

# **3<sup>rd</sup> Report of the Republic of Austria**

**pursuant to Article 25 (2) of the  
Framework Convention for the  
Protection of National Minorities**

Vienna, May 2010

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## I Preface

The Republic of Austria is committed to the Framework Convention for the Protection of National Minorities and regards it as an expedient instrument to secure and promote the existence and specific features of ethnic groups. Austria therefore welcomes the work of the Council of Europe in connection with monitoring the implementing measures and is ready to engage in further in-depth exchanges on this subject with the Advisory Committee, also in the course of an on-site visit.

### I.1 Introduction

Austria ratified the Framework Convention for the Protection of National Minorities (hereinafter referred to briefly as the Framework Convention) on 31 March 1998. The Framework Convention entered into force in Austria on 1 July 1998. The resolution of the Committee of Ministers [ResCMN(2004)1] dated 4 February 2004 completed the first review, the resolution dated 11 June 2008 [Resolution CM/Res. CMN(2008)3] completed the second review. A third State Report is being presented now. In this connection, the comments of the national minorities' advisory councils have been obtained and are attached to this report.

Austria published resolution CM/Res. CMN(2008)3 on the website of the Federal Chancellery in order to make the Framework Convention better known, to support its implementation and to promote the dialogue between the national minorities and the majority population. Moreover, the recommendations contained in this resolution were translated into German and published on the same website. It is also planned to publish the present third State Report on this website, both in the German and English languages.

The Programme of the Federal Government for the XXIVth Legislative Period (2008 to 2013) contains the following provisions concerning national minorities:

- To embody the grown linguistic and cultural diversity of the autochthonous national minorities in a catalogue of fundamental rights and to revise the National Minorities Act in cooperation with the national minorities' advisory councils;
- To provide the possibility – as part of the promotion of the national minorities – to take account of intercultural projects that serve to promote living together of the national minorities;
- To ensure regulations under constitutional law to implement the decisions of the Constitutional Court concerning topographical signs and inscriptions in the Federal Province of Carinthia on the basis of the broadest possible consensus of the national minority, on the basis of the proposals made so far.

In the course of implementing the Government Programme, a hearing was held on 3 December 2009 on the reform of the National Minorities Act, which was attended by members of the national minorities' advisory councils, as well as academics and politicians. In a next step three working groups were set up at a launching conference on 14 April 2010, which will work on specific national minority issues, i.e. "Education and Language", "Regional and Economic Policies" and "Structural and Legal Issues". The results of the working groups are planned to be available by the end of the year. The goal is to prepare modern elements of a law pertaining to the national minorities, including the legislation on national minorities' schools, taking account of the obligations under the Framework Convention, as well as the European Charter on Regional and Minority Languages.

The new arrangements concerning the topographical signs and inscriptions will most probably be given special priority in the reform discussions. This is also intended so as to follow up on a recommendation by the Council of Europe on the implementation of the decision by the Constitutional Court of 13 December 2001.

As suggested by the Council of Europe, the dialogue by the involved organisations and persons on the implementation of the Framework Convention is being continued in the course of this reform process. The dialogue will also include the topics raised in the Second Opinion and especially in the Recommendations of the Committee of Ministers of 11 June 2008.

## **I.2 General comments on the structure and terminology of the report**

As is required by the "Outline for the State Reports to be Submitted under the Third Monitoring Cycle, in conformity with Article 25 of the Framework Convention for the Protection of National Minorities", Austria submits its third State Report in the form of a supplementary report which deals with changes and additional features since the second State Report (status: September 2006), as well as the recommendations emanating from the second monitoring cycle. Whenever there are no changes requiring reporting, reference is made to the second State Report.

Section II.1. of the present report will especially deal with the nine recommendations which the Committee of Ministers of the Council of Europe adopted in its resolution dated 11 June 2008 [Resolution CM/Res. CMN(2008)3].

Section II.2. of the report follows in its structure the sequence of articles in the Framework Convention.

The Annex contains the comments by the national minorities' advisory councils on the third State Report.

Please refer to Austria's statement on the occasion of Austria's ratification of the Framework Convention with regard to the scope of the reporting obligation and/or of the subject of the monitoring. The statement indicates that according to Austria's understanding, the term "national minorities", as used in the Framework Convention, comprises those groups of Austrian nationals with a non-German mother tongue and own ethnicity who live in parts of the

national territory, which they regard as their domicile. They are covered by the scope of application of the National Minorities Act, Federal Law Gazette No. 396/1976.

In compliance with the foregoing, the present report (in its German version) uses the terminology of the National Minorities Act. "Volksgruppen", as defined in this law are the autochthonous national minorities.



## **II Implementation of the Framework Convention**

### **II.1 Follow-up to the recommendations of the Committee of Ministers**

#### **II.1.1 Concerning the recommendation to ensure the swift and full implementation of the Constitutional Court's decision of 13 December 2001 on bilingual signposting; to take immediate measures to remove obstacles to the full implementation of the legislation on the use of minority languages in relations with the authorities.**

It is regrettable that, in spite of intensive efforts by Federal Governments since the year 2001, it has not been possible to bring about a solution that will receive the support of the decisive political forces, including those in the involved region, i.e. the Federal Province of Carinthia. The effort undertaken since 2006, the year of the last report, have led to the submission of an amendment to the National Minorities Act to the National Council on 4 July 2007 in the form of a government bill. However, no decision has been taken on this bill. The Government Programme for the years 2008 to 2010 states in this connection that regulations for the implementation of the so-called "topographical signs decision" of the Constitutional Court are to be ensured under constitutional law, obtaining the broadest possible consensus of the national minority, on the basis of previous proposals.

#### **II.1.2 Concerning the recommendation to make efforts to ensure a consistent and inclusive approach to protecting the rights of persons belonging to national minorities**

It is stated by way of introduction that the persons belonging to the national minorities, being Austrian nationals, of course enjoy the same rights, especially political rights and fundamental rights, as all other nationals. Irrespective of their nationality, all persons in Austria enjoy the rights enshrined in the European Human Rights Convention, especially the ban on discrimination, contained in Article 14 of the Human Rights Convention. However, in addition there are also stipulations that grant special rights to persons belonging to the national minorities. A large part of these provisions are contained in the National Minorities Act, as well as the ordinances on its implementation. One of the objectives when adopting the National Minorities Act in 1976 was to integrate into one law (to the extent possible) – and with the exception of measures pertaining to schools – the obligations to take legislative measures, as they derive from the State Treaties of St. Germain-en-Laye and Vienna. However, beyond the obligations under international law for the benefit of the Slovene and Croatian minorities, the National Minorities Act also applies to all national minorities that comply with the definition in § 1 of the cited law. As a matter of principle, the National Minorities Act thus follows a comprehensive approach. This is not in conflict with the rule that regulations pertaining to

bilingual topographical signs and inscriptions, as well as to the use as official languages differ in keeping with the number of members of a national minority residing in an area. It is true, though, that regulations pertaining to schools differ according to region (= Federal Province). Whenever there is no law on schools for national minorities in a Federal Province, Austria endeavours to support the persons belonging to the national minorities in other ways, so that they are able to learn the language of their respective national minority.

To the extent that the recommendation is aimed at extending the scope of the Framework Convention to minorities that have migrated to Austria, Austria is obliged to refer to the statement issued when ratifying the Framework Convention, namely that for the purposes of the Framework Convention national minorities are those groups of Austrian nationals with a non-German mother tongue and own ethnicity who live in parts of the national territory, which they regard as their domicile. They are covered by the scope of application of the National Minorities Act, Federal Law Gazette No. 396/1976. Different protective mechanisms of a national and international character are available for the minorities that have migrated to Austria. There are therefore no considerations concerning any expansion of the scope of application of the Framework Convention.

### **II.1.3 Concerning the recommendation to provide further support and reinforce the capacity of the Ombudspersons for Equal Treatment and of the Equal Treatment Commission**

The staff resources of the Equal Treatment Ombudspersons have been increased. In concrete terms, the number of legal personnel dealing with the two responsibilities of the Equal Treatment Ombudspersons, which (also) deal with ethnic discrimination, was raised from 3.5 to 5.75 full-term equivalents.

### **II.1.4 Concerning the recommendation to develop and implement comprehensive measures to promote equal opportunities for persons belonging to the Roma minority, in close consultation with their representatives; to pay particular attention to the situation of Roma women and youth**

Equal opportunities have been largely obtained for persons belonging to the autochthonous national minority of the Roma. This is due, last but not least, to the financial support measures taken. Financial support was and is being given to associations of the national minority that offer, *inter alia*, learning support to Roma children, advise on the school system and training opportunities, as well as the labour market, and publish bilingual print media. Supporting associations in which Roma are actively involved and which maintain direct contacts to Roma, helps them to help themselves, which takes account of the concern of the Council of Europe, i.e. to develop and implement measures in cooperation with Roma.

The situation is slightly more difficult with regard to Roma who have recently migrated, especially to Vienna and other densely populated areas. While no reliable figures are available on the total number of Roma living in Austria, it can be assumed that the overwhelming part of

the Roma living in Austria has recently migrated to Austria. Irrespective of the fact that this group does not come under scope of application stated by Austria on the occasion of the ratification of the Framework Convention, it deserves reporting at this juncture that especially migrated Roma benefit from the numerous integration measures. All improvements in the educational field (for example, free attendance of nursery schools, more facilities providing care at school in the afternoons, or all-day schools, the pilot school project “new middle school”, tutorials) and in the social sector (for example access to municipal housing in Vienna, also for persons not having Austrian nationality, provided they have a long-term residence permit; access to financially supported housing projects) also serve to improve the living situation of the Roma. On the basis of the view that a sustainable improvement of the situation of the Roma has to begin with education and vocational training, especially associations receive special financial support from the budget for the national minorities, but also from other budgets, particularly for integration purposes, that give learning support to Roma children. In addition, financial support is also given to counselling centres. In 2009 financial support was given to a basic study in order to improve the quality of the counselling services focusing on the specific problems of Roma women in Vienna. The results of the study will be available in the course of the year 2010.

