from the other two communities, although they had been invited to do so.

19. The representatives of the Bosnian community did not state any clear wish to include the protection of Bosnian in Montenegro at this stage under the Charter. The Bosnians seem to be content with the degree of recognition and status under the constitution and with the fact that the education system gives ample space for the provision of Bosnian (as well as Serbian and Croatian) education.<sup>2</sup> Most of all, due to the mutual intelligibility between Bosnian and Montenegrin, the Bosnians felt there was no need for special protection under the Charter.

20. Nevertheless, the Bosnian representatives were of the view that the majority population should be aware of, and more tolerant towards, expressions that are particular to Bosnian.

21. An official of the Ministry for Human and Minority Rights whom the Committee of Experts met during its on-the-spot visit explained that due to the mutual intelligibility of Bosnian, Croatian, Serbian and Montenegrin spoken in Montenegro, it was decided not to include them as regional or minority languages under the Charter. The Ministry, however, would be willing to reconsider this if the respective minority communities expressed a desire for Montenegro to extend the ratification of the Charter to cover also Bosnian, Croatian and/ or Serbian.

22. In the light of the situation described above, the Committee of Experts has decided not to further deal with Croatian, Serbian and Bosnian in this report. This does not prevent the Committee of Experts from returning to this issue at a later stage.

#### **1.4. General legal framework**

23. The following are the main legal acts with regard to the protection of regional or minority languages in Montenegro:

- Article 79 of the Constitution of Montenegro (October 2007)
- Law on Minority Rights and Freedoms ("Minority Act") (May 2006)

#### **1.5. General issues arising from the evaluation of the report**

24. The Committee of Experts appreciates the good co-operation it enjoyed with Montenegro, especially with regard to the open dialogue which took place during the on-the-spot visit. The Committee of Experts nevertheless had difficulties in obtaining a sufficient amount of information during this first monitoring round, which in the case of Montenegro has severely hampered a proper evaluation. First of all, the Committee of Experts notes that the initial periodical report contains little information on the application of the Charter in general, in particular with regard to Romani, and that it completely lacks information for both Albanian and Romani with regard to the application of Part II of the Charter. It also notes that the report was compiled with a certain lack of coherency. Furthermore, since the submission of the report in June 2007, there have been many (legislative) changes, some of which affect regional or minority languages, for example the adoption or amendment of laws, and a new constitution. In addition, the Committee of Experts did not receive answers to the questions posed to the Montenegrin authorities in the questionnaire.

#### *Territorial application of the Charter*

25. At the deposition of its instrument of ratification on 15 February 2006, Serbia and Montenegro made the following declaration: "As to Article 1.b of the Charter, Serbia and Montenegro declares that the term 'territory in which the regional or minority languages is used' will refer to areas in which regional and minority languages are in official use in line with the national legislation."

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<sup>2</sup> According to the information received during the on-the-spot visit, literary works from Bosnian, Croatian and Serbian writers are included within the general curriculum in the subject "Curriculum for Montenegrin, Serbian, Bosnian and Croatian". Besides this, pursuant to Article 22 on the Law on General Education, teachers and parents and schools, in co-operation with the local community, must freely design 20% of the curriculum. This part of the curriculum can be used, among other things, to teach in regional or minority languages, or to teach about the history, culture, music etc. related to the regional or minority language. See also paragraphs 75 and 200 below.

26. According to Article 11 of the Minority Act, the language of the minority shall be in official use in those local self-government units, in which persons belonging to national minorities make up the “majority or a considerable part of the population, pursuant to the results of the last census”. The Act further specifies that the official use applies in particular to the use of a language within judicial, administrative and public bodies, including signage and topographical names.

27. During the on-the-spot visit, the Committee of Experts gained the impression that there was no clear definition of what constituted a “considerable part” of the population. One municipality unofficially enquired within the Ministry of Justice in this respect according to whom a minimum of 5% constituted a considerable part. However, according to other information received by the Committee of Experts, 15 % is to be considered a considerable part. The Committee of Experts asks the Montenegrin authorities to clarify this issue in the next periodical report.

28. In general, the Committee of Experts considers that percentage thresholds may prevent the Charter from being applied to those regional or minority languages which may be present in sufficient numbers in municipalities or localities for the application of provisions of the Charter. This restriction affects in particular the application of Articles 8, 9 and 10 of the Charter. A further problem in Montenegro is that the thresholds are calculated by reference to the numbers of people identifying themselves as members of a national minority in the most recent census. This is not necessarily an accurate guide to the number of speakers of a regional or minority language (see first evaluation report with regard to the implementation of the Charter in the Czech Republic, ECRML (2009) 7, paragraph 46).

29. Also, the municipality may decide on its own initiative that a regional or minority language shall be in official use. The Committee of Experts understands that the statutes and rules of procedure of the relevant local self-governments need to be brought in line with the Minority Act before the language can be in official use in practice. The statutes regulate in more detail the extent to which a regional or minority language is to be used within the given municipality.

30. The initial periodical report states that the Albanian-speakers constitute a majority in Ulcinj and Tuzi municipalities, and are present in significant numbers in Plav, Rožaje and Bar municipalities. In the initial periodical report, all five municipalities are listed with regard to the application of Article 8 of the Charter, but it seems that only three municipalities (Ulcinj, Tuzi and Plav) have declared Albanian a language in official use through their statutes. Furthermore, the report only mentions these three municipalities with regard to the application of Article 10 of the Charter. Therefore, it is unclear to the Committee of Experts whether the Albanian language is also in official use in the municipalities of Bar and Rožaje.

***The Committee of Experts encourages the Montenegrin authorities to clarify to which territories the Charter applies with regard to the Albanian language.***

31. As regards the Romani language, the majority of Roma live in Podgorica, and others in Berane, Nikšić and Bijelo Polje. Romani is not in official use in any municipality in Montenegro, since either the percentage of members belonging to the Roma minority is not high enough, and/ or no municipality has decided to grant Romani this status. Moreover, during the on-the-spot visit, several representatives of different organisations drew the Committee of Experts’ attention to the fact that the results of the last census of 2003 did not reflect the actual number of Roma in Montenegro (see paragraph 12 above). These two facts have serious implications on the scope of application of Part III of the Charter with regard to Romani.

32. The Committee of Experts further finds Article 13 of the Constitution of Montenegro problematic, as it could in principle even further restrict the clauses of the Minority Act when read in conjunction with the declaration contained in the instrument of ratification for the application of Part III to Romani. The declaration points out that the territory refers to areas where the regional or minority languages are in official use in line with national legislation. However, the Constitution does not mention Romani as a language that is in official use.

***The Committee of Experts encourages the Montenegrin authorities to identify the territories where Romani is covered by Part III of the Charter.***

33. Finally, Montenegro has ratified the same undertakings in respect of Romani as it has for Albanian under Part III. While acknowledging that this is a sign that the Montenegrin authorities consider all regional or

minority languages of equal value, the Committee of Experts notes that the situation of every language differs and that the Charter shall be applied “according to the situation of each language” (Article 7.1). This approach allows the States Party to adapt its undertakings to the circumstances of each language and avoid that languages which are in a relatively good situation are covered by too weak provisions, and *vice versa* (see the first evaluation report in respect of Serbia, ECRML (2009) 2, paragraph 33).



## Chapter 2 The Committee of Experts' evaluation of the application of the Charter

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

#### 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;*

34. Regional or minority languages are recognised in Montenegro as an expression of cultural wealth in the Constitution of Montenegro and in various legal acts, most notably in the Law on Minority Rights and Freedoms ("Minority Act").

35. In the Constitution, Montenegro proclaims itself as a multiethnic country. The Preamble reads:

"The determination that we, as free and equal citizens, members of peoples and national minorities who live in Montenegro: Montenegrins, Serbs, Bosnians, Albanians, Muslims, Croats and the others, are committed to democratic and civic Montenegro;"

36. Furthermore, the rights of minorities themselves are enshrined in the Constitution, under Article 79 which guarantees them, *inter alia*, several linguistic rights.

37. According to the information gathered during the on-the-spot visit, the Ministry for Human and Minority Rights organises "Days of National Minorities". Festivities such as "Day of Roma" are also held at a local level which celebrate Roma culture in public.

- 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;*

38. Montenegro is divided into 21 municipalities (*opština*), whereas Podgorica is subdivided into three municipalities (Podgorica, Golubovci and Tuzi).

39. The Committee of Experts has not been made aware that the existing administrative boundaries in Montenegro constitute any obstacle to the promotion of Albanian or Romani. However, it has been informed of a new draft Law on Territorial Organisation which could change the existing administrative divisions. The Committee of Experts asks the Montenegrin authorities to report about any possible administrative changes in the next periodical report.

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

40. According to Article 36 of the Minority Act, the Assembly of the Republic shall establish a fund for the activities of minorities, with a view to preserving, *inter alia* their linguistic identity. Article 7 of the Minority Act obliges the Government of the Republic of Montenegro to adopt "the Strategy of the Minority Policy". The initial periodical report does not deliver any information on the adoption of such a strategy or policy document, nor on the establishment of a fund. However, the Committee of Experts was informed about an Action Plan that was adopted specifically with regard to the Roma minority, which was followed by a Strategy for Roma.

41. "The Decade of Roma Inclusion 2005 – 2015" is a European-wide initiative in which Montenegro is taking part. In this respect, Montenegro adopted a National Action Plan in 2005. This Action Plan is the first official document that has been translated into Romani in Montenegro. The overall goal of the Action Plan is

the inclusion of Roma into society by improving their situation in the fields of education, employment, health and housing. While the priority of the Action Plan in the field of education is understandably to increase the attendance rate of Roma pupils at school and teaching the Montenegrin language (which not all Roma pupils speak), the Action Plan also makes reference to the need to incorporate elements of Roma culture and language into the curriculum and to build up a support structure in this respect. So far, this has only been implemented to a small degree (see paragraphs 188 - 192 below for more details). The Action Plan does not seem to target other domains where the position of the Romani language could be strengthened.

42. In addition to the Action Plan, in October 2007 the Montenegrin Government adopted the "Strategy for Roma 2008 – 2012". The implementation of the Strategy is monitored by a commission and is allocated funds which amounted to € 400 000 in 2008 and € 600 000 in 2009. In addition to this, different ministries will allocate funds from their respective budgets for the activities defined in this Strategy. Part of the Strategy is the preservation of the Romani language, culture, and traditions. However, according to representatives of Romani-speakers, the funds attached to the Strategy are insufficient.