### **II.1.5 Concerning the recommendation to pursue and expand already on-going efforts to tackle racism and xenophobia, especially within the political arena and in the media**

It needs to be emphasized that persons belonging to the Austrian national minorities are not strangers, do not feel like strangers and are not perceived as such by the majority population in Austria. Racial discrimination and hostilities aimed at persons belonging to the Austrian national minorities are also rare. However, Austria is aware of the fact that recognition and appreciation of the national minorities are important support elements for preserving the national minorities, and that this appreciation must also be communicated by politicians and the media.

On this premise, Austria is committed to fighting against any type of discrimination, intolerance and incitement of persons in all spheres of life. In addition to the facts constituting criminal offences such as incitement (§ 283 of the Austrian Criminal Code), insults on racial grounds (§ 117 (3) in conjunction with § 115 of the Austrian Criminal Code), and engaging in activities to revive Nazism (Prohibition Act), one should also mention the aggravating circumstance of committing a racial or xenophobic offence (§ 33 item 5 of the Austrian Criminal Code), as well as the facts constituting administrative offences of discrimination on grounds of race (Article III (1) item 4 of the Introductory Legislation to the Administrative Procedures Act) or for disseminating the National-Socialist ideology (Article III (1) item 4 of the Introductory Legislation to the Administrative Procedures Act, as well as the possibility to dissolve unlawful associations and assemblies (legislation on associations and assemblies).

The public statements by politicians and journalists must, of course, also be measured against these facts constituting offences. Moreover, journalists have accepted a voluntary self-control which is part of the Code of Ethics for the Austrian Press Media.

In January 2010 Austria also adopted measures to fight racism in its “National Action Plan for Integration“. In this context, particular attention is paid to the basic and further training of teachers in the field of intercultural competences, as well as to sensitise pupils against racism, to further develop awareness for human rights in public administration, especially among the police and the judiciary. This National Action Plan especially also calls upon the media to increasingly communicate the principles of equality and non-discrimination, which are embodied in the Austrian legal system.

#### **II.1.6 Concerning the recommendation to take steps to enhance the presence of minority languages in the media, particularly by making greater use of opportunities made available by the Austrian Broadcasting Company (ORF) amended Act of 2001.**

As was already mentioned in the second Report by Austria on the Framework Convention, changes in the federal law on the Austrian Broadcasting Corporation (ORF Act) became effective in 2002, which require the Austrian Broadcasting Corporation (hereinafter referred to briefly as the ORF) to dedicate a commensurate portion of its programmes to the minority-group languages. With the introduction of “TVthek” by the ORF in 2009, all minority-group programmes broadcast by the ORF are available on the Internet at <http://www.tvthek.orf.at/> as “video on demand” for a minimum of one week. The most recent amendment to the ORF Act, which is being debated in Parliament at the time of reporting, will also require minority-group programme portions in the on-line products offered by the ORF.

By way of its decree dated 27 June 2008 the Federal Communications Board stated that in the programmes disseminated pursuant to § 3 of the ORF Act, the ORF had failed to provide commensurate programme portions in the Slovene, Slovak and Hungarian minority-group languages during the period 1 January 2006 to 31 July 2007. In reaction to this, and in connection with the transition from middle wave to short wave, which took place at the same time, on account of technical reasons, the ORF changed its radio programme structure.

One should mention one major organizational change, namely the introduction of a “centre of competence for the minority groups” at ORF Burgenland in Eisenstadt, where the programmes for all minority groups living in Vienna and Burgenland are produced.

#### **II.1.7 Concerning the recommendation to identify possibilities to increase the support allocated to the activities of national minorities; to complete the process of adoption of guidelines for the distribution of federal financial support to the national minorities**

An amendment to the National Minorities Act, adopted in 2009, explicitly embodied the possibility to promote intercultural activities that foster living together of the minority groups. An additional amount of EUR 100,000 each was budgeted for the years 2009 and 2010 for this purpose. In view of budget constraints it was not possible to increase the funds to support the national minority groups as such.

In connection with the special guidelines for financial promotion one must mention that this project was not pursued any further after the national minorities' advisory councils regarded the guidelines for special promotional funding as dispensable and/or counter-productive, as well as restraining the scope of action of the minority-group organisations. However, the Advisory Council for the Hungary Minority continues to discuss intensively the drafting of criteria that will make it possible for the advisory council to make a more objective and better qualified recommendation for funding. It is at the discretion of every national minority advisory council to use internally agreed evaluation criteria as a basis for its own recommendations for funding. This approach also ensures that optimum consideration is given to the specificities of the respective national minority. Every year, the department at the Federal Chancellery responsible for the promotion of the national minorities sends out "Practical Information on Filing Funding Applications", together with the application forms which, amongst others, contain information about the subjects for which funding can be obtained. It is also planned to again organize information meetings on the promotional funding available for the national minorities in the summer/autumn of 2010, which can be attended by all organisations of the national minorities. At the beginning of the year 2010 "Guidelines for the Accounting of Promotional Funding" were published by the administrative unit in the Federal Chancellery responsible for checking on the use of promotional funding. These are part of all funding programmes for the national minorities and have also been published on the website of the Federal Chancellery. All these measures serve to enhance the transparency in handling promotional funding for the minority groups.

### **II.1.8 Concerning the recommendation to strengthen the response to the educational needs of persons belonging to national minorities living in Vienna**

The situation of the persons belonging to the national minorities who live in Vienna differs fundamentally from those living in Carinthia or in Burgenland, insofar as the persons belonging to the national minorities only account for a very small portion of the total population in a large town. It is not reasonable to offer a bilingual school system throughout Vienna, as is the case in the autochthonous settlement areas in Burgenland and Carinthia, as conditions in Vienna are different, where a great many different languages are spoken. Given this situation it appears to be more target-oriented to create and/or to support focused and specialized educational programmes for the national minorities.

For the Czech and Slovak minorities the schools of the Komensky School Association are of central importance. The number of pupils at the Komensky schools is on a constant increase. In the meantime a full educational course has been ensured in Czech-German and Slovak-German, taking pupils straight from nursery school to the school-leaving examination. With the help of the special funding provided by the Federal Province of Vienna and the Federal Ministry of Education, Arts and Culture in the amount of one million euros each, work can start in 2010 on re-building and refurbishing the school building at Schützengasse which will accommodate the secondary school level II. The staff costs for the teachers are covered from the budget of the Federal Ministry of Education, Arts and Culture, and the Komensky School Association receives considerable grants from the budget for the national minorities for further staff and operating costs.

Courses in Hungarian and Burgenland-Croat are offered by the minority organisations with public-sector help. During the past year, also a course in Burgenland-Romany was held by an association in Vienna. Depending on available funding, organisations of the national minorities can get money from the budget for the national minorities to use for extra-mural courses. Two years ago a Hungarian group at nursery school was set up under the umbrella of the Komensky School Association.

Moreover, it is also possible to organise mother-tongue instruction in one of the minority languages at public schools if there is sufficient interest. During the 2007/2008 school year, five mother-tongue teachers for Hungarian, three for Slovak, two for Czech and two for Roma children were deployed, always at different locations.

The project “CentroLING” holds a special position when it comes to teaching the language and culture of the Czech, the Slovaks, and the Hungarian groups in the Vienna region. It serves to enhance the competencies of Viennese pupils in the languages of these national minorities, which are also the languages of the regions bordering on Vienna. Here, language courses and direct language meetings are organised in the neighbouring regions in the Czech Republic, Slovakia and Hungary.

In connection with the tertiary sector it should be pointed out that Hungarian, Czech, Slovak, Slovene and Croatian can be studied at the University of Vienna. There are individual university courses for the Burgenland-Croat language.

Austria will continue to make efforts in order to expand and to improve teaching of the minority languages. For example, in the fall of 2009 the pilot phase for a project was started which is intended to contribute towards improving mother-tongue instruction in Romany, also in Vienna. As part of an international project, i.e. “QualiRom”, in which “Meeting Point Languages” of the University of Graz and the association Romano Centro, domiciled in Vienna, are participating on behalf of Austria, mother-tongue teachers of the Roma are to be trained in how to handle teaching materials in Romany, as well as of the European language portfolio.

### **II.1.9 Concerning the recommendation to take steps to strengthen the role of the minorities' advisory councils**

The advisory councils for the national minorities have been set up to advise the Federal Government and the Federal Ministers in matters relating to the national minorities. The advisory councils for the national minorities also serve to advise the governments of the different regions (Austria's Federal Provinces), if they are called upon to do so. Government bills that may affect the interests of the national minorities are therefore forwarded to the advisory councils for the national minorities to obtain their comments. One particularly important task of the advisory councils for the national minorities is to make recommendations every year on how to spend the funds budgeted for the national minorities. These recommendations for funding are accepted to a large extent. However, the advisory councils for the national minorities are also intended to be a forum in which and where the national minorities can represent their legitimate interests (see Comments on the Government Bill for the National Minorities Act, RV 217, Blg.Sten.Prot. XIV.GP, page 7). Since the last Opinion



there has not been any change in the legal sources concerning the advisory councils for the national minorities.

## II.2 Concerning the individual articles

### II.2.1 Article 1

The protection of national minorities and of the rights of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation.

Please refer to the comments in the second State Report.

### II.2.2 Article 2

The provisions of this Framework Convention shall be applied in good faith, in a spirit of understanding and tolerance and in conformity with the principles of good neighbourliness, friendly relations and co-operation between States.

Please refer to the comments in the second State Report.

### II.2.3 Article 3

1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice of the rights which are connected to that choice.
2. Persons belonging to national minorities may exercise the rights and enjoy the freedoms flowing from the principles enshrined in the present Framework Convention individually as well as in community with others.

The Advisory Committee recommended making adequate provisions in connection with the needs of persons belonging to minorities who live outside the traditional settlement areas, as well as examining the possibility of recognising additional minorities as national minorities, as defined in the National Minorities Act, and, finally, making the Framework Convention applicable – perhaps only in parts, limited to individual articles – to new minorities. (See paragraphs 36 to 38 of the Second Opinion by the Advisory Committee). These recommendations relate to the scope of application of the Framework Convention.

## Scope of application of the Framework Convention in Austria

In its ratification instrument for the Framework Convention, Austria stated that the term “national minorities”, as defined in the Framework Convention, comprises the groups of Austrian citizens of non-German mother tongue and own ethnicity who live in parts of the federal territory, which they regard as their domicile, and who come under the scope of application of the National Minorities Act, Federal Law Gazette No. 396/1976. The Ordinance on the National Minorities’ Advisory Councils specifies in detail which groups meet these criteria:

- ▶ the Burgenland-Croat minority
- ▶ the Slovene minority
- ▶ the Hungarian minority
- ▶ the Czech minority
- ▶ the Slovak minority
- ▶ the minority of the Roma

At present, there are no other national minorities in Austria that would meet the definition of the National Minorities Act. In particular, a study commissioned by the Federal Chancellery in the year 2000 has shown that the Polish population living in Austria does not constitute an autochthonous national minority, as it was not possible to establish a long-term continuity of Austrian citizens with Polish mother tongue living in parts of the federal territory, which they regard as their domicile. An evaluation of the results obtained at national censuses, as well as of other statistical material, especially the statistics on naturalisation and migratory movements has shown that this group has the socio-graphical characteristics of an immigrant group.

The Council of Europe suggested to also applying some of the articles of the Framework Convention to other minorities living in Austria. This would not at all be to the benefit of a climate where the different groups could live side by side with each other. After all, the clear distinction between autochthonous minorities (national minorities), which have a long tradition in Austria, and the so-called new minorities, which have come to Austria in recent years and decades, provides clarity and legal certainty for all groups concerned. It would be problematic to selectively attribute specific rights based on selected articles of the Framework Convention, also because of the associated danger of an unobjective and unequal treatment. It is therefore not taken into consideration.

The distinction between autochthonous minorities and the so-called new minorities has also stood its test in Austria – like in many other European countries – as this approach helps to take account of the clearly different needs of these two groups: in connection with the national minorities the priority today is to preserve their existence and thus their language and ethnicity, countering assimilation trends, while measures of integration are in the foreground of activities relating to the new minorities. These measures aim, in the best possible manner, to integrate the persons concerned into Austria’s society, in terms of occupation, education and social relations, and to enable them to maintain their language and culture at the same time.

Austria recognizes that one must take account of the needs of persons belonging to the national minorities but living outside the autochthonous settlement areas. However, the



situation outside the autochthonous settlement areas is usually characterised by a lower settlement density, which makes it difficult to provide their languages at school. Austria therefore continues to promote the organisations of the national minorities so that they can offer a place of social encounter for persons belonging to the national minorities, as well as of education and culture in the minority languages, also outside the traditional autochthonous settlement areas. This applies, in particular, to the Burgenland-Croats in Vienna.

## II.2.4 Article 4

1. The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between persons belonging to a national minority and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be an act of discrimination.

The Advisory Committee recommended strengthening the capacity of the equal treatment agencies and taking more resolute action to increase the awareness about discrimination problems and about existing legal remedies, both among the population at large and the police as well as the judiciary. (Paragraphs 45 and 46 of the Second Opinion)

### The Federal Equal Treatment Ombudspersons' Office

Pursuant to § 3 (4) of the Federal Law on the Equal Treatment Commission and the Equal Treatment Ombudspersons' Office, the Equal Treatment Ombudspersons' Office is responsible for advising and supporting persons who feel discriminated against. Pursuant to paragraph (5) of the aforementioned law, the Equal Treatment Ombudspersons' Office can conduct independent investigations concerning discrimination and issue recommendations on all questions relating to discrimination.

The Equal Treatment Ombudspersons' Office is divided into three sections. The first section deals with the equal treatment of men and women in the working environment. The second section deals with equal treatment without distinction of ethnic origin, religion or ideology, or age or sexual orientation in the working environment. The third section deals with equal treatment without distinction of ethnic origin in other areas and the equal treatment of women and men in having access to goods and services.

There are also anti-discrimination agencies in the federal provinces that have defined territorial competencies.

## Changes in federal legislation pertaining to anti-discrimination

The equal treatment of women and men in the working environment was the historical nucleus of the Federal Law on Equal Treatment (briefly referred to as Equal Treatment Act), which goes back to the year 1979. With 1 July 2004 as the effective date, the Equal Treatment Act was expanded to include ethnic origin, religion or ideology, age and sexual orientation as reasons for discrimination.

The last change so far was the transposition of Council Directive 2004/113/EC of 13 December 2004 implementing the principle of the equal treatment between men and women in the access to and supply of goods and services. Accordingly, discrimination on grounds of gender in access to and supply of goods and services has been prohibited since 1 August 2008.

Moreover, the amendment contained the following new features which also have an impact on ethnic discrimination:

- The scope of application of the Equal Treatment Act and the facts constituting an offence of discrimination were expanded, adjusting the law to Directive 2004/113 and, in parallel, it became possible to claim multiple forms of discrimination, due to ethnic origin and gender, in access to and supply of goods and services.
- The competencies were expanded, i.e. to take positive measures in relation to the working environment as a whole and thus in relation to the full scope of application of the Equal Treatment Act.
- The minimum claim for damages in cases of discrimination in entering a working relationship was raised from one to two monthly remunerations.
- The minimum claim for damages in cases of harassment was raised from EUR 400 to EUR 720.
- It was clarified that protection against discrimination upon termination of an employment relationship also applies to the non-extension of a time-limited employment relationship and/or the termination of a probationary period.
- It was clarified that, when calculating the amount of remuneration for a personal prejudice suffered, one must take account of possible multiple forms of discrimination.
- It was clarified that the global exemption “nationality” is limited to provisions under aliens’ law.
- The period of lapse was extended from six months to one year for claiming harassment due to ethnic origin, religion or ideology, age or sexual orientation in the working environment.
- The possibility was deleted of reducing in collective bargaining agreements the period of lapse, i.e. three years, in connection with certain facts constituting the offence of discrimination.

- The periods for filing a court action were suspended when lodging proceedings before the Equal Treatment Commission. This also applies to discrimination on the basis of ethnic origin in other areas.
- In cases of discrimination based on ethnic origin in other areas, the prohibition to cause a disadvantage was extended to include persons who appear as witnesses or informants.

### Staff and financial resources of the Equal Treatment Ombudspersons' Office

In keeping with the recommendation of the Committee of Ministers of the Council of Europe, it has been possible to increase the staff resources of the Equal Treatment Ombudspersons' Office as follows:

**Table 1 Staff resources of the Equal Treatment Ombudspersons' Office**

| Year | Woman lawyer for the equal treatment of women and men in the working environment (Part I of the Equal Treatment Act) | Male/Female lawyer for the equal treatment without any discrimination due to ethnic origin, religion or ideology, age or sexual orientation (Part II of the Equal Treatment Act) | Male/Female lawyer for the equal treatment without discrimination of ethnic origin in other areas (Part III of the Equal Treatment Act) and for the equal treatment of women and men in access to goods and services (Part IIIa of the Equal Treatment Act)* |
|------|--|--|--|
| 2007 | 11 female legal experts, of which two on a part-time basis (20 and 25 hours)   | 2 female legal experts, of which one on a part-time basis (20 hours)   | 2 female legal experts, of which one on a part-time basis (20 hours)   |
| 2008 | 11 female legal experts  | 2 female legal experts, of which one on a part-time basis (20 hours)   | 2 female legal experts   |
| 2009 | 11 female legal experts  | 4 female legal experts, of which two on a part-time basis (20 hours)   | 3 female legal experts, of which one on a part-time basis (30 hours)   |
| 2010 |  | 4 female legal experts, of which two on a part-time basis (20 hours)   | 3 female legal experts, of which one on a part-time basis (30 hours)   |

\* Since August 2008 the male/female lawyer for the equal treatment without any distinction based on ethnic origin in other areas is also responsible for the equal treatment of women and men in access to goods and services.

Source: Equal Treatment Ombudspersons' Office 200?

The cost of staff, material, continuous professional development and rent are covered from the budget of the Federal Chancellery. Moreover, the Equal Treatment Ombudspersons' Office has an annual budget of about EUR 40,000 at its disposal for information and public-relations activities.

## Independence of the Equal Treatment Ombudspersons' Office

Pursuant to Article 20 (2) of the Federal Constitution Act in the version amended by Federal Law Gazette I No. 2/2008, certain organisational units in the administration can be exempt from instructions by way of a simple-majority law (for example, units drafting expert opinions, units responsible for arbitration, mediation or representing specific interests, such as the Equal Treatment Commission and the Equal Treatment Ombudspersons' Office). The Federal Law on the Equal Treatment Commission and the Equal Treatment Ombudspersons' Office stipulates their autonomy and independence when performing their tasks. Consequently, no constitutional provision is needed to ensure the freedom from instructions of the Equal Treatment Ombudspersons' Office.

## Structure of the legislation on equal treatment

With the new Equal Treatment Act, Austria tried to integrate all provisions on equal treatment – beyond labour law stipulations – into a uniform law in order to avoid, as much as possible, any fragmentation, as well as to facilitate access to the law. The fact that, nevertheless, the Austrian law on equal treatment is complex is the result of the historically grown development and the different competencies in a federal state. The equal treatment agencies will refer persons to the competent agency in order to make it easier for them to have access to the law.