43. The Committee of Experts was also informed about the establishment of a Centre for Preservation and Development of Culture of Minorities. According to the Decision on Establishing the Centre, the Centre's general task is to preserve and support the culture of the minorities in Montenegro by co-funding their activities and events, some of which are related to the protection and promotion of the Albanian and Romani languages. It receives an annual budget of € 400,000 from the state. The Committee of Experts welcomes this development and looks forward to receiving concrete information about the activities of this Centre in the next periodical report.

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

44. The national minorities' right to information in their language is stipulated in Article 79, paragraph 11 of the Constitution. Furthermore, according to Article 12 of the Minority Act, minorities are guaranteed the right to impart and receive information in their language in accordance with the standards set forth in the relevant international documents.

45. Article 79 of the Constitution and Article 11 of the Minority Act enable the use of regional or minority languages in public life, at least in those areas where the languages are in official use, through bilingual signage on street and place names, buildings and businesses.

46. During the on-the-spot visit, the Committee of Experts received evidence from the Albanian-speakers and local authorities that the Albanian language is used in the areas mentioned above. The Romani language has limited presence in public life in Montenegro, due to the fact that it is not in official use and very little used as a written language.

47. The remit of the newly established Centre for the Culture of Minorities (see paragraph 43 above) also includes the facilitation and encouragement of the use of regional or minority languages in Montenegro. To give an example, according to the Director of the Centre for the Culture of Minorities, the Centre plans to support the publishing of the bilingual (Romani/Montenegrin) magazine *Vordon* which is facing financial difficulties.

48. The Committee of Experts considers that there is a need for greater promotion of Romani and encouragement of its use in public life.

***The Committee of Experts encourages the Montenegrin authorities to promote the use of Romani in public life.***

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;*

49. The Committee of Experts has no information with regard to this provision and asks the Montenegrin authorities to provide such information in the next periodical report.

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

50. The Committee of Experts will deal in greater detail with the situation of the Albanian and Romani languages in education in the relevant sections of Part III below.

- 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;*

51. Articles 13 and 15 of the Minority Act stipulate that persons not belonging to minorities can learn the language of the minority in those areas where the language is in official use. Furthermore, Article 11 of the Law on General Education puts an obligation on regional or minority language-medium schools to provide adequate help to non-speakers who attend those schools.

52. The Committee of Experts has not received any information on whether these legal guarantees and the Action Plan are implemented in this respect in any way in practice and asks the Montenegrin authorities to provide such information in the next periodical report.

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

53. According to the information received, one of the roles of the newly established Centre for the Culture of Minorities is to support research projects in the fields of interests for minorities of Montenegro. The Committee of Experts looks forward to receiving information on any research projects that have been supported in the field of regional or minority languages.

54. At present, no study or research on the Romani language is carried out in Montenegro. The use of a language in written form is vital for a regional or minority language to survive in modern society. The Committee of Experts encourages the Montenegrin authorities to support research initiatives aimed at developing codified and written forms of Romani in agreement and close co-operation with the Romani-speakers and in collaboration with neighbouring countries.

- 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.*

55. Article 79, paragraph 12 of the Constitution grants national minorities the right "to establish and maintain contacts with citizens and associations outside Montenegro, with whom they have a common national or ethnic background, cultural and historic background [...]"

56. Article 16 of the Minority Act enables the Republic to foster international educational, scientific and technical co-operation with a view to enabling regional or minority language-speakers to study abroad in their mother tongue.

57. Beyond these legal possibilities, the Committee of Experts did not receive any information about any types of transnational exchanges in practice related to the Albanian and Romani languages and encourages the Montenegrin authorities to provide such information in the next periodical report, including some practical examples.

## **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.*

58. Article 39 of the Minority Act forbids any direct or indirect discrimination, *inter alia* on the basis of language.

59. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Romani-speakers about a draft anti-discrimination act on which the relevant non-governmental organisations were consulted and which has been submitted to the Parliament of Montenegro for adoption. The Committee of Experts has not received any information on the exact content of the draft law *inter alia* in relation to the use of regional or minority languages and asks the Montenegrin authorities to provide such details in their next periodical report.

## **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.*

60. In the field of media, Article 12 of the Minority Act obliges public broadcasters to broadcast programmes at least once a month in the official language, which refer to the life, culture, and identity of minorities.

61. As regards education, Article 15 of the Minority Act states that for schools and institutions in which the official language is the language of instruction, “the curricula shall contain topics on mother tongue and literature, history, art and culture of minorities and other contents that promote mutual understanding and cohabitation”.

62. According to some representatives of the Albanian-speakers, events concerning the Albanian minority are only covered by the Albanian language programmes, but not by the mainstream media, which in their opinion would be beneficial for the Montenegrin society at large in terms of learning and getting to know more about the minorities.

63. According to the representatives of the Romani-speakers, the image presented of the Roma population on television is sometimes distorted, both on public and private media, and creates negative stereotypes, although the situation seems to have improved.

64. The Committee of Experts has not been informed by the Montenegrin authorities about any action taken by them to promote mutual understanding between the different linguistic groups in Montenegro. The Committee of Experts asks the Montenegrin authorities to provide such information in the next periodical report.

***The Committee of Experts encourages the Montenegrin authorities to promote mutual understanding and tolerance between all the linguistic groups of the country, especially in relation to regional or minority languages, by appropriate measures, in particular in education and media.***

## **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.*

65. Paragraph 13 of Article 79 of the Constitution and Article 33 of the Minority Act guarantee national minorities the right to establish councils for the protection and improvement of their rights. The Minority Act guarantees minorities the right to political representation (Articles 24 and 29) and to consultation with state

bodies regarding the proposal and adoption of decisions of concern for minorities (Article 26), including linguistic matters. According to a representative of the Ministry for Human and Minority Rights, that Ministry makes the rules on how to elect the national minority councils. These councils are appointed by the electoral assembly. Each council receives a monthly sum from the Ministry of € 5 000.

66. During the on-the-spot visit, the Committee of Experts was informed that minority councils for the Albanian and Roma minorities were established in 2008.

67. The Albanian Council consists of 35 members. 25 of these members are automatically nominated members, such as mayors of municipalities, members of parliament etc. The Council has set up a commission for the use of the Albanian language. Any projects that the Council carries out are funded by the fund for minorities. The Albanian Council complained of financial difficulties.

68. The Council for Roma, Ashkali and Egyptians<sup>3</sup> consists of 17 members. The Committee of Experts understands that normally a minority has to make up at least 3 % of the population for a minority council to be established, but that an exception was made in relation to the Roma population.

69. According to the information provided by the Montenegrin authorities, there is a good relation between the Ministry and the councils. According to a representative of the Roma council however, the authorities should consult the council more often on issues concerning the Roma. Although some representatives of the Albanian-speakers welcomed the setting up of the council and appreciated the good co-operation with it, they nevertheless felt that the role of the councils was not clearly defined, which seems to hamper their effectiveness.

#### **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.*

70. The Committee of Experts notes that Romani, while being a Part III language, may also be considered a non-territorial language in Montenegro.

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<sup>3</sup> The Ashkali are an Albanian-speaking minority usually considered Albanised Roma. Parts of the group separated and self-identify as "Egyptians".

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

### 2.2.1. Albanian

#### Article 8 – Education

##### *Preliminary remarks*

##### General legislative framework

71. Article 79, paragraph 4 of the Constitution and Article 13 of the Minority Act provide for the general right to education in regional or minority languages, as a language of instruction and as a subject, in general and vocational education, subject to the level of demand and financial resources. The provision furthermore points out that this right applies to all levels of education. Article 13 further states that for the first option, all subjects should be taught through the medium of the minority language, with the exception of the teaching of the official language and script, which is a compulsory subject. This Article, as well as the right to instruction in the regional or minority language, is also reflected in Article 11 of the Law on General Education. According to Article 17 of the Minority Act, minorities have the right to establish educational and pedagogical institutions.

##### Education system

72. According to the Law on Pre-School Education, both public and private pre-school institutions may be set up. Children enter kindergarten from the age of 3. The way of functioning of the institution is determined by the Managing Board of the pre-school institution (Article 14, paragraph 3). Article 10 defines that supervision of the implementation of the provisions of this Law is carried out by the Ministry of Education.

73. According to the information at the disposal of the Committee of Experts, pupils enter primary school education at the age of six. The elementary school (*osnovna škola*) comprises nine years of education and is divided into three cycles (1<sup>st</sup> -3<sup>rd</sup> class; 4<sup>th</sup> – 6<sup>th</sup> class; 7<sup>th</sup> – 9<sup>th</sup> class). For the purposes of the Charter, the Committee of Experts treats the first two cycles as equivalent to primary education and the last cycle as equivalent to lower secondary education. After accomplishing elementary education, pupils have the possibility to continue onto an upper secondary school (*gimnazija*) for four years or onto a vocational school (*stručna škola*) for three or four years.

74. The Committee of Experts understands that the Montenegrin education system has been undergoing reform for several years. As part of this reform, a new curriculum has been established. The curriculum of the Albanian-medium schools is identical to the mainstream curriculum, except for the subject Albanian language and literature. New textbooks have been created for all subjects. For Albanian-medium schools, most textbooks have been translated into Albanian.

75. Pursuant to Article 22 on the Law on General Education, teachers, parents and schools, in co-operation with the local community, are obliged to freely design 20% of the curriculum. This part of the curriculum can be used, among other things, to teach in regional or minority languages, or to teach about the history, culture, music etc. related to the regional or minority language. The Education Agency offers assistance to the teachers in designing the content. In practice however, it seems that so far not many schools have devoted these 20% to topics connected to regional or minority languages.

76. Article 14 of the Minority Act allows regional or minority language education to be made available for a lower threshold of pupils. This number may not be less than 50% of the number of pupils proscribed by the Laws on Elementary and Secondary Education. According to an official of the Ministry for Human and Minority Rights, the minimum threshold to set up a class for regional or minority language education is currently 15, whereas for classes in mainstream schools the minimum is 30 pupils. According to evidence submitted by an NGO, the former Law on Primary Education permitted the setting up of a class with a

minimum of five pupils. The Committee of Experts has so far not been informed of any problems regarding education in Albanian caused by the new threshold.