## The Equal Treatment Commission

Three panels have been set up in the Equal Treatment Commission, which correspond to the areas of responsibility of the Equal Treatment Ombudspersons' Office. While the tasks of the Equal Treatment Ombudspersons' Office focus on advice and counselling, the Equal Treatment Commission is primarily responsible for drafting expert opinions on equal treatment issues.

Pursuant to § 11 (1) of the Equal Treatment Act, the responsible panel of the Equal Treatment Commission has to prepare expert opinions on issues concerning violations of the equal treatment requirement either *ex officio* or upon application by one of the interest groups represented on the respective panel, or the Equal Treatment Ombudspersons' Office.

§ 12 (1) of the Equal Treatment Act stipulates for reviews of individual cases that the competent panel of the Equal Treatment Commission has to examine whether the equal-treatment requirement has been violated in a specific case, either *ex officio*, or upon application by an employee, an employer, a works council, one of the interest groups represented on the respective panel of the Commission, or a person involved in a case of discrimination outside the working environment.

The expert opinions of the Equal Treatment Commission must be published on the website of the Federal Chancellery.

With its informal procedure, the Equal Treatment Commission offers easy access to filing complaints about discrimination. Many of the involved persons avoid taking a matter to court and prefer the relatively uncomplicated procedure before the Equal Treatment Commission. Proceedings before the Equal Treatment Commission are subject to confidentiality, which

offers special protection to both victims and witnesses. With its recommendations the Equal Treatment Commission has a preventive effect, and it acts as a mediator outside formal judicial proceedings.

### **The Federal Equal Treatment Commission**

The Federal Equal Treatment Commission is responsible for cases of discrimination in connection with an employment relationship with a federal unit.

### **Burden of proof in case of discrimination**

Austria's law on equal treatment complies with the requirements of EU law, especially of the Racial Equality Directive (2000/43/EC) and the Framework Directive on Equal Treatment (2000/78/EC). It contains clauses on the burden of proof which do not only make it easier to meet the requirements of producing evidence, but ultimately shift the burden of proof. This means that the defendant must prove, already in cases with a semblance of discrimination that he/she did not discriminate against the plaintiff.

### **Examples of cases**

The overwhelming majority of cases before the equal-treatment agencies do not relate to the autochthonous national minorities. However, below is a report about a few specific cases that involve the national minorities:

In the proceedings, file number GBK7/2005, before the Equal Treatment Commission, lodged by the Equal Treatment Ombudspersons' Office, for alleged discrimination and harassment due to ethnic origin in the access to services available to the general public, Panel III of the Equal Treatment Commission ruled that the sign saying "No entry for gypsies" at the reception of a camping site was both a discrimination and a harassment and that the term "gypsies" was a discrimination as defined by the Equal Treatment Act.

The Equal Treatment Ombudspersons' Office reported the following case (on page 94 of its report for the years 2006/2007): "A woman sent an e-mail to the Equal Treatment Ombudspersons' Office. In the e-mail she explains that she has been prohibited from using her mother tongue at work when speaking to her colleagues. This was followed up by a telephone call in which she further specified that she spoke Slovene to a fellow worker in the same room, whereupon a colleague from the adjoining room yelled: 'Speak German'." No further steps were taken in that specific case, as the complainant did not appear at the scheduled counselling date

### **Equal treatment legislation in the federal provinces**

All regions (= Federal Provinces) have adopted equal-treatment legislation, which only differs in details. The provisions of those regions are mentioned below where national minorities have settled.

### **Equal treatment legislation of the Federal Province of Vienna**

The anti-discrimination directives of the European Union dating back to the year 2000 (2000/43/EC and 2000/78/EC) were transposed for Vienna by the law to combat discrimination (Vienna Anti-Discrimination Act), Regional Law Gazette No. 35/2004, as well as by the amendment of the 1994 Service Regulations and the 1995 Service Regulations for Contract-Based Employees (Anti-Discrimination Amendment), Regional Law Gazette No. 36/2004.

The Vienna Anti-Discrimination Act went into force on 9 September 2004 and applies to the following matters of the Federal Province and the City of Vienna whenever these matters come under the jurisdictional competencies of the Federal Province of Vienna: social affairs, health, education, access to and supply of goods and services available to the general public, including housing, as well as access to self-employed gainful activities. Within this scope of application every form of direct or indirect discrimination is forbidden, as well as every type of harassment on grounds of race or ethnic origin, religion, ideology, age or sexual orientation, including incitement of other persons to such discrimination.

§ 7 of the Vienna Anti-Discrimination Act set up a unit “Combating Discrimination”. The independent Officer for the Protection of Service Staff was entrusted with the performance of its tasks. That person has the competencies that are listed in Article 13 of Directive 2000/43/EC. The officer has the task, amongst others, to mediate informally in cases of presumed discrimination and prejudices if the persons involved agree to such a procedure.

The Vienna Equal Treatment in Agriculture and Forestry Act, Regional Law Gazette No. 25/1980, as amended by Regional Law Gazette No. 45/1980, forbids any type of discrimination in the agricultural working environment on grounds of gender, ethnic origin, religion or ideology, as well as a handicap, age, or sexual orientation.

### **Equal treatment legislation of the Federal Province of Burgenland**

The Burgenland Anti-Discrimination Act, Regional Law Gazette No. 84/2005, governs equal treatment without any distinction to ethnic origin, religion or ideology, a handicap, age or sexual orientation in the regional and municipal services, as well as in matters of health, social affairs, access to and supply of goods and services available to the general public, including housing, education and access to self-employed gainful activities. This law also established the Anti-Discrimination Commission and the Anti-Discrimination Officer.

The Burgenland Service Regulations for Agriculture, Regional Law Gazette No. 37/1977, as amended by Regional Law Gazette No. 9/2008, contains the ban on discrimination in connection with the agricultural working environment.

### **Equal treatment legislation of the Federal Province of Carinthia**

The Carinthian Anti-Discrimination Act, Regional Law Gazette No. 63/2004, contains bans on discrimination in connection with the regional and municipal services on grounds of ethnic origin, religion or ideology, a handicap, age or sexual orientation. There must be no discrimination of persons by the public sector on grounds of ethnic origin, religion or ideology, a

handicap, age or sexual orientation. The anti-discrimination law for Carinthia established an Anti-Discrimination Office and an Anti-Discrimination Commission.

The Carinthian Service Regulations for Agriculture, Regional Law Gazette No. 97/1995, as amended by Regional Law Gazette No. 12/2006, contains a ban on discrimination in connection with the agricultural working environment.

### **Equal treatment legislation of the Federal Province of Styria**

The Styrian Equal Treatment Act, Regional Law Gazette No. 66/2004, governs equal treatment, based on gender, race and ethnic origin, religion and ideology, a handicap, age or sexual orientation. It applies to the citizens of Styria and all civil servants of the regional and municipal authorities and associations of municipal authorities, as well as to persons applying for an employment or training relationship with these entities. The law established an Equal Treatment Commission and an Equal Treatment Officer.

The Styrian Service Regulations for Agriculture, Regional Law Gazette No. 39/2002, as amended by Regional Law Gazette No. 55/2006, contains a ban on discrimination in connection with the agricultural working environment.

### **Creating awareness and effectiveness**

Every two years, the responsible Federal Ministers have to present a report to the National Council on the implementation of the Equal Treatment Act. This report must contain, in particular, information about the activities and the matters observed by the Equal Treatment Ombudspersons' Office, the proceedings before the Commission and other activities of the Commission. These very voluminous reports, which contain a description of numerous cases, are published on the website of the Federal Chancellery (<http://www.frauen.bka.gv.at/site/5555/default.aspx>), as are the reports, studies and recommendations of the Equal Treatment Ombudspersons' Office (<http://www.gleichbehandlungsanwaltschaft.at/site/6446/default.aspx>).

In 2009, Section II (relating to the working environment) of the Equal Treatment Ombudspersons' Office listed 152 inquiries that related to a type of discrimination on grounds of ethnic origin. Section III (outside the working environment) listed 296 inquiries concerning ethnic discrimination. This means that there is general acceptance of the counselling services on discrimination, which have only been provided with the Equal Treatment Act since 2004.

One should also add that various non-governmental organisations are active in the field of fighting discrimination and advising victims of discrimination, which in most cases operate with state funding. Moreover, § 62 of the Equal Treatment Act stipulates that the Group of Complainants for the Enforcement of Rights of Victims of Discrimination may join the litigation to enforce claims under the Equal Treatment Act as an intervening party, if one of the persons concerned so wishes. The Group of Complainants for the Enforcement of Rights of Victims of Discrimination is an umbrella organisation of non-governmental organisations established under the law of associations.



In March 2020, for the first time, a court awarded damages because a discotheque was not admitting persons on ethnic grounds. However, this case did not involve a member of the national minorities.

### **Creating awareness with the judiciary and the police**

Since 2008 the law on anti-discrimination and equal treatment has expressly been a subject at the examination that judges must take (§ 16 (4) item 4 of the Service Regulations Act for Judges and Prosecutors). Accordingly, training courses to sensitize future judges and to help them prevent any type of discrimination have become one focal point in the training of future judges in the meantime. In 2007 a module on fundamental rights was developed for future judges, in cooperation with the Ludwig Boltzmann Institute for Human Rights in Vienna and the bodies representing the professions. Since 2008, it has been mandatory for all future Austrian judges and prosecutors to attend this three-day course which deals with fundamental rights in the day-to-day court work, including also decisions of the European Court for Human Rights on the subject of discrimination. In the area of further training for judges and prosecutors, the judiciary organizes a great many different events that deal with the subjects of anti-discrimination and promotion of tolerance. One can mention, as an example, seminars such as “Misunderstandings and communication barriers in contacts with ethnic, cultural, linguistic and religious minorities in court” or “The law on equal treatment in labour and social-law disputes”. Moreover, time and again interested judges and prosecutors are given the opportunity to attend external national and international events on the subjects of “anti-discrimination”. In this connection, one can mention, for example, the technical conference “30 Years of legislation on the equal treatment of women and men, 5 years of legislation on equal treatment on other grounds” which was organised at the Federal Ministry of Justice on 2 December 2009 by the Equal Treatment Ombudsman’s Office. On the international level one must mention the series of seminars held in 2009 by the European Law Academy on the EU anti-discrimination provisions. In 2010, too, national and international events (for example, the seminar by the European Law Academy “Practical application of the Anti-Discrimination Directives 2000/43 and 2000/78” in April 2010) were and are being announced on subjects dealing with anti-discrimination.