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

77. The two sub-paragraphs chosen by Montenegro (iii and iv) are alternative options of which only one should have been chosen (see first evaluation report with regard to the implementation of the Charter in Denmark ECRML (2004) 2, paragraph 58). In the case of Albanian in Montenegro, the Committee of Experts has therefore decided to deal with pre-school education in relation to sub-paragraph a.iii.

78. The initial periodical report (page 5) states that there are eight Albanian-medium pre-school groups in Montenegro. The Committee of Experts has not received any information about the location of these groups nor how many children attend them. According to representatives of the Albanian-speakers that the Committee of Experts met during the on-the-spot visit, there is a shortage of Albanian-speaking pre-school teachers. Also, in their view, the amount of Albanian used in pre-schools is not sufficient.

79. While acknowledging the offer of Albanian-medium education in pre-schools, the Committee of Experts is unable to reach a conclusion on this undertaking at present and asks the Montenegrin authorities to clarify in the next periodical report:

- whether there is a systematic offer of pre-school education in Albanian in all places where there is a sufficient demand;
- whether there is a shortage of Albanian-speaking pre-school teachers;
- to what extent Albanian is used in the relevant pre-schools.

#### **Primary Education**

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

80. As mentioned in paragraph 77 above, the two sub-paragraphs chosen by Montenegro (ii and iv) are alternative options of which only one should have been chosen.

81. According to the initial periodical report (page 5) and further information received from the Deputy Minister of Education during the on-the-spot visit, four elementary schools in Ulcinj, four in Tuzi, two in Plav and one each in Rožaje and Bar, teach through the medium of Albanian. Some of these schools also have regional branches. Currently, altogether 3327 pupils attend Albanian-medium elementary schools (classes 1<sup>st</sup> - 9<sup>th</sup>).

82. The Committee of Experts understands that in principle all subjects are taught through the medium of Albanian, apart from other language subjects, whereas in practice it seems that some subjects are in some cases taught in Montenegrin, due to a shortage of teachers in those subjects.

83. As mentioned in paragraph 74 above, a large majority of the textbooks used at elementary schools are translated from Montenegrin into Albanian. In the course of the education reform, new textbooks were translated as of 2005 for primary and secondary school level. During the on-the-spot visit, the Committee of Experts received several complaints from teachers and non-governmental organisations concerning the translation of certain textbooks which, in their view, was not satisfactory. The teachers had already raised this problem with the school inspectors.

84. Another issue that was raised by representatives of the Albanian-speakers is the fact that it is not obligatory for the headmasters of the Albanian-medium schools who are appointed by the Ministry of Education and Science, to have a command of the Albanian language.

85. The Committee of Experts considers the undertaking fulfilled. However, it encourages the Montenegrin authorities to address the issue of the quality of translations of textbooks in Albanian, in co-operation with the schools and the Albanian-speakers. It also encourages the authorities to consider revising the language criteria for appointing headmasters in Albanian-medium schools.

### **Secondary Education**

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

86. As mentioned in paragraph 77 above, the two sub-paragraphs chosen by Montenegro (iii and iv) are alternative options of which only one should have been chosen.

87. With regard to the lower secondary education, the Committee of Experts refers to the twelve elementary schools mentioned in the preceding paragraphs (see primary education) which also offer Albanian-medium education at lower secondary level.

88. According to the initial periodical report (page 6) and information gathered during on-the-spot visit, there are four Albanian-medium or bilingual upper secondary schools in Ulcinj, Tuzi and Plav, including one private upper secondary school in Ulcinj.

89. Based on this information, the Committee of Experts considers the undertaking fulfilled. It asks the Montenegrin authorities to provide more detailed information on Albanian-medium secondary education in the next periodical report. With regard to lower secondary education the Committee of Experts refers to its recommendation in paragraph 85 above.

### **Technical and vocational education**

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



90. During the on-the-spot visit, the Committee of Experts received some evidence of Albanian being taught in vocational schools. However, it does not have sufficient data at its disposal to draw a conclusion on this undertaking and asks the Montenegrin authorities to provide information on the number of vocational schools where Albanian is taught as a subject or used as a language of instruction in the next periodical report.

### **University and Higher Education**

e) ...

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

91. According to the initial periodical report (page 6), Albanian is offered as a subject at the University of Montenegro. However, during the on-the-spot visit, this information could not be confirmed.

92. The Committee of Experts asks the Montenegrin authorities to clarify whether Albanian is offered as a subject of higher education in the next periodical report.

### **Adult and continuing education**

f) ...

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

93. The initial periodical report does not provide any information with regard to this undertaking, nor did the Committee of Experts receive any information during the on-the-spot visit that indicated an offering of Albanian as a subject at adult education centres, or that the Montenegrin authorities favoured or encouraged such offering.

94. During the on-the-spot visit, a representative of the Education Agency informed the Committee of Experts that there has been no demand for adult education Albanian language courses. However, the Committee of Experts has no information at its disposal on whether those potentially interested are aware of any such possibility.

95. The Committee of Experts therefore cannot draw any conclusion on this undertaking. It asks the Montenegrin authorities to provide the information regarding the availability of Albanian adult education and the measures taken by the authorities to encourage such an offer in their next periodical report.

### **Teaching of history and culture**

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

96. The right to include the history and culture of the persons belonging to national minorities in the curricula is guaranteed by paragraph 4 of Article 79 of the Constitution. Furthermore, Article 8 of the Minority Act stipulates that "The Republic shall develop and promote the studying of history, tradition, language and culture of minorities". Article 15 of the same Act extends this duty to schools in which the majority language is taught: "[...] the curricula shall contain topics on mother tongue and literature, history, art and culture of minorities and other contents that promote mutual tolerance and cohabitation."

97. According to the initial periodical report (page 6), the history of the Albanian people in the relevant regions of Montenegro is taught in schools. This was confirmed with respect to Albanian by a representative of the Education Agency during the on-the-spot visit with regard to all schools, including mainstream education. According to the same representative, with regard to minority schools, the subjects "mother tongue and literature", history and music are developed in such a way as to include the history and culture reflected by the Albanian language.

98. In the view of some representatives of the Albanian-speakers, however, the culture and history of the Albanians is not taught to a satisfactory level, not even at the Albanian-medium schools.

99. Nevertheless, the Committee of Experts considers the undertaking fulfilled but asks the Montenegrin authorities to provide more concrete information on the actual teaching of the history and culture of the Albanian language (i.e. textbooks, teaching materials and how these are used in practice), both with regard to Albanian-medium education and in mainstream schools.

### ***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;*

100. According to the information provided in the initial periodical report (page 6) and further evidence received during the on-the-spot visit, the University of Montenegro opened a Department offering the first Programme of Education in Albanian in 2004. It offers basic teacher training for teaching at Albanian-medium primary schools. Currently 67 students are enrolled. The initial periodical report also mentions an Action Plan relating among other things to teacher training, but the Montenegrin authorities have not provided any detailed information in this respect.

101. According to the Head of the Department that the Committee of Experts met during its on-the-spot visit, there is a lack of space and university staff, but it seems that the Department compensates this shortcoming by co-operating with universities in Albania. For example, some teacher trainees pursue their training in Albania, and, according to the head of Department, receive the same level of support as students in Montenegro.

102. During the on-the-spot visit, the Committee of Experts was informed that there are no teacher training possibilities for the subject Albanian language and literature. Furthermore, teacher training is not offered specifically for Albanian-medium education at secondary level.

103. With regard to further training, the Committee of Experts was informed that schools can request special training needs to the Education Agency, it is however unclear to the Committee of Experts whether the Agency can also accommodate the training needs relating to Albanian medium education.

104. The Committee of Experts considers the undertaking fulfilled with regard to teacher training at the primary level. It cannot draw a conclusion with regard to the secondary level and asks the Montenegrin authorities to provide information on this in the next periodical report.

## **Article 9 – Judicial authorities**

### *General remarks*

105. According to the initial periodical report (page 12), the laws in the judicial area will be brought in line with the new Constitution. The Committee of Experts asks the Montenegrin authorities to provide information relevant to the use of regional or minority languages in the new laws in the next periodical report.

## **Paragraph 1**

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

**a) in criminal proceedings:**

...

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

*iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or*

*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 person concerned;*

**b) in civil proceedings:**

...

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

*iii to allow documents and evidence to be produced in the regional or minority languages,*

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

**c) in proceedings before courts concerning administrative matters:**

...

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

*iii to allow documents and evidence to be produced in the regional or minority languages,*

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

106. According to the initial periodical report (pages 11 and 15), the right for the accused to use the Albanian language in criminal proceedings and the right for the parties to a civil case to use the Albanian language are ensured through Articles 7, 8, 9 and 199 of the Law on Criminal Procedure No 71/ 03, Articles 7, 99 and 102 of the Law on Civil Procedure and Article 15 of the Law on Administrative Procedure (No. 60/ 03).

107. Pursuant to these laws and in line with paragraph 5 of Article 79 of the Constitution, a national minority language may be used in courts located in those areas where the language of the national minority is in official use. Indeed, the domestic legislation goes further than the undertakings chosen by Montenegro under the Charter, since Albanian-speakers have the legal right to have the entire court proceedings in their language.

108. The Committee of Experts understands that by virtue of the Law on Criminal Procedure, the interpretation costs are borne by the court.

109. According to an official from the Ministry of Justice with whom the Committee of Experts met during the on-the-spot visit, the judge has the duty to inform the accused of their right to use their language in court. If the judge fails to do so, then, in accordance with the Law on Criminal Procedure, it can be taken as a reason to annul the judgement. According to the official, the right to use the minority language in court is unconditional, regardless of whether the litigant has a command of the official language or not.

110. During the on-the-spot visit, the Committee of Experts was informed that the court in Ulcinj has an Albanian-speaking judge and that there is a sufficient number of Albanian court interpreters in Montenegro. However, from the evidence received from representatives of the Albanian-speakers, it seems that in practice the Albanian-speakers only very rarely make use of their right to use Albanian in court proceedings.

111. Since the fulfilment of these undertakings requires that the formal provisions in the law are followed by some degree of practical implementation, the Committee of Experts considers the undertakings only formally fulfilled at present. It asks the Montenegrin authorities to provide more information about the use of Albanian in courts in practice in their next periodical report.

- 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.*

112. By virtue of the Law on Civil Procedure, the interpretation costs are borne by the court. The Committee of Experts has not received any equivalent information with respect to the Law on Administrative Procedure.

113. The Committee of Experts considers the undertaking fulfilled with regard to civil proceedings at present. It is unable to draw a conclusion with regard to administrative court proceedings and asks the Montenegrin authorities to provide such information in the next periodical report.

## **Paragraph 2**

### *The Parties undertake:*

- a) *not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or*
- b) *not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or*
- c) *not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.*

114. Sub-paragraphs b) and c) are included in sub-paragraph (a) and the Charter provides that sub-paragraph (a) may be chosen as an alternative to the other options of Article 9.2. but not in addition to them. The undertakings b) and c) are therefore redundant to the undertakings of Montenegro (see first evaluation report with regard to the implementation of the Charter in Denmark ECRML (2004) 2, paragraph 78).

115. According to the initial periodical report (page 12) the Law on Criminal Procedure, the Law on Civil Procedure and the Law on Administrative Procedure do not make it a requirement for the validity of legal documents that they are drawn up in the official language.

116. Based on this information, the Committee of Experts considers the undertaking fulfilled.

## **Paragraph 3**

*The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.*

117. The initial periodical report (page 12) states that at the time of the report, no legal texts had been translated into regional or minority languages, but that there were plans to do so in the future. During the on-the-spot visit the Committee of Experts was informed that only one law (on media) had been translated into Albanian.

118. The Committee of Experts therefore concludes that the undertaking is not fulfilled at present. It encourages the Montenegrin authorities to make available in Albanian the most important national statutory texts and those that relate particularly to the users of the Albanian language.

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

### *Preliminary remarks*

119. According to Article 11 of the Minority Act, minorities have the right to use their language and script (see paragraph 44 above). This right is furthermore secured by the fact that paragraph 10 of Article 79 of the Constitution and Article 25 of the Minority Act give minorities the right to proportional representation in public services, state bodies and local self government bodies.

120. As far as the use of Albanian on the local level is concerned, as mentioned in paragraphs 25 – 30 above, it basically depends upon the discretion of the local authorities whether the regional or minority language in question is declared a language in official use in that municipality. Based on the information contained in the initial periodical report, the Committee of Experts understands that Albanian is in official use in Ulcinj, Tuzi and Plav.

121. Based on the number of Albanian-speakers from the 2003 census (see paragraph 11 above), the areas where the Charter might also be applicable with regard to Article 10 are Rožaje and Bar. The Committee of Experts however has received very little information from the Montenegrin authorities concerning the situation in these municipalities. The Committee of Experts asks the Montenegrin authorities to provide information on the use of the Albanian language in the field of administration also in these municipalities in the next periodical report.

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

122. Obligations iv) and v) of Paragraph 1,a. are included in sub-paragraph (a) option iii) and the Charter provides that sub-paragraph (a) option iii) may be chosen as an alternative to the other options of Article 10.1. a. but not in addition to them. Undertakings iv) and v) are therefore redundant to the undertakings of Montenegro (see first evaluation report with regard to the implementation of the Charter in Croatia ECRML (2001) 2, paragraph 75).

123. The Committee of Experts has no information at its disposal on the legislation governing the use of Albanian in local state administrative bodies. During the on-the-spot visit, the Committee of Experts was informed by both representatives of the Albanian-speakers and the local authorities that there are no Albanian-speaking civil servants within the state administration bodies.

124. The Committee of Experts does not have sufficient information to conclude on these undertakings and therefore asks the Montenegrin authorities to provide information regarding the legislative basis as well as examples of the practical implementation of these undertakings.

## **Paragraph 2**

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

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

125. During the on-the-spot visit, the Committee of Experts met with several representatives of local authorities where Albanian is spoken. According to the information received during the on-the-spot visit, Albanian is used in Ulcinj, Tuzi and Plav and seems to be used to some extent in the municipalities of Rožaje and Bar.

126. The Committee of Experts considers the undertaking fulfilled with regard to Ulcinj, Tuzi and Plav and asks the Montenegrin authorities to provide information concerning the use of Albanian within local administration in Rožaje and Bar.

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

127. According to the information contained in the initial periodical report, the municipalities of Tuzi, Ulcinj and Plav should publish official acts in Albanian, according to their statutes. In practice this seems to be carried out in Ulcinj and Tuzi and to a lesser degree in Plav.

128. Based on this information, the Committee of Experts considers the undertaking fulfilled in Tuzi, Ulcinj and Plav.

- 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.***

129. Article 79, paragraph 8 of the Constitution and Article 11 of the Minority Act govern the use of place-names in regional or minority languages. In addition, the names of public bodies, names of the local self-government units, street names and institutions shall also be written in the language and script of the minority where its respective language is in official use. The use is again further regulated by the statutes of the municipalities.

130. According to Article 18, paragraph 2 of the Statute of the Municipality of Ulcinj, and Article 7 of the Statute of the Municipality of Plav, toponyms are also written in the Albanian language. The Committee of Experts has no information with regard to the regulations of the other municipalities.

131. According to representatives of the municipalities, place names are bilingual in Ulcinj and Tuzi municipalities, and in two areas within Rožaje municipality (where there are many Albanian-speakers).

132. The Committee of Experts considers the undertaking fulfilled in Ulcinj, Tuzi and Rožaje. The Committee of Experts asks the authorities to provide information on the use of Albanian place names in the municipalities of Plav and Bar in their next periodical report.

## **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.*

133. This undertaking concerns the use of regional or minority languages in relations with bodies providing public services, which could include, for example, postal services, telecommunication services, electricity, public transport, hospitals etc. (see the second evaluation report with regard to the implementation of the Charter in respect of Germany, ECRML (2006)1, paragraph 210).

134. The Committee of Experts has not received any information with regard to the use of the Albanian language within public services. It is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide such information in the next periodical report.

### **Paragraph 4**

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

- a) *translation and interpretation as may be required;*

135. The Committee of Experts was informed by representatives of the municipalities that translation and interpretation is available if necessary in the municipalities of Ulcinj, Tuzi and Plav. The Committee of Experts asks the Montenegrin authorities to provide such information with regard to the other municipalities and also with regard to public services and local branches of state administration.

136. The Committee of Experts considers the undertaking fulfilled for the municipalities of Ulcinj, Tuzi and Plav.

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

137. The initial periodical report provides no information with regard to this undertaking, nor was the Committee of Experts able to gather any information during the on-the-spot visit.

138. The Committee of Experts is therefore not in a position to conclude on this undertaking and asks the Montenegrin authorities to provide information on whether requests from Albanian-speaking public service employees to be appointed to an Albanian-speaking area are complied with.

### **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.*

139. By virtue of Article 10 of the Minority Act, persons belonging to national minorities have the right to use their first name and surname, and the first name of their children. They also have the right to register those names in public registers and identification documents in their language and alphabet. By virtue of Article 2, Paragraph 3 of the Law on the Use of Personal Names (No. 20/93, 27/94), minorities can freely enlist their personal name in their own script. It seems that a new law has been adopted in the meantime (Law on Name and Surname of July 2008).

140. These rights are again further specified in the statutes of the municipalities. During the on-the-spot visit, the Committee of Experts was informed of some difficulties and misunderstanding with regard to

different types of certificates spelling the Albanian names in different ways which has caused practical problems in specific circumstances. The Committee of Experts was also informed that Albanian names are registered in Albanian in passports and identity cards, but not in all the certificates issued by national or local bodies (such as birth certificates, etc.).

141. The Committee of Experts considers the undertaking fulfilled at present but encourages the Montenegrin authorities to resolve the issues mentioned above and to provide information on the new law on Name and Surname in the next periodical report.

## **Article 11 – Media**

### *Preliminary remarks*

142. The initial periodical report did not contain much information with regard to the general situation of the broadcasting media in Albanian.

143. Concerning the funding of radio and television broadcasting, the Committee of Experts was informed during the on-the-spot visit that there are various sources of funding for minority language broadcasting. Among these are the following:

144. First of all, the money collected through the television and radio licence fees are redistributed to the media: 70% of these fees go to the public service, 10% to the public local services and 10% to the private media. However, information received during the on-the-spot visit indicates that since 2008, all the fees go to the public media. The Committee of Experts encourages the Montenegrin authorities to clarify the situation in the next periodical report.

145. Secondly, local public broadcasters receive substantial financial support from the local authorities.

146. Thirdly, private broadcasters can receive financial support for radio and television projects (about € 1000 – 4000 a year) through tenders from the Ministry of Culture, Sports and Media. According to the representatives of the Albanian-speakers, the funding situation is difficult because the criteria for them to receive funding are the same as for all other competitors. On the other hand, the Committee of Experts was informed that one of the criteria for applying for broadcasting funds is broadcasting in a regional or minority language. The Committee of Experts asks the Montenegrin authorities to clarify this issue in their next periodical report.

147. Finally, the Committee of Experts was informed about a new draft law on electronic media that at the time of the Committee of Experts' visit had not yet been adopted. According to the Ministry of Culture, Sports and Media, the draft law envisages the establishment of a fund for media pluralism. The Committee of Experts looks forward to receiving information on the further development, especially with regard to the funding possibilities for regional or minority language broadcasting in practice.

### **Paragraph 1**

*The Parties undertake, for the users of the regional and 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) *to the extent that radio and television carry out a public service mission:*

...

iii *to make adequate provision so that broadcasters offer programmes in the regional or minority languages;*



148. Article 12 of the Minority Act stipulates that public broadcasters (“competent managing and program developing bodies of the media founded by the Republic”) shall provide an appropriate number of broadcasting hours in the languages of minorities.

149. Article 4 of the Law on Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro” provides for the possibility to establish regional radio and television studios to produce and broadcast programmes in regional or minority languages. Article 10 of the said law ensures partial funding of these programmes.

150. According to the initial periodical report (page 20), and information received during the on-the-spot visit, in 2006 Radio of Montenegro broadcast a 3-minute programme and a 30-minute programme in Albanian every day except Sundays. Furthermore, the local radio station Radio Bar broadcasts a 45-minute programme in Albanian five times a week, the other local station Radio Ulcinj broadcasts 70% of its programming in the Albanian language.

151. Whereas the representative of Radio Bar was pleased about the working conditions, the conditions for Radio Ulcinj are more precarious since it is facing financial difficulties. The radio station therefore reduced its amount of broadcasting in Albanian due to a shortage of journalists and not being able to pay them in time.