The Federal Ministry of the Interior, too, attaches great importance to communicating knowledge about human rights, as well as about fighting prejudices that may lead to racial discrimination – both as part of the basic and further training of police officers. In this connection, one should mention a structural concept on human rights training that was developed in 2003. In 2009 the Security Academy of the Federal Ministry of the Interior offered seminars on subjects such as “Intercultural competencies – Rules and customs in other cultural environments”, “Ethical and human-rights dimensions of police action”, “The State and human rights”. One should also mention that under the title of “Language used by law-enforcement officers” the Directorate General for Public Security issued a decree on 7 August 2002 which refers to the relevant legal overall conditions. At the same time, it was emphasised that language has a function and carries importance as well as power, and may constitute discrimination on grounds of language.



## **Data collection**

The Advisory Committee recommended seeking ways and means of collecting statistical material on persons belonging to national minorities, including their socio-economic and educational situation. (See paragraph 51 of the Second Opinion) Austria would like to comment on this issue as follows:

### **Confidential mother-tongue census**

The confidential collection of data on a person's mother tongue, which is stipulated in the National Census Act, Federal Law Gazette No. 159/1950, as amended by Federal Law Gazette No. 398/1976, was conducted in Carinthia in 1976 for a first and last time. The Slovene national minority vehemently boycotted this confidential mother-tongue census. The Registered Records Act, Federal Law Gazette I No. 33/2006, which went into force on 1 January 2006, abolished the legal basis for the confidential mother-tongue census. The national minorities welcomed this legislative change, as it was feared – in view of the background of historical events – that there would be more political agitation against the national minorities, polarising the population, during the run-up to a confidential mother-tongue census (commonly seen as a step to establish membership in a national minority). Such a development would rather have been to the detriment than to the benefit of persons belonging to the autochthonous national minorities

Moreover, one must also point to a fundamental problem in connection with establishing the affiliation of persons belonging to a national minority: In many cases the large majority of the persons belonging to the national minorities in Austria already grew up bilingually and is (at least) as fluent in the majority language as in the language of the national minority. In addition, it is their self-understanding that, as a rule and increasingly, they will have multiple identities of a varying degree. There are therefore tensions between the modern phenomenon of multiple identities and the principle of establishing affiliation with a national minority, which results in difficulties when categorising the population along ethnic lines. A mother-tongue census – even though full anonymity is ensured – might therefore easily be mis-interpreted by the persons belonging to the national minorities, as well as by the majority population, as a decision for or against a specific national minority and/or for or against the majority population.

There were, in fact, no cogent requirements for a confidential mother-tongue census, as the state authorities do have information which is sufficient for the practical work, provided by the advisory councils for the national minorities, the organisations of the national minorities and obtained from managing the financial support for the national minorities.

### **National census and registered records**

For its case law, the Constitutional Court has been using the results of the national censuses on the language of everyday use as a criterion for the relevant question in complaints proceedings, i.e. the percentage of persons belonging to a national minority in the total residential population of Austria in a specific area. In this connection it has stated expressly that these data can be used as approximate values.

In view of the modern possibilities of automatic data matching, and for reasons of cost savings, the Registered Records Act, Federal Law Gazette I No. 33/2006, replaced the conventional national census by automated collections of registered records. These will no longer provide any data on the languages of the national minorities. However, § 1 (3) of the National Minorities Act authorises the responsible Federal Minister to call for a census on the language of everyday use, if this is indispensable in order to perform federal tasks. At present, it is not planned to make use of this authorisation.

The 2001 national census data constitute the most topical and relatively reliable data material for the time being, which at least facilitate some approximation between the numerical strength and the socio-economic situation of the national minorities. The Federal Chancellery therefore commissioned a study evaluating the results of the national census. For details, please see below.

### **School and educational statistics**

The federal law documenting the educational system (in brief: Education Documentation Act), Federal Law Gazette I No. 113/2006, determines which data must be collected about the educational system. Affiliation to a national minority is not part of the data. However, amongst others, data are collected on the language of everyday use, on the use of another language but German as a language of instruction, and on attendance of foreign-language classes (see Annex 1 to § 3 (2) item 7 of the Education Documentation Act). In this connection, one should point out that the number of persons attending bilingual classes under the laws on schools for national minorities cannot be taken as a yardstick for the national minorities, as children of the majority population may also attend bilingual classes, which is highly welcome..

On the basis of an ordinance dated 19 April 2010, Federal Law Gazette II No. 117/2010, the Federal Institute for Education Research, Innovation and Development of the Austrian School System (BIFIE) will conduct an investigation throughout Austria on the subject of “Development of competencies and educational careers in the new middle school”. It will also evaluate the performance of primary-school pupils in the mandatory subjects “German, Reading, Writing” and “Mathematics”, including studies on teaching and living situations outside school. These data will be very useful for working on Austria’s education policy – especially also with a view to improving the educational situation of children with a non-German mother tongue or from communities remote from education. However, here, too, affiliation with a national minority will not be a criterion.

### **Statistics and freedom to admit affiliation with a national minority**

Austria is committed to the principle that every person is free to admit his/her affiliation with a national minority.

§ 1 (3) of the National Minorities Act: No person belonging to a national minority shall suffer any prejudice from exercising, or refraining from exercising any rights which he/she enjoys as a person belonging to a national minority.

§ 1 (4) of the National Minorities Act: No person shall be required to prove his/her affiliation with a national minority.

In this context, the explanatory comments to the Government bill on the National Minorities Act state that putting the exercise and non-exercise of rights on an equal footing is intended to indicate that it is in the free discretion of persons belonging to the national minorities to make use of their statutory rights. Paragraph 4 must also be understood in the sense of non-discrimination which, from the very start, rules out any obligation to admit affiliation with a national minority.

This means that a person belonging to a national minority can decide freely, on a case-by-case basis, whether he/she wants to make use of a right granted to a national minority, and/or whether he/she wants to out himself/herself as a member of a national minority. The provision of § 1 (4) of the National Minorities Act is also interpreted to stipulate that persons belonging to a national minority should not even be faced with the decision whether they want to out themselves as belonging to a national minority or not. This is also to avoid any mental pressure. One should bear in mind here that, as a rule, the persons belonging to Austria's national minorities cannot be recognised by any outer signs and that, in general, one can depart from the assumption that there are multiple identities, as in any other modern society. It is Austria's view that this approach deserves respect.

In legal terms, it would be compatible with the freedom to admit one's affiliation with a national minority to conduct investigations using questionnaires that can be completed in anonymous form, if any traceability to individual persons could be ruled out on account of a sufficiently large number of responders. However, one must take account of the concerns listed in the section "confidential mother-tongue census". There are no tangible needs to resolve these problems. It is uncontested that Austria's national minorities have been fully integrated in socio-economic and educational terms. In essence, this also applies to the Roma minority in Burgenland. There may be certain economic specificities or disadvantages, due to the geographical location on the outskirts of the autochthonous settlement areas in Carinthia and Burgenland. However, these affect – just as much – the members of the majority population that lives in those areas.

## Studies

The Federal Chancellery commissioned a study to evaluate the results of the 2001 national census. It links the criterion of language of everyday use to other sociographic characteristics and thus facilitates an approximation to the characteristics of the national minorities. The study has shown that the national minorities are well integrated into Austrian society.

However, the results on "Romany" as a language of everyday use deserve special commenting. For all of Austria, 6,273 persons (of which 4,348 are Austrian nationals, of which again 1,732 were born in Austria) ticked this language, which drastically falls short of the rough estimate of the number of Roma living in Austria (about 50,000 to 80,000 persons). One may assume that many Roma either indicated German or the language of their countries of origin;

that they did so either by mistake or because, in fact, they do not (no longer) speak Romany, or that they did not want to out themselves as being Roma. There is also reason to assume that Romanians ticked off “Romany” by mistake. On the basis of these data it was therefore not possible to make any meaningful evaluation of the sociographic and socio-economic characteristics. It is estimated that only 3,000 to 5,000 Roma and Sinti belong to the autochthonous national minority.

There are also studies on the integration of migrants, for example the report “Monitoring integration diversity Vienna”, published by the Federal Province of Vienna in April 2010. Studies on integration are guided by parameters such as nationality, length of stay and country of origin. These will not be discussed here in detail, as the issue of integration is not the subject of the present report.

### **The situation of the Roma**

The Advisory Committee recommended taking more and more systematic measures in favour of the Roma, especially with regard to employment and housing. Such measures should be implemented in consultation with the persons involved, and particular attention should be paid to the situation of Roma youth and women. (See paragraph 57 of the Second Opinion)

However, the disadvantaged position of the Roma, which the Advisory Committee is assuming, in connection with employment and housing (which is a general statement that – if at all – rather applies to the newly immigrated Roma) is closely linked to a low level of education, as one knows from experience, with little interest in obtaining an education and slim employment perspectives as a negative corollary, triggering a cycle that is hard to break. Austria is therefore of the opinion that one must begin by tackling the educational situation. By raising the educational standard, one cannot only expect a better adjustment to the requirements of the labour market and thus, in parallel, better incomes for these groups of the population, but also a more independent and better asserted role of Roma women, and more optimistic perspectives for life of Roma youth.