152. With regard to television broadcasting, in 2006 Television of Montenegro broadcast a 5-minute programme (five days a week) and a weekly 60-minute programme, according to the initial periodical report. According to evidence received during the on-the-spot visit, the 60-minute weekly news and current events programme has been reduced to 45 minutes. At the same time, the 5-minute programme has been extended to 15 minutes. At weekends on the news, some news items are broadcast in Albanian.

153. According to the representatives of the public broadcasting media that the Committee of Experts met during the on-the-spot visit, by law, programmes broadcast in languages other than Montenegrin must be subtitled. However, there are not sufficient human resources to subtitle all programmes that are broadcast in Albanian. The Committee of Experts asks the Montenegrin authorities to clarify in the next periodical report whether an obligation to subtitle programmes also applies to programmes in Albanian and if so whether the authorities give financial support to help meet the expense involved in subtitling.

154. The Committee of Experts considers the undertaking fulfilled. It nevertheless encourages the Montenegrin authorities to improve the financial situation of Radio Ulcinj so that broadcasting in Albanian can be maintained.

b) ...

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

155. Article 12 of the Minority Act gives the authorities the possibility to take measures to encourage the broadcasting of programmes in regional or minority languages on private radio and television.

156. During the on-the-spot visit, the Committee of Experts was informed that private radio stations, such as Radio Elite and Radio Teuta broadcast in Albanian. The Albanian language radio station, Radio Mir, closed down after ten years of operation in 2008.

157. The Committee of Experts does not have sufficient information on the extent to which these radio stations are encouraged and/ or facilitated by the Montenegrin authorities and therefore cannot draw a conclusion on this undertaking. It asks the Montenegrin authorities to provide such information in the next periodical report.

c) ...

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

158. According to the initial periodical report (page 21), commercial television stations that broadcast in Albanian can be co-financed through a yearly competition. In 2006, the local Ulcinj station, TV Teuta, and the

local Tuzi station, TV Boin, which broadcast most of their programmes in Albanian, received financial support. TV Echo, which can be viewed in Plav, has broadcast programmes in the Albanian language for eleven years. TV Teuta has been broadcasting since 2001.

159. According to the information received during the on-the-spot visit, TV Boin, which can be viewed in Ulcinj and Tuzi and has been in operation for seven years, is facing financial difficulties.

160. In addition to the funding difficulties, not only for private television stations, there are also costs connected with the switch to digitalisation in Montenegro in 2012, which it will be difficult for the minority media to finance.

161. Based on the information received, the Committee of Experts considers that the undertaking is fulfilled. It encourages the Montenegrin authorities to provide information on measures taken to assist minority media during the process of digitalisation.

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

162. The initial periodical report does not contain any information with regard to the application of this undertaking, nor has the Committee of Experts been able to receive such information during the on-the-spot visit.

163. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide information on how they encourage and/ or facilitate the production and distribution of audio and audiovisual works in the Albanian language.

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

164. The weekly *Koha Javore* has existed for seven years with a print-run of 500, doubling in the summer months to cater for tourists from Albania. *Koha Javore* is the only Albanian newspaper in Montenegro. The government co-finances the paper through an annual contract (€12 000 in 2009; €15 000 in both 2007 and 2008).

165. During the on-the-spot visit, the Committee of Experts was informed that the future existence of this paper had been under threat at the beginning of 2009, because of plans to reduce it to one page as an insertion of the larger Montenegrin language paper *Pobjeda*. However, apparently due to protest this was decided against.

166. The representative of *Koha Javore* expressed his view to the Committee of Experts that the state financial support from the Ministry of Culture, Sports and Media was not sufficient. Some representatives called for a daily Albanian newspaper.

167. The Committee of Experts nevertheless considers the undertaking fulfilled and encourages the Montenegrin authorities to continue their support for the maintenance of an Albanian language newspaper.

**f) ...**

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

168. The initial periodical report does not contain any information with regard to the application of this undertaking, nor has the Committee of Experts been able to receive such information during the on-the-spot visit.

169. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide information on how they apply existing measures for financial assistance to audiovisual productions in the Albanian language.

## **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 and 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.*

170. The Committee of Experts has not received any information from the Montenegrin authorities or any other sources with regard to this undertaking.

171. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide the lacking information in their next periodical report.

## **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.*

172. According to the initial periodical report (page 22), the Montenegro Radio and Television Council, by virtue of Article 15 of the Law on Public Broadcasting Services, appoints a consultative committee with regard to the programme contents in the languages of national minorities. Furthermore, according to Article 15, the committee also gives its consent to the budget spent on these programmes. The Committee of Experts has been informed that this consultative committee has been set up and is in operation. However, the Committee of Experts has no information about the composition of the committee and whether the criteria for appointing members ensure that the interest of Albanian-speakers are taken into account.

173. The Committee of Experts therefore cannot conclude on this undertaking and asks the Montenegrin authorities to provide such information in the next periodical report.

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

### **Paragraph 1**

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

- 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;*

174. The right for national minorities to establish cultural associations, with the material support of the state, is guaranteed by the Constitution under paragraph 6 of Article 79.

175. According to the initial periodical report (page 24), the Ministry of Culture, Sports and Media provides funds for cultural activities of national minorities, including publications in Albanian and cultural events. Financial support is granted depending on the availability of the budget and the quality of the project.

176. According to representatives of the speakers, the government funds available for the activities of the national minorities are in general insufficient.

177. So far it seems that there has been no earmarked funding for the activities relating to the protection of regional or minority languages. However, the Committee of Experts understands that the annual fund granted to the newly established Centre for the Culture of Minorities is used *inter alia* for these purposes.

178. The Committee of Experts considers the undertaking fulfilled, but asks the Montenegrin authorities to provide more information on the activities of the Centre related to the Albanian language as well as to any other funding possibilities.

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

179. Apart from the fact that the activities that fall under this undertaking can be financially supported by the Ministry of Culture, Sports and Media under certain pre-conditions, the initial periodical report does not provide any information with regard to this undertaking.

180. The Committee of Experts cannot conclude on this undertaking and asks the Montenegrin authorities to provide the relevant information in the next periodical report.

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

181. Apart from the fact that such activities can be financially supported by the Ministry of Culture, Sports and Media under certain pre-conditions, the initial periodical report does not provide any information with regard to this undertaking. The Committee of Experts did not receive any further information during its on-the-spot visit.

182. The Committee of Experts is therefore unable to conclude on whether the undertaking is fulfilled and asks the Montenegrin authorities to provide such information in the next periodical report, including some practical examples.

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

183. The Committee of Experts has not received sufficient information to draw a conclusion on this undertaking. Therefore it asks the Montenegrin authorities to provide the relevant information in the next periodical report.

## **Paragraph 2**

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

184. The initial periodical report does not contain any information with regard to the application of this undertaking. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide the relevant information in their next periodical report.

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

### **Paragraph 1**

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

...

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

185. During the on-the-spot visit, the Committee of Experts was informed about a draft anti-discrimination law (see paragraph 59 above) and asks the Montenegrin authorities to provide information on further developments and its relevance with regard to this undertaking in the next periodical report.

### *2.2.2. Romani*

186. While acknowledging the strong commitment of protecting Romani in Montenegro under Part III of the Charter, the Committee of Experts must nonetheless evaluate the present level of implementation of the precise undertakings entered into under Part III with respect to the Romani language. This evaluation clearly shows that there is a significant gap between a number of the undertakings chosen and the level of implementation provided for by the domestic legal framework and practice. The Committee of Experts observes, in particular, that compliance with many of the selected undertakings is rendered difficult, or even impossible, by the fact that the Romani language has no standard written form in Montenegro, as it has hitherto not been codified.

187. Furthermore, as mentioned in paragraphs 31 and 32 above, Romani is not in official use in any municipality. Consequently, it is not used in any municipality, which has serious implications, especially for the application of Articles 9 and 10 of Part III of the Charter.

## **Article 8 – Education**

188. For general information on education, the Committee of Experts refers to the relevant paragraphs above (paragraphs on Albanian).

189. As mentioned in paragraph 41 above, Montenegro has adopted an Action Plan and a Strategy targeting social integration of the Roma minority in Montenegro. One aim is to strengthen education of Roma, by creating incentives to increase their school attendance, integrating them into mainstream schools (a disproportionately high number of Roma pupils are currently enrolled in special schools) and teaching them the Montenegrin language. Part of the policy however, is also to take account of their own language and culture and to incorporate this as a teaching element in education. In order to reach the latter aim, among other things, schoolbooks are to be published in Romani or bilingually, the Romani language and culture is to be taught and staff are to be trained to be able to teach the Romani language and culture.

190. The Committee of Experts welcomes this positive commitment on the part of Montenegro to combat the existing practice of educating Roma pupils in special schools or in special classes. It also welcomes the commitment to include the teaching of the Romani language as an inherent part of the education of Roma children.

191. The Preamble to the Charter of course states that “the protection and encouragement of regional or minority languages should not be to the detriment of the official languages and the need to learn them”. Furthermore, the need for successful integration of Roma in Montenegrin society deserves maximum support, given the unfavourable economic, social and political conditions from which Roma have suffered for centuries in most European countries. However, social integration should not be confused with cultural and linguistic assimilation. Full recognition of the linguistic and cultural specificities of Roma is more conducive to their successful integration in the society than denying them. Furthermore, acquiring multiple linguistic skills from a very early age, or even better as a mother-tongue bilingual speaker, enhances the child’s intellectual and linguistic ability (see the first evaluation report with regard to the implementation of the Charter in Slovakia ECRML (2007) 1, paragraph 59).

192. The Committee of Experts has not received any information from the Montenegrin authorities on how demand for regional or minority language education is assessed and how parents are made aware of their right and the possibility for their children to receive regional or minority language education. The Committee of Experts asks the Montenegrin authorities to provide information in this respect in their next periodical report.

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

193. The two sub-paragraphs chosen by Montenegro (iii and iv) are alternative options of which only one should have been chosen (see first evaluation report with regard to the implementation of the Charter in Denmark ECRML (2004) 2, paragraph 58).

194. There is no information with regard to the application of this undertaking for Romani. The Committee of Experts did not receive any indication during the on-the-spot visit that Romani was taught in any form at pre-school level although it was informed about a Roma pre-school in Podgorica. It was also informed that only 14% of Roma children attend pre-schools.

195. The Committee of Experts therefore considers the undertaking not fulfilled.

### **Primary Education**

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

196. As mentioned in paragraph 193 above, the two sub-paragraphs chosen by Montenegro (ii and iv) are alternative options of which only one should have been chosen.

197. During its on-the-spot visit, the Committee of Experts paid a visit to the Božidar Vuković Elementary School situated in the outskirts of Podgorica, a school that is attended by a high number of Roma pupils. The school also operates a branch in a refugee camp (where there are many Roma from Kosovo).

198. The headmaster of the school explained to the Committee of Experts that Romani as such is not taught as a subject or employed as the language of instruction within the education system in Montenegro. Several reasons were mentioned.

199. First of all, Roma people in Montenegro are a diverse group, divided into Roma, Ashkali and Egyptians. There is a large group that recently came from Kosovo, who speak Albanian besides Romani, or only Albanian. Secondly, Romani has not been standardised or codified, which is seen as a hindrance to the teaching of Romani and also has implications at almost all levels of education. In addition, there are no teacher training possibilities and no teachers of Romani. Thirdly, a major reason is the fact that the authorities and schools give priority to the social integration of Roma pupils. Many Roma pupils, especially those originally from Kosovo, do not master the Montenegrin language. Also, school attendance among the Roma pupils is low, and the drop out rate during and after primary education is very high, despite various efforts on the part of the schools and a support structure from the authorities and non-profit-making organisations. The biggest challenge is to convince the parents that education is important for their children.

200. The school employed two assistants from the Roma minority in the school as a pilot project under the Action Plan for Roma. The school also taught Romani language and culture within the 20% of the curriculum which can be freely designed (see footnote to paragraph 19 above). The introduction of positions of Roma assistants had been very successful. The Roma assistants had turned out to be good mediators between the family and the school and helped the Roma pupils integrate better. The assistant thereby also employs the Romani language. However, according to the headmaster, there is no permanent support for assistants from the Ministry of Education and Science, although the Ministry seemed open to finding a solution to this matter.

201. The representatives of the Romani-speakers would welcome the introduction of Romani as an optional subject in the curriculum.

202. The Committee of Experts considers that the pilot project employing Roma assistants in the schools is commendable and seems to have led to good results. The Committee of Experts encourages the Montenegrin authorities to introduce Roma assistants in other schools with a significant number of Romani-speaking pupils and to secure a more permanent presence of these assistants.

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

### **Secondary Education**

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

204. As mentioned in paragraph 193 above, the two sub-paragraphs chosen by Montenegro (iii and iv) are alternative options of which only one should have been chosen.

205. The Committee of Experts has not received any information with regard to the offer of Romani at secondary school level. As already mentioned, the dropout rate of Roma pupils is very high.

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

### **Technical and vocational education**

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

207. The initial periodical report gives no information with regard to the application of this undertaking. During the on-the-spot visit, the Committee of Experts did not receive any indication that Romani was offered as a subject or a teaching language within technical and vocational education, nor how the demand is assessed for such.

208. The Committee of Experts therefore concludes that the undertaking is not fulfilled.

### **University and Higher Education**

e) ...

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

209. The initial periodical report does not contain any information with regard to the application of this undertaking. From the information received during the on-the-spot visit, the Committee of Experts understands that there is no possibility to study Romani as a subject in higher education.

210. The Committee of Experts therefore considers the undertaking not fulfilled and encourages the Montenegrin authorities to take special measures to make it possible to study the Romani language at higher education level.

### **Adult and continuing education**

f) ...

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

211. The initial periodical report does not provide any information with regard to this undertaking, nor did the Committee of Experts receive any information during the on-the-spot visit that indicated an offering of Romani as a subject at adult education centres, or that the Montenegrin authorities favoured or encouraged such offering.

212. During the on-the-spot visit, a representative of the Education Agency informed the Committee of Experts that there had been no demand for adult education Romani language courses. However, the Committee of Experts has no information at its disposal as to whether those potentially interested are aware of any such possibility.

213. The Committee of Experts therefore cannot draw any conclusion on this undertaking. It asks the Montenegrin authorities to provide the information regarding the availability of Romani adult education and the measures taken by the authorities to encourage such an offer in their next periodical report.

### **Teaching of history and culture**

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

214. Article 8 of the Minority Law stipulates that "The Republic shall develop and promote the studying and history, tradition language and culture of minorities". Article 15 of the same Act extends this duty to schools in which the majority language is taught: "[...] the curricula shall contain topics on mother tongue and literature, history, art and culture of minorities and other contents that promote mutual tolerance and cohabitation".

215. According to representatives of the Romani-speakers that the Committee of Experts met during its on-the-spot visit, the history and the culture of the Roma and the Romani language in Montenegro are not taught in school.

216. Based on this information, the Committee of Experts concludes that the undertaking is not fulfilled. It encourages the Montenegrin authorities to make arrangements to ensure that the history and the culture related to Romani is taught at schools in practice.



## **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;*

217. No information is provided in the initial periodical report with regard to the application of this undertaking. During the on-the-spot visit, the Committee of Experts was informed by representatives of the Romani-speakers that there is no basic or further teacher training for Romani. Under the Action Plan mentioned above, existing staff are to be trained so that they are able to teach Romani language and culture. The Committee of Experts finds that the initiatives described in the Action Plan are positive and would be clearly beneficial not only for the better integration of Roma pupils, but also for the teaching of Romani. The Committee of Experts encourages the Montenegrin authorities to implement the relevant parts of the Action Plan with regard to teacher training.

218. The Committee of Experts nevertheless considers the undertaking not fulfilled at present.

## **Article 9 – Judicial authorities**

### **Paragraph 1**

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

- a) in criminal proceedings:*

...

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

*iii to provide that requests and evidence, whether written or oral, shall not be considered inadmissible solely because they are formulated in a regional or minority language; and/or*

*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 person concerned;*

- b) in civil proceedings:*

...

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

*iii to allow documents and evidence to be produced in the regional or minority languages,*

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

- c) in proceedings before courts concerning administrative matters:*

...

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

*iii to allow documents and evidence to be produced in the regional or minority languages,*

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

219. According to the initial periodical report (pages 11 and 15), the right for the accused to use the Romani language in criminal and civil proceedings and the right for the parties to a civil case to use Romani are ensured through Articles 7, 8, 9 and 199 of Law on Criminal Procedure No 71/ 03, Articles 7, 99 and 102 of the Law on Civil Procedure and Article 15 of the Law on Administrative Procedure (No. 60/ 03).

220. Pursuant to these laws and in line with paragraph 5 of Article 79 of the Constitution, a national minority language may be used in courts located in those areas where the language of the national minority is in official use.

221. The Committee of Experts understands that by virtue of the Law on Criminal Procedure, the interpretation costs are borne by the court.

222. According to an official from the Ministry of Justice with whom the Committee of Experts met during the on-the-spot visit, the judge has the duty to inform the accused of their right to use their language in court. If the judge fails to do so, then, in accordance with the Law on Criminal Procedure, it can be taken as a reason to annul the judgement. According to the official, the right to use the minority language in court is unconditional, regardless of whether the litigant has a command of the official language or not.

223. Representatives of the Romani-speakers that the Committee of Experts met during its on-the-spot visit expressed their general satisfaction with regard to the possibility of using Romani in court proceedings. There are two Romani interpreters.

224. However, as Romani is not in official use in Montenegro, it is unclear to the Committee of Experts to what extent a Romani-speaker may use Romani in court proceedings, be they criminal, civil or administrative. The Committee of Experts is therefore unable to conclude whether this undertaking is fulfilled or not for Romani and asks the Montenegrin authorities to provide further information on this in the next periodical report.

- 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.*

225. By virtue of the Law on Civil Procedure, the interpretation costs are borne by the court. The Committee of Experts has not received any equivalent information with respect to the Law on Administrative Procedure.

226. The Committee of Experts considers the undertaking fulfilled with regard to civil proceedings at present. It is unable to draw a conclusion with regard to administrative court proceedings and asks the Montenegrin authorities to provide such information in the next periodical report.

## **Paragraph 2**

### ***The Parties undertake:***

- a) not to deny the validity of legal documents drawn up within the State solely because they are drafted in a regional or minority language; or*
- b) not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language, and to provide that they can be invoked against interested third parties who are not users of these languages on condition that the contents of the document are made known to them by the person(s) who invoke(s) it; or*
- c) not to deny the validity, as between the parties, of legal documents drawn up within the country solely because they are drafted in a regional or minority language.*

227. Sub-paragraphs b) and c) are included in sub-paragraph (a) and the Charter provides that sub-paragraph (a) may be chosen as an alternative to the other options of Article 9.2. but not in addition to them. Undertakings b) and c) are therefore redundant to the undertakings of Montenegro (see first evaluation report with regard to the implementation of the Charter in Denmark ECRML (2004) 2, paragraph 78).

228. According to the initial periodical report (page 12) the Law on Criminal Procedure, the Law on Civil Procedure and the Law on Administrative Procedure do not make it a requirement for legal documents to be drawn up in the official language in order to be valid.

229. Based on this information, the Committee of Experts considers the undertaking fulfilled.

### **Paragraph 3**

*The Parties undertake to make available in the regional or minority languages the most important national statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.*

230. According to the information available to the Committee of Experts, no laws have been translated into Romani. Therefore, the undertaking is not fulfilled.

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

### *Preliminary remarks*

231. According to Article 11 of the Minority Act, minorities have the right to use their language and script (see paragraph 44 above). This right is furthermore secured by the fact that paragraph 10 of Article 79 of the Constitution and Article 25 of the Minority Act give minorities the right to proportional representation in public services, state bodies and local self government bodies. However, the Committee of Experts has no information to what extent this is applied to members of the Roma minority in practice.

232. So far, the Committee of Experts understands that the Montenegrin authorities have not identified any areas where Roma constitute a majority or “considerable part” in any municipality in Montenegro and that no local authority has decided to grant official use to Romani.

### **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; or*

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

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

...

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

233. Obligations iv) and v) of Paragraph 1.a. are included in sub-paragraph (a) option iii) and the Charter provides that sub-paragraph (a) option iii) may be chosen as an alternative to the other options of Article 10.1. a. but not in addition to them. The undertakings iv) and v) are therefore redundant to the undertakings of Montenegro (see first evaluation report with regard to the implementation of the Charter in Croatia ECRML (2001) 2, paragraph 75).