The course chosen is to support the associations of the national minorities, in order to involve the persons concerned. This ensures, on the one hand, that the options offered are accepted and only require overcoming minor obstacles, and that the independence of the persons concerned is emphasised, on the other hand. The priorities of the promoted activities are counselling on labour-market possibilities and supporting Roma children in learning. In particular, one should also mention a study made in 2009, which the Federal Chancellery supported, on the educational and counselling demands of persons belonging to the national minority, paying special attention to Roma women. The results will be available in the course of the year 2010.

The table below only refers to the funding provided by the Federal Chancellery to this national minority. It does not list the promotion granted by the Federal Provinces, nor other cultural subsidies and funding under the heading of integration.

**Table 2 National-minority funding in 2009 for associations of the Roma minority**

| National minority of the Roma   | Funding in EUR    |
|---|-------------------|
| ROMANO CENTRO – Verein für Roma (Vienna)  | 145,000.00        |
| Verein Roma-Service (Burgenland)  | 111,500.00        |
| ROMA – Verein zur Förderung von Roma (Burgenland)   | 44,520.00         |
| (spi :k) PROJEKT – Sprache, Identität, Kultur. Verein zur Dokumentation von Sprache und Kultur regionaler Minderheiten (Styria) | 38,000.00         |
| Kulturverein österreichischer Roma – Dokumentations- und Informationszentrum (Vienna)   | 43,000.00         |
| Ketani – Verein für Sinti und Roma (Upper Austria)  | 23,500.00         |
| Diözese Eisenstadt – Referat für ethnische Gruppen, bes. Roma u. Sinti (Burgenland)   | 900.00            |
| <b>Sum total for all associations</b>   | <b>406,420.00</b> |

Source: Federal Chancellery, Department for National Minority Matters

In addition, the Municipality of Vienna (at the same time the Federal Province of Vienna) and the urban municipality of Oberwart, for example, have Roma among their employees. The aforementioned report “Monitoring integration diversity Vienna” states that it has been clearly identified that it is necessary to increasingly recruit administrative staff from the immigrating groups. Municipal Department 17, which is responsible for integration and diversity in Vienna, has at least one Romany staff member (as far as is known).

Austria expects that all improvements in the field of education (for example free nursery schools, more possibilities to look after children in school in the afternoon, or to offer them all-day classes; the pilot school project “new middle school”, teaching workshops) and in the social field (for example, access to municipal housing in Vienna, also for persons without Austrian nationality, whenever applicants have a long-term residence permit; access to subsidised housing) will also result in a better living situation of the Roma population.

In connection with involving the persons concerned, one should report that in 2009, for the first time, the City of Linz set up an advisory council, which deals with migration and integration. For the first time, a Soma/Sinti representative was elected to this body so that the national minority of the Roma would have a stronger voice in matters of integration and diversity and in order to compensate any possible marginalisation in the course of regular democratic processes.

### **Measures to improve the employment situation and/or the integration of Roma into the labour market**

All the numerous labour-market policy measures are open to all clients of the Labour Market Service. However, on the basis of the applicable law and/or data-protection provisions, the data of the Labour Market Service cannot be labelled in order to indicate the racial or ethnic origin. It is therefore not possible to indicate how many Roma have taken part in labour-market policy measures in connection with qualifications, employment and support. Nor are there any data available on the unemployment rate among Roma. However, it is known that a lower educational level results in a higher risk of unemployment. In addition to the general

counselling services of the Labour Market Service, there are special units advising Roma, which lower the threshold for having access to such services.

For many years, the Labour Market Service Burgenland has been supporting ROMA, an association, by paying it a contribution to the costs of a counselling service for Roma. The help and support given to the association includes, amongst others, advice on jobs and counselling of unemployed persons, social counselling, as well as support and assistance to young persons in search of an apprenticeship. There are ongoing contacts between the service centres of the Labour Market Service and the association. The labour-market objectives of the association comprise information about the labour-market policy, individual counselling, co-operation with various authorities, agencies and organisations, as well as public-relations work and awareness-raising. An assessment made by the Roma themselves appears to be credible, namely that with regard to the unemployment of youth and young adolescents there are no significant differences between Roma and non-Roma today, which means that the efforts of the past twenty years have been fruitful.

THARA House, located in Vienna, is a cooperation project between Roma and non-Roma organisations which is also supported from the budget of the Federal Ministry of Labour, Social Affairs and Consumer Protection. THARA has set itself the goal to address issues such as the labour market, male and female Roma, male and female Sinti and male and female non-Roma and non-Sinti, both on an individual and structural level. THARA has already become a concept and brand name among experts in labour-market policy institutes and has been well accepted by the target groups of the Roma communities. This popularity is a decisive basis for the success of the project. Here, the two areas of activities “counselling” and “dialogue” stand for an interaction of the individual and the structural level of the project. Among the “counselling” activities, male and female Roma and male and female Sinti between the ages of 13 and 65 years are given advice on social, job-related and educational issues. Preparatory courses to vocational life are offered to youth and young adults between the ages of 13 and 24. A priority goal is to activate, to give a new orientation and to support the target group. The “dialogue” activities comprise public relations and work for the media. They are a platform to interlink interested persons from all areas concerned and serve to build up a network of Roma associations, players from business, politics and NGOs. This is intended to set up strong working relations for male and female Roma, as well as male and female Sinti in a national and international environment.

With funding from the Federal Ministry of Labour, Social Affairs and Consumer Protection, the association “Minorities Initiative – Association to promote minorities and majorities in living together“ held a conference on equal opportunities in the work place, education, social matters, law and politics from 9 to 11 November 2007 on the occasion of the Year of Equal Opportunities 2007.

### **Measures to improve the housing situation of Roma**

In connection with the housing situation, it is stated that the federal and regional authorities offer Roma members the same type of support on the housing market as it is being given to



other persons in search of housing. In Vienna, access to municipal housing does not require Austrian nationality.

## II.2.5 Article 5

1. The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, and to preserve the essential elements of their identity, namely their religion, language, traditions and cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons from any action aimed at such assimilation.

### Federal support for the national minorities

The Advisory Committee recommended the adoption of support guidelines for the financial support to the national minorities, as well as making more transparent the system of distribution of the financial support and increasing the amount of support. (See paragraphs 62 and 63 of the Second Opinion)

In 2009 an amendment to the National Minorities Act explicitly embodied the possibility to promote intercultural activities that enable the national minorities to live together. For this purpose, an additional amount of EUR 100,000 each was made available for the years 2009 and 2010. In view of the budgetary constraints, a bigger increase of the financial support was not possible.

In connection with the guidelines for the distribution of funds, one can report that this project was not pursued any further. The reason for this is that the advisory councils for the national minorities had regarded the special guidelines for the distribution of financial support as dispensable, after a draft prepared by Federal Chancellery had been presented, and/or as counter-productive, as well as limiting the scope of action of the organisations of the national minorities.

However, every year the department in the Federal Chancellery responsible for promoting the national minorities sends out "Information on filing applications", together with the application forms. It contains information about projects eligible for support, as well as practical information about the management of the funds. Moreover, it is planned again for summer/fall 2010 to hold information events on financial support for the national minorities, which can be attended by all organisations of the national minorities. At the beginning of the year 2010, the administrative unit in the Federal Chancellery responsible for checking on the distributed financial support also published "Accounting guidelines", which are also generally accessible on the website of

the Federal Chancellery. All these measures serve to make the handling of financial support for the national minorities more transparent.

To the extent discernible, the efforts of some persons belonging to the national minorities, especially of the Hungarian minority, went in the direction of laying down a distribution scheme for the financial support to the national minorities by taking account of the results of the national census. In reaction to that, one has to say that Austria refuses the idea of distributing the financial support solely on a “per capita” basis. This can be explained by the fact, on the one hand, that a specific number of persons belonging to a national minority would only be a very limited indicator for the need of that national minority to obtain financial support. Gearing the amount of financial support solely to the numbers counted at the most recent national census in 2001 would have a distorting effect if, by coincidence, languages are spoken by larger numbers of migrants. Given the current circumstances, namely that the situation and the needs of the individual national minorities need to be classified as highly divergent, it is more objective to gear the financial support to the actually offered and, in fact, used specific activities of the national minorities. In connection with the divergent situations and needs of the national minorities, one can report, for example, that the school needs of the national minorities living in Carinthia and Burgenland are covered by the school laws for the national minorities, whereas school facilities available to the national minorities living in Vienna are partly paid for from the financial support for the national minorities. Another example would be that the Burgenland-Croat language (which is a type of Croatian dating back to the sixteenth century) differs from the standard Croatian language. For the minority of the Roma, one had to begin by developing a written form of the language. In this connection, first dictionaries and grammatical structures were produced for Burgenland Romany in the course of the Romany project at the University of Graz, supported from the budget for the national minorities. It was possible, on the basis of these activities, to publish collections of fairy tales, newsletters of associations and teaching materials. One must underline, in general, that the five main types of Romany that are spoken in Austria became written languages with financial support from the budget for the national minorities. Furthermore, the learning assistance given to the minority of the Roma which requires financial support has an above-average priority, compared to the other national minorities groups.

The distribution of the financial support for the national minorities is guided by the evolution of their situation in the course of history, which certainly has also seen transitions over the years. For example, in the course of recent years financial support was increased especially for the Hungarian minority and the Slovak minorities, but also for the Roma minority by way of shifts in an altogether unchanged budget.

**Table 3 Evolution of the financial support given to the Hungarian and Slovak minorities**

| National minority  | Financial support in 2002 | Financial support in 2003 | Financial support in 2009 |
|--------------------|---------------------------|---------------------------|---------------------------|
| Hungarian minority | 282,082                   | 330,645                   | 436,710                   |
| Slovak minority    | 39,970                    | 45,000                    | 121,800                   |

Source: Federal Chancellery, Department for National Minority Matters



Irrespective of the issue of special guidelines and the issue of distributing the financial support among the individual national minorities, it is at the discretion of every advisory council for a national minority to use an internally agreed evaluation scheme as a basis for its recommendation for financial support, as is the case, in particular, with the advisory councils for the Croatian, the Slovene and the Czech minorities. Pursuing this course of action also ensures that the specificities of the respective national minority can be taken into account in the best possible manner. The Federal Chancellery, which is responsible for promoting the national minorities, therefore welcomes the efforts by the advisory councils of the national minorities to apply distinguishing criteria to their recommendations for financial support and to make them more logical to follow. Especially the advisory council for the Hungarian minority therefore discusses all the more intensively the preparing of criteria which the advisory council will use in order to be able to submit a more objective recommendation for financial support.