234. The Committee of Experts has no information at its disposal of the legislation governing the use of Romani in local state administrative bodies.

235. The Committee of Experts does not have sufficient information to conclude on these undertakings and therefore asks the Montenegrin authorities to provide information regarding the legislative basis as well as examples of practical implementation of these undertakings.

## **Paragraph 2**

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

...

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

236. During the on-the-spot visit, the Committee of Experts met with a representative of the municipality of Berane who informed the Committee of Experts of plans to employ a member of the Roma minority within the local administration to deal with requests from Romani-speakers so that they have better access to their rights. The Committee of Experts welcomes this initiative and asks the Montenegrin authorities to provide more information in the next periodical report.

237. The Committee of Experts concludes that the undertaking is not fulfilled at present.

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

238. The Committee of Experts was not made aware of the publication of any documents in Romani by local authorities. It therefore considers the undertaking not fulfilled.

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

239. Article 11 of the Minority Act governs the use of place-names in regional or minority languages, and in addition the names of public bodies, the name of the local self-government unit, street names and institutions shall also be written in the language and script of the minority where its respective language is in official use. The use is again further regulated by the statutes of the municipalities.

240. There are no place-name signs put up in Romani in Montenegro. This was confirmed by Romani-speakers during the on-the-spot visit. The undertaking is therefore not fulfilled.

## **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.*

241. The Committee of Experts has not received any information with regard to the use of the Romani language within public services. It is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide such information in the next periodical report.

#### **Paragraph 4**

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

- a) *translation and interpretation as may be required;*

242. The Committee of Experts has not received any information with regard to this undertaking and therefore asks the Montenegrin authorities to inform the Committee of Experts in this respect in their next report.

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

243. The initial periodical report provides no information with regard to this undertaking, nor was the Committee of Experts able to gather any information during the on-the-spot visit.

244. The Committee of Experts is therefore not in a position to conclude on this undertaking and asks the Montenegrin authorities to provide information on whether requests from Romani-speaking public service employees to be appointed to a Romani-speaking area are complied with.

#### **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.*

245. By virtue of Article 10 of the Minority Act, persons belonging to national minorities have the right to use their first name and surname, and the first name of their children. They also have the right to register those names in public registers and identification documents in their language and alphabet. By virtue of Article 2, Paragraph 3 of the Law on the Use of Personal Names (No. 20/93, 27/94), minorities can freely enlist their personal name in their own script.

246. No information on the practical implementation of this undertaking is provided in the initial periodical report, nor did the Committee of Experts receive any further information in this respect with regard to Romani. Furthermore, it seems that a new law has been adopted in the meantime (Law on Names and Surnames of July 2008). The Committee of Experts asks the Montenegrin authorities to provide information on whether the Romani-speakers can use their family names in Romani.

247. The Committee of Experts is currently not in a position to conclude on this undertaking and asks the Montenegrin authorities to provide the necessary information in their next periodical report.

#### **Article 11 – Media**

248. As regards the general information with regard to the broadcasting media, the Committee of Experts refers to paragraphs 142 - 147 above.

## **Paragraph 1**

*The Parties undertake, for the users of the regional and 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) *to the extent that radio and television carry out a public service mission:*

...

iii *to make adequate provision so that broadcasters offer programmes in the regional or minority languages;*

249. Article 12 of the Minority Act stipulates that public broadcasters (“competent managing and program developing bodies of the media founded by the Republic”) shall provide an appropriate number of broadcasting hours in the languages of minorities.

250. Article 4 of the Law on Public Broadcasting Services “Radio of Montenegro” and “Television of Montenegro” provides for the possibility to establish regional radio and television studios to produce and broadcast programmes in regional or minority languages. Article 10 of the said law ensures partial funding of these programmes.

251. Three Roma have completed journalist training and are now working on the Romani programmes, but according to Romani representatives, more are needed. A 30-minute television programme is broadcast once a month in Romani. In addition, in the central news programme at weekends a few minutes of news are broadcast in Romani.

252. According to the representatives of the public broadcasting media that the Committee of Experts met during the on-the-spot visit, by law, programmes broadcast in languages other than Montenegrin must be subtitled. However, there are not sufficient human resources to subtitle all programmes that are broadcast in Romani. The Committee of Experts asks the Montenegrin authorities to clarify in the next periodical report whether an obligation to subtitle programmes also applies to programmes in Romani and if so whether the authorities give financial support to help meet the expense involved in subtitling.

253. Concerning radio programmes, a 30-minute bilingual radio programme has been broadcast twice a week for the past four years on public radio. Furthermore, a weekly programme in Romani is broadcast on five local public radio stations that used to be broadcast by the private broadcaster Antena M (see paragraph 256 below).

254. Based on this information, the Committee of Experts considers the undertaking partly fulfilled. The Committee of Experts welcomes the positive efforts undertaken during the last years to secure the presence of Romani in radio and television and encourages the Montenegrin authorities to pursue their efforts with a view to improving further the offer of Romani in electronic media.

b) ...

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

255. Article 12 of the Minority Act gives the authorities the possibility to take measures to encourage the broadcasting of programmes in regional or minority languages on private radio and television.

256. According to the initial periodical report (page 21) the commercial radio station “Antena M” broadcast 48 programmes in Romani lasting 36 hours in 2006. The Committee of Experts was informed that in the meantime the station “Antena M” had stopped broadcasting due to high costs. Now the programme is broadcast on five local public radio stations (see paragraph 253 above).

257. Concerning radio programmes, during the on-the-spot visit, the Committee of Experts was informed by representatives of the Romani-speakers that several attempts were made to set up a Romani radio but this failed.

258. There do not seem to be any programmes in Romani broadcast on private radio in Montenegro. The Committee of Experts therefore considers the undertaking not fulfilled.

c) ...

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

259. The Committee of Experts has not been made aware of the existence of any television programmes on private television channels. It therefore considers the undertaking not fulfilled.

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

260. The initial periodical report does not contain any information with regard to the application of this undertaking, nor has the Committee of Experts been able to receive such information during the on-the-spot visit.

261. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide information on how they encourage and/ or facilitate the production and distribution of audio and audiovisual works in the Romani language.

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

262. The initial periodical report does not provide any information with regard to the application of this undertaking or indeed with regard to any newspaper in Romani, nor has the Committee of Experts been made aware of the encouragement or facilitation of such by the authorities.

263. The Committee of Experts therefore concludes that the undertaking is not fulfilled.

f) ...

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

264. The initial periodical report does not contain any information with regard to the application of this undertaking, nor has the Committee of Experts been able to receive such information during the on-the-spot visit.

265. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide information on how they apply existing measures for financial assistance to audiovisual productions in the Romani language.

## **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 and 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.*

266. The Committee of Experts has not received any information from the authorities or any other sources with regard to this undertaking.

267. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide the lacking information in their next periodical report.

### **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.*

268. According to the initial periodical report (page 22), the Montenegro Radio and Television Council by virtue of Article 15 of the Law on Public Broadcasting Services, appoints a consultative committee with regard to the programme contents in the languages of national minorities. Furthermore, according to Article 15, the committee also gives its consent to the budget spent on these programmes. The Committee of Experts has been informed that this consultative committee has been set up and is in operation. However, the Committee of Experts has no information about the composition of the committee and whether the criteria for appointing members ensure that the interest of Romani-speakers are taken into account.

269. The Committee of Experts therefore cannot conclude on this undertaking and asks the Montenegrin authorities to provide such information in the next periodical report.

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

### **Paragraph 1**

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

- 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;*

270. The right for national minorities to establish cultural associations, with the material support of the state, is guaranteed by the Constitution under paragraph 6 of Article 79.

271. According to information at the disposal of the Committee of Experts, the Ministry for Human and Minority Rights has provided funds for publications in Romani and translations of works into Romani.

272. Although the Roma organisations carrying out theatre and other events related to Romani are supported, the Roma representatives were of the opinion that the financial support from the government was limited. It was felt that the support geared towards social integration was at the expense of support for cultural activities.

273. According to a representative of the Romani-speakers, the amount of funding allocated to a national minority is based proportionately on its numerical strength as indicated in the most recent census. However, as mentioned in paragraph 12 above, according to the Romani-speakers the census does not reflect the actual number of Roma in Montenegro.

274. So far it seems that there has been no earmarked funding for the activities relating to the protection of regional or minority languages. However, the Committee of Experts understands that the annual fund granted to the newly established Centre for the Culture of Minorities is used *inter alia* for these purposes.

275. The Committee of Experts considers the undertaking fulfilled.

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

276. Apart from the fact that such activities can be financially supported by the Ministry of Culture, Sports and Media under certain pre-conditions, the initial periodical report does not provide any information with regard to this undertaking.



277. The Committee of Experts cannot conclude on this undertaking and asks the Montenegrin authorities to provide more information in the next periodical report.

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

278. Apart from the fact that such activities can be financially supported by the Ministry of Culture, Sports and Media under certain pre-conditions, the initial periodical report does not provide any information with regard to this undertaking. The Committee of Experts did not receive any further information during its on-the-spot visit.

279. The Committee of Experts is therefore unable to conclude on whether the undertaking is fulfilled and asks the Montenegrin authorities to provide such information in the next periodical report, including some practical examples.

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

280. The Committee of Experts has not received sufficient information to draw a conclusion on this undertaking. Therefore it asks the Montenegrin authorities to provide the relevant information in the next periodical report.

## **Paragraph 2**

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

281. The initial periodical report does not contain any information with regard to the application of this undertaking. The Committee of Experts is therefore unable to conclude on this undertaking and asks the Montenegrin authorities to provide the relevant information in their next periodical report.

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

### **Paragraph 1**

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

...

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

282. During the on-the-spot visit, the Committee of Experts was informed about a draft anti-discrimination law and asks the Montenegrin authorities to provide information on further developments and its relevance with regard to this undertaking in the next periodical report.

## Chapter 3 Findings

A. The Committee of Experts appreciates the good and friendly co-operation it enjoyed with the Montenegrin authorities during the monitoring stages of this first cycle. It notes however that the initial periodical report contained very little information, in particular with regard to Romani. Furthermore, many changes had occurred since the report was submitted, including the adoption of a new constitution and other legislation which has had an impact on the legal situation of regional or minority languages in Montenegro. Also, the Committee of Experts did not receive the requested answers to its questionnaire. These points taken together have hampered the information gathering and evaluation process by the Committee of Experts of the application of the Charter in Montenegro.