It must be pointed out, in general, that there are difficulties opposing both the determination of easily manageable criteria for the distribution of financial support and the evaluation of the support given to national minorities. These are due to the specific objectives of the financial support for the national minorities. According to § 8 of the National Minorities Act, the purpose of promoting the national minorities is to preserve and secure the existence of the national minorities, their traditions and ethnicity, as well as their characteristics and rights. However, preserving the existence of the national minorities can often be influenced only in an indirect manner and with a time delay. Such measures are also exposed to a number of factors that cannot be influenced. It should be recalled, for example, that the opening of the borders to the states in Eastern Europe resulted in more functionality with regard to many of the languages of the national minorities. The EU accession of Slovenia, the Czech Republic, Slovakia and Hungary also had a positive impact, as it enhanced the functionality and prestige of the languages of these national minorities. On the other hand, factors such as the decreasing number of persons working in agriculture, jobs in an environment outside of the language area of a national minority, commuting, moving away from the original settlement areas to conurbations, as well as mixed marriages make the situation more difficult. The altogether low birth rate, also among the autochthonous national minorities, has a negative impact on the number of persons belonging to a national minority, whereas persons of the same language, who come to settle in this country, have a reinforcing effect.

One must also bear in mind that today persons belonging to national minorities have multiple identities. This means that they are aware of their identity as persons belonging to a national minority with a differing, sometimes also changing intensity and expression, in addition to their Austrian identity, apart from other identities such as, for example, being citizens of the European Union. The consequence is that it is difficult to link the distribution of financial support for the national minorities to operative parameters. This is why the recommendations for financial support by the advisory councils of the national minorities are very helpful.

The financial support awarded in the years 2007 to 2009 is shown for the individual national minorities in order to give an up-to-date overview of the financial support provided by the Federal Chancellery:

**Table 3 Financial support by the Federal Chancellery for the national minorities  
2007 – 2009 in euros**

| National minority                 | Financial support in 2007 | Financial support in 2008 | Financial support in 2009 |
|-----------------------------------|---------------------------|---------------------------|---------------------------|
| Croatian minority                 | 1,104,700.00              | 1,155,070.00              | 1,128,800.00              |
| Slovene minority                  | 1,202,460.04              | 1,200,500.00              | 1,187,680.95              |
| Hungarian minority                | 400,710.00                | 442,640.00                | 436,710.00                |
| Czech minority                    | 381,409.00                | 385,325.00                | 382,440.00                |
| Slovak minority                   | 111,155.00                | 121,900.00                | 121,800.00                |
| Roma minority                     | 320,800.00                | 364,920.00                | 368,420.00                |
| <b>Total</b>                      | <b>3,521,234.00</b>       | <b>3,670,355.00</b>       | <b>3,625,850.95</b>       |
| “Miscellaneous“ financial support | 322,344.14                | 176,545.00                | 178,045.00                |
| <b>Sum total</b>                  | <b>3,843,578.18</b>       | <b>3,846,900.00</b>       | <b>3,803,895.95</b>       |

Source: Federal Chancellery, Department for National Minority Matters

In addition to the classical financial support provided to the national minorities, as it is laid down in the National Minorities Act, the Federal Ministry for Education, Arts and Culture also grants financial support to specific national minority projects, especially when focusing on education:

**Table 4 Financial support in 2009  
by the Federal Ministry for Education, Arts and Culture**

| National minority  | Financial support in 2009      |
|--|--------------------------------|
| Croatian minority  | 155,545.00                     |
| Slovene minority   | 426,862.69                     |
| Hungarian minority   | 48,294.00                      |
| Roma minority  | 137,817.22                     |
|  | (incl. € 10,000 from Dept. 3a) |
| National minorities in general and/or covering several national minorities | 55,000.00                      |
| <b>Sum total</b>   | <b>823,518.91</b>              |

Source: Federal Ministry for Education, Arts and Culture

In addition, organisations which are not primarily associated with the specific objectives of national minorities may obtain financial support. One can mention here, by way of example, the financial support by the Federal Ministry of Labour, Social Affairs and Consumer Protection for THARA, the Roma counselling service, which serves the labour-market policy objectives.

**Table 5 Financial support by the Federal Ministry for Labour, Social Affairs and Consumer Protection to the association “THARA” between 2006 and 2009 in euros**

| Financial support for “Thara“  | 2007           | 2008           | 2009           |
|--|----------------|----------------|----------------|
| Thara – labour-market policy counselling service focusing on the target group Roma and Sinti | 104,618        | 62,771         | 38,735         |
| Thara Romnija/Roma in Transition   | -              | 101,323        | 88,254         |
| Thara – Counselling & Dialogue   | -              | -              | 196,874        |
| <b>Sum total</b>   | <b>104,618</b> | <b>164,094</b> | <b>323,863</b> |

Source: Federal Ministry for Labour, Social Affairs and Consumer Protection (= BMASK)

During the reporting period, the BMASK also gave financial support to the adult-education centre of the Burgenland Roma at Oberwart. For the project “Roma Children’s Worlds”, the adult-education centre received EUR 4,500 in 2009; after final accounting in 2010, the outstanding EUR 500 will be transferred.

“Initiative Minorities – Association to promote the living together of minorities and majorities” received financial support from the BMASK in 2007 for their international conference “What do equal opportunities mean for the minorities?”.

### Regional support to the national minorities

The Advisory Committee recommended responding effectively to the needs of the Slovene minority in Carinthia and expanding the measures taken to support the preservation and development of the culture and language of the Slovene minority in Styria. The preservation of the culture and identity of persons belonging to the Czech and Slovak minority and other minorities in Vienna was to be also addressed. (See paragraph 70 of the Second Opinion)

### Support to national minorities by the Federal Province of Styria in 2006-2009

On a regular basis, the Styrian Regional Government supports the activities of the minority association “Article VII Cultural Association for Styria – Pavel House”. Pavel House at Radkersburg has become an established centre for cultural events of the Slovene population in Styria, especially during the past 15 years. The Article VII Association is a link between the minority and majority population in the southern region of Styria. With its cultural and minority-specific events and publications, it promotes bilingual and intercultural dialogue.

**Table 6 Financial support to the national minorities by the Federal Province of Styria between 2006 – 2010 in euros**

| Organisation of the national minority   | 2006   | 2007   | 2008    | 2009   | 2010                   |
|---|--------|--------|---------|--------|------------------------|
| Österreichisch-Slowenische Freundschaft | 1,000  | 2,000  | 2,000   | 2,000  | as yet, no application |
| Klub slowenischer StudentInnen in Graz  | -      | 1,500  | 1,300   | -      | as yet, no application |
| Pavelhaus des Artikel VII - Vereins     | 17,218 | 50,000 | 110,500 | 80,000 | 85,000                 |

Source: Office of the Styrian Regional Government

### Support to national minorities by the City of Vienna in 2006 – 2009

On a regular basis, the Municipal Administration of the City of Vienna grants financial support to various cultural activities of the Czech and Slovak minorities, as well as the associations founded by them and their initiatives. Between 2006 and 2009, for example, the Czecho-Slovak/Austrian Contact Forum, the Austro-Slovak Cultural Association, the Vlastenecka Omladina Theatre Association, the Science Forum of Czechs in Vienna, the Slovak School Association SOVA, the Culture Club of Czechs and Slovaks in Austria and the Austro-Slovak Society were promoted with a total amount of about EUR 20,000, giving grants between EUR 500 to 3,000 to every activity.

Moreover, projects and investment measures by the national minorities in the field of education also receive financial support by the City of Vienna (learning assistance to Roma children, support to the Komensky School for the enlargement of the school building), and the City of Vienna also pays for the teaching staff at the Komensky School.

### Support for national minorities by the Federal Province of Carinthia in 2006 – 2009

From its cultural budget, the Federal Province of Carinthia promotes the associations of the Slovene minority by granting them the following amounts:

- ▶ 2006: € 30,000
- ▶ 2007: € 30,000
- ▶ 2008: € 27,000
- ▶ 2009: € 27,000

Every year, the associations are published in the “Report on Cultural Activities by the Federal Province of Carinthia” and on [www.kulturchannel.at](http://www.kulturchannel.at).

Moreover, the Federal Province of Carinthia spends about EUR 75,000 every year on organising two important events of the National Minorities Office:

- European National Minorities Congress of the Federal Province of Carinthia

- Culture Week of Slovenes in Carinthia; this event is organised by the National Minorities Office in cooperation with the two umbrella associations for cultural events of the Slovene population in Carinthia, the Christian Cultural Association and the Slovene Cultural Association.

The Slovene music school “Glasbena šola” receives special regional support. The Federal Province of Carinthia is guaranteeing its operation, amongst others, by a three-year promotion contract. In this context, about EUR 165,000 per year are spent on about 600 music students.

As the Slovene music school is a central institution for the promotion of music education and, in particular, the training for and the preservation of the music culture of the Slovene minority in Carinthia, it also regularly receives funding from the federal budget earmarked for the national minorities. In 2009 the Slovene music school received a total of more than EUR 100,000 from the Federal Chancellery to cover staff costs, as well as the bilingual (German and Slovene) music classes. This was therefore also an important contribution towards maintaining the Slovene-language culture and language in Carinthia.

### **Support to national minorities in Burgenland**

In 2007 the Federal Province of Burgenland granted financial support of about EUR 133,000 to the Croatian minority. In addition, Burgenland spent about EUR 187,000 as remuneration in keeping with § 23 of the National Minorities Act, especially for assistant nursery-school teachers. The municipalities promoted the Croatian minority with an amount of about EUR 280,000.