B. The general legal domestic framework, including constitutional provisions and a Minority Act, lays a good basis for the protection of regional or minority languages in Montenegro. Nonetheless, legal uncertainties therein hamper the proper implementation of these provisions. In many areas, the legal guarantees are not followed by a sufficient degree of practical implementation. It is important to remove the legal uncertainties also for the application of the Charter, especially with regard to the question of the territories to which the Charter applies.

C. The general situation of regional or minority languages in Montenegro is characterised by goodwill and tolerance. The institutional representation of the interests of minority language speakers has been strengthened through the recent set-up of the minority councils. Furthermore, a specific ministry is devoted to human and minority rights. A Centre for the activities of the national minorities in Montenegro has recently been set up and receives earmarked funds. This is to be welcomed.

D. The Albanian language is in general well protected and supported, especially in those areas where the Albanian-speakers constitute a majority, most notably in Ulcinj and Tuzi. Montenegro has opted for a lower level of protection under the Charter than guaranteed in domestic legislation.

E. Albanian-medium education is offered in all areas where Albanian is used by a sufficient number of speakers (in five municipalities) and there are no major problems. Nevertheless, the quality of the translation of textbooks, the criteria for appointing headmasters and a shortage of Albanian-speaking pre-school teachers need to be addressed. Furthermore, there is no teacher training for school teachers for the third cycle of primary school or for secondary school in Albanian.

F. Albanian is very rarely used in court proceedings. The use of the language within local authorities is more widespread, especially in those areas where the Albanian-speakers are a majority, and to a lesser degree in other municipalities, although the local authorities have shown openness to improvement.

G. The broadcasting media landscape is characterised by a good offering of Albanian programmes, both at national and local level, in public and private radio and television, although some stations seem to be in financial difficulties. The only Albanian (weekly) newspaper in Montenegro also needs long-term support in order to survive.

H. As regards the Romani language, the real situation of the language in Montenegro does not match the level of protection ratified by Montenegro under the Charter. Although some of the Roma are well integrated into society, Roma in general are still excluded from the benefits of employment, housing and education. All these factors mean that it is currently difficult, if not impossible to apply Part III of the Charter to Romani. The Strategy and the Action Plan for Roma are good initial steps towards the integration of Roma and include the teaching of Romani in education. There is an urgent need to recruit and train teachers and to develop adequate teaching materials in Romani. As a first step, Roma assistants should be employed more extensively.

I. The Romani language is to a large extent invisible in public life, and immediate steps need to be taken to develop and employ a written form of the language. Romani is not in official use in any municipality in Montenegro. Due to this, almost none of the undertakings under Article 10 of the Charter are fulfilled.

J. Public radio and television broadcasting in Romani has recently increased, but the amount of broadcasting is still rather limited.

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

At its 1075th meeting on 20 January 2010, the Committee of Ministers adopted its Recommendation addressed to Montenegro, which is set out in Part B of this document.

## Appendix 1: Instrument of ratification



Montenegro :

**Declaration contained in the instrument of ratification deposited by the state union of Serbia and Montenegro, on 15 February 2006 - Or. Engl. - and updated by a letter from the Ministry of Foreign Affairs of Montenegro, dated 13 October 2006, registered at the Secretariat General on 19 October 2006 - Or. Engl.**

In accordance with Article 2, paragraph 2, of the Charter, Montenegro has accepted that the following provisions be applied in the Republic of Montenegro, for the Albanian and Romany languages :

Article 8, paragraph 1 a (iii), a (iv), b (ii), b (iv), c (iii), c (iv), d (iv), e (ii), f (iii), g, h;  
Article 9, paragraph 1 a (ii), a (iii), a (iv), b (ii), b (iii), c (ii), c (iii), d, paragraph 2 a, b, c, paragraph 3;  
Article 10, paragraph 1 a (iii), a (iv), a (v), c, paragraph 2 b, d, g, paragraph 3 a, paragraph 4 a, c, paragraph 5;  
Article 11, paragraph 1 a (iii), b (ii), c (ii), d, e (i), f (ii), paragraph 2, paragraph 3;  
Article 12, paragraph 1 a, b, c, f, paragraph 2;  
Article 13, paragraph 1 c.

**[Note by the Secretariat:** The Committee of Ministers of the Council of Europe decided on its 967th meeting that the Republic of Montenegro is to be considered a Party to this treaty with effect from 6 June 2006.]

**Period covered: 6/6/2006 -**

The preceding statement concerns Article(s) : 1

**Reservation contained in the instrument of ratification deposited by the state union of Serbia and Montenegro, on 15 February 2006 - Or. Engl.**

As to Article 1.b of the Charter, Serbia and Montenegro declares that the term "territory in which the regional or minority languages is used" will refer to areas in which regional and minority languages are in official use in line with the national legislation.

**[Note by the Secretariat:** The Committee of Ministers of the Council of Europe decided on its 967th meeting that the Republic of Montenegro is to be considered a Party to this treaty with effect from 6 June 2006.]

**Period covered: 6/6/2006 -**

The preceding statement concerns Article(s) : 2

## Appendix 2: Comments by the Montenegrin authorities

### COMMENTS OF THE MINISTRY OF EDUCATION AND SCIENCE OF MONTENEGRO ON THE REPORT OF THE COMMITTEE OF EXPERTS OF THE EUROPEAN CHARTER FOR REGIONAL OR MINORITY LANGUAGES

Recognizing the need for total inclusion of minority population into Montenegrin mainstream education, and also finding Report of the Committee of Experts regarding this issue very important for our further efforts in the said field, the Ministry of Education and Science of Montenegro finds appropriate to make some comments thereof.

The comments are the following:

- Montenegrin Law on Vocational Education provides two, three or four years of a vocational school whereas paragraph 73 of the Report provides for:
  - Lower vocational education (two years of duration),
  - Secondary vocational education (in duration of three or four years), and
  - Post-secondary vocational education (in duration of two years, as a continuation of secondary vocational education).

Our Law on Vocational Education does not fully correspond with your Report.

- As for paragraph 75, we are informing you that Law on General Education doesn't provide obligation for teachers, parents and schools, in sense that, to freely design 20 % of the curriculum. According to the mentioned law, this opportunity is given as optional.
- As for paragraph 78 of Report which states that there are eight Albanian medium pre-school groups in Montenegro, we are informing you that there are seven pre-school groups in Ulcinj with 193 children enrolled, and one in municipality of Tuzi with 33 children enrolled.
- As for paragraph 79, our Programme of preschool education hasn't been officially translated in Albanian language.

In Montenegro, in all kindergartens where is a demand of preschool education in Albanian, there are preschool teachers who are Albanians and who have graduated at Faculty of Philosophy in Nikšić, in Department of Preshool Education.

- As for paragraph 83, Institute for Textbooks and Teaching Aids, as relevant institution, has never got written complains of translation of certain textbooks in Albanian language. Mostly, authors, translators and reviewers of textbooks are the experts in these fields and some of them work in Albania as teachers of Albanian language.
- As for paragraph 81, we are informing you that there are six primary schools with Albanian as a teaching language in Montenegro: three in Podgorica, one in Bar, one in Rožaje and one in Ulcinj.

There are also six primary schools where the teaching is provided bilingual (Montenegrin and Albanian): one in Podgorica, two in Plav, and three in Ulcinj.

- As for paragraph 90, we are informing you that there are three vocational schools (mixed secondary schools) in municipalities of: Tuzi, Plav and Ulcinj, where the teaching is provided bilingual (Montenegrin and Albanian). Also, there is one private gymnasium „Drita“ in Ulcinj, where the teaching is provided only in Albanian.
- As for paragraph 93, the National Programme of Functional Literacy, provides for the possibility of using Albanian language while teaching, with the obligation of learning the language in the official use (to a lesser extent than it is the case with Albanian language).

The same possibility is given in respect to adult education.

The Programme has not been implemented so far, since there has been no request thereof.

- Regarding paragraphs 189 and 190, we are informing you that according to our inclusion-oriented policy, the pupils belonging to minority population have been fully integrated in Montenegrin mainstream education.

As you know, Montenegro has adopted an Action Plan and Strategy targeting social integration of the Roma minority in Montenegro. Montenegro overcomes some obstacles from previous period in which students mostly have been “categorized” and sent into the separate classes or separate schools. Now, Roma students are integrated into the regular system and in mainstream education, with except of school unit Vrela Ribnička in Podgorica.

For example, in cooperation with the Red Cross Montenegro we have developed a project called “Dispersion of Roma students into the urban schools”. The Ministry of Education and Science has decided to take more strategic approach and bring Roma children out of their settlements putting them together with other children into different urban primary schools. We provide teachers’ trainings, free books and textbooks, free transportation, meals etc. for these students.

Also, in municipalities such as: Podgorica, Cetinje, Tivat, Berane, Bijelo Polje, Nikšić and Bar where majority of Roma population lives, there have been developed local action plans for the implementation of the Strategy, thus making inclusion of Roma children priority.

- Another thing that we want to mention is a discrepancy regarding the name of the Bureau for Education Services.  
Namely, throughout the Report you referred to this Bureau calling it Education Agency, so please be kind to change this in the wording of your final Report.

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

**Recommendation RecChL(2010)1  
of the Committee of Ministers  
on the application of the European Charter for Regional or Minority Languages by Montenegro**

*(Adopted by the Committee of Ministers on 20 January 2010  
at the 1075th meeting of the Ministers' Deputies)*

The Committee of Ministers,

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

Having regard to the declaration made by Montenegro on 15 February 2006 and updated on 13 October 2006;

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

Bearing in mind that this evaluation is based on information submitted by Montenegro in its initial periodical report, information submitted by bodies and associations legally established in Montenegro and the information obtained by the Committee of Experts during its on-the-spot visit;

Having taken note of the comments made by the Montenegrin authorities on the contents of the Committee of Experts' report;

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

1. clarify the territories where the Albanian and Romani languages are in official use and where Part III of the Charter applies;
2. take the necessary steps to promote the codification and development of written Romani, in co-operation with the speakers;
3. introduce teaching of the Romani language at pre-school, primary and secondary levels;
4. strengthen teacher training in Albanian, especially for lower and upper secondary level education (third cycle of elementary school and secondary school).