In 2007 the Federal Province of Burgenland granted financial support of EUR 130,000 to the Hungarian minority. In addition, approximately EUR 136,000 were paid by Burgenland as remuneration in keeping with § 23 of the National Minorities Act, especially for assistant nursery-school teachers. The municipalities promoted the Hungarian minority with an amount of about EUR 15,000.

In 2007 the Federal Province of Burgenland granted financial support of EUR 36,000 to the Roma minority. The municipalities promoted the Roma minority with an amount of about EUR 900.

In 2008 the Federal Province of Burgenland granted financial support of about EUR 154,000 to the Croatian minority. In addition, approximately EUR 203,000 were paid by Burgenland as remuneration in keeping with § 23 of the National Minorities Act, especially for assistant nursery-school teachers. The municipalities promoted the Croatian minority with an amount of about EUR 334,000.

In 2008 the Federal Province of Burgenland granted financial support of EUR 29,000 to the Hungarian minority. In addition, approximately EUR 123,000 were paid by Burgenland as remuneration in keeping with § 23 of the National Minorities Act, especially for assistant nursery-school teachers. The municipalities promoted the Hungarian minority with an amount of about EUR 21,000.

In 2008 the Federal Province of Burgenland granted financial support of EUR 76,000 to the Roma minority. The municipalities promoted the Roma minority with an amount of about EUR 3,000.

The municipalities and the departments in the Office of the Burgenland Regional Government have not yet provided their data for 2009. It can be reported, though, that the Office of the Regional Directorate granted an amount of EUR 74,000 for all three national minorities under these headings.

### **Support to national minorities by the Federal Province of Upper Austria**

The Federal Province of Upper Austria has been granting regular support for the activities of the association “Association Ketani for Sinti and Roma”, which has been domiciled in Linz since 1998. The financial support is used mainly for the staff costs of the association, as well as for special events for and with the Sinti and Roma. The association organises workshops at schools, is the contact partner for persons belonging to the national minority; it supports Roma survivors of the NS period; it organises cultural events and informs about the history and the lives of Roma families in Upper Austria. The City of Linz also supports the activities of the “Ketani” association.

## **II.2.6 Article 6**

1. The Parties shall encourage a spirit of tolerance and intercultural dialogue and take effective measures to promote mutual respect and understanding and co-operation among all persons living on their territory, irrespective of those persons' ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.

### **The situation in Carinthia**

The Advisory Committee recommended implementing the Constitutional Court ruling of 13 December 2001 on bilingual signposts. (See paragraph 78 of the Second Opinion) In this connection, please refer to the comments under Article 11.

The Advisory Committee recommended undertaking the utmost to support a climate of tolerance in Carinthia and to condemn hostilities between the national minorities. (See paragraph 79 of the Second Opinion)

Generally speaking, the relationship between the Slovene minority and the German-speaking majority population in Carinthia is better and more amicable than it may appear to be on the

basis of several statements by prominent representatives of the two sides and election-campaign statements. However, there can be no doubt that measures are necessary in order to better communicate that the Slovene minority is a specificity of this region deserving appreciation, and that the historical trenches must be overcome. This is why the grass-root discussions organised by Dr. Marjan Sturm of the Central Association of Slovene Organisations in Carinthia and Dr. Josef Feldner of the Carinthian Homeland Service are of such great value. The budget item “intercultural projects” (as part of the budget for the national minorities), which was introduced in 2009, especially serves to grant financial support to projects of this type, as they promote the dialogue between the national minorities.

In October 2007, Dr. Sturm and Dr. Feldner presented their co-authored book “Kärnten neu denken – zwei Kontrahenten im Dialog” (A new approach to Carinthia – A dialogue between two adversaries). This book describes the development of prominent representatives of the two sides towards more dialogue and understanding. This dialogue process dates back to the consensus conference, which the then Federal Chancellor had launched. The conference was intended to work out a proposal to solve the so-called topographical signs issue. Since 2005 this work has been continued in the “Consensus Group Carinthia”, which is headed by Stefan Karner, the historian, and which has Bernard Sadovnik (Community of Carinthian Slovenes), Josef Feldner (Carinthian Homeland Service), Marjan Sturm (Central Association of Slovene Organisations in Carinthia) and Heinz Stritzl, the journalist (Platform Carinthia) as members. In July 2009 the Carinthian Consensus Group was awarded the European Citizens’ Prize of the European Parliament. It received the award for its commitment to obtain understanding and tolerance between the Slovene and the German-speaking population in Carinthia. In October 2009, the Consensus Group was also awarded the Culture Prize of the City of Villach. This demonstrated the appreciation by politicians in Carinthia for the work of the Consensus Group.

The 90-year anniversary celebrations of the Carinthian Homeland Service on 24 April 2010 were also a remarkable event, as both Dr. Feldner and Dr. Sturm found words of reconciliation and committed themselves once again to fighting prejudice, as well as to continue the dialogue process. The festivities took place in the Heraldry Room of the Government Building in Klagenfurt in the presence of numerous guests and received great media attention. Josef Lobnig, the President of the Regional Parliament, welcomed the guests of honour.

Moreover, the Federal Province of Carinthia took many steps in order to promote the national minority. In this connection, one should mention the National Minority Office, which was set up as early as 1990 with the Office of the Carinthian Regional Government. This agency is unique in Austria. In its present organisational structure, the Office has a staff of four persons, who provide the following services:

Work in the section for citizens’ services is characterised by daily telephone and personal contacts, as well as written submissions. The interpreting service offers written and oral communication with authorities, as well as translation services. Other services provided by the National Minority Office is its publicly accessible technical library (about 2000 titles), which are taken out regularly. Another type of service is the information material on the website of the National Minority Office. Forms in the Slovene language are available on the website, which are used very frequently. Only recently, a new service was added by linking the website of the three district administrative centres of Völkermarkt, Klagenfurt-Land and Villach-Land to the



Internet site of the National Minority Office. This provides up-to-date references to the information sources for subjects of interest to the national minority.

Considerable work is being undertaken to provide information and public relations, as well as concerning publications and events. The National Minority Office has recorded very lively interest for congress events. Every year, about 200 participants from Austria and abroad attend the congress of the national minority. In the fall of 2009 this technical conference and/or dialogue conference, which is well known far beyond the borders of Carinthia, celebrated its 20-year anniversary. It was attended by Dr. Heinz Fischer, the President of the Federal Republic of Austria. Since the first congress in 1990, some 250 national and international experts have honoured this event by participating as speakers. The newly structured Culture Week for Carinthian Slovenes is also very popular. In cooperation with the two Slovene cultural umbrella organisations, as well as other organisations, increased efforts have been made since 2006 to foster and carry out local cooperation projects (ongoing nursery-school projects). The projects mostly cover several years in order to obtain more local or regional sustainability for the event.

There is considerable demand for the annual publications on the national minority congresses, which comprise contributions by the speakers of the respective congress. These papers by renowned scientists on specific aspects of the topic of minority and majority rights are published in a series called "Carinthian Documentation". The many inquiries about the publications and, in general, about the subject of national minorities also prove the significance of the work done by the National Minority Office – it acts as a first contact point for interested persons from all over Austria.

Between 2006 and 2009, a total of 66 participants (regional civil servants) availed themselves of the courses offered by the Carinthian Administration Academy to improve their skills of Slovene, the second official language.

The subsidies granted by the Federal Province of Carinthia to several Slovene cultural associations are of central importance, as is the funding for Glasbena šola, the music school of Slovenes in Carinthia, and for numerous bilingual nursery schools (Slovene and German). However, projects by other bodies, which serve to promote intercultural communication, also receive funding, as they serve as confidence-building measures. The National Minority Office applies much energy and initiative and uses confidence-building measures to create a positive impact on the various areas for which funding is available. As a result, funding has emerged as a new feature which very well supports and ensures the cultural identity of the national minority.

### **Measures against racism and intolerance**

The Advisory Committee recommended that the already existing efforts to tackle racism and racially-motivated violence should be continued and expanded, especially violence that is not connected with far-right extremism. (See paragraph 86 of the Second Opinion) The Advisory Committee recommended condemning all manifestations of intolerance and racism, especially in the political sphere. Moreover, awareness on racism and discrimination both among the population at large and the police should be pursued and developed further. (See paragraph 87 of the Second Opinion)



Actions to protect and promote human rights and fundamental freedoms, as well as fighting any type of discrimination have always been a fundamental principle of Austrian politics. Against the background of this principle, Austria attaches special attention to the fight against racism and intolerance. However, one should also note that the Second Opinion does not list any specific cases of racially-motivated violence against members of Austria's national minorities so that only a general comment can be provided. Although it can never be ruled out that isolated acts of violence on racial grounds will occur against persons belonging to the national minorities, this is certainly not a mass phenomenon. Xenophobic tendencies in the narrower sense do not fall within the scope of application of the Framework Convention, as persons belonging to the national minorities are not foreigners and are not perceived as such. Nor can Islamophobic or Anti-Semitic incidents be regarded as being of relevance here, as Austria's national minorities do not substantially distinguish themselves from the German-speaking majority population in terms of religion

### Legal situation

In compliance with the commitments deriving from Article 4 of the International Convention on the Elimination of All Forms of Discrimination (CERD), § 283 of the Criminal Code ("incitement") and § 33 item 5 of the Criminal Code (it is a general aggravating circumstance when punishable offences are committed on racial or xenophobic grounds) have been established as the criminal-law basis to fight racially-motivated violence. Moreover, there is the Prohibition Act which sanctions acts to revive National-Socialism.

It is planned to revise the facts constituting incitement and to expand the group of protected groups and individual persons in order to improve the effectiveness of criminal-law protection against racism and xenophobia. This is in compliance with the Council Framework Decision of 28 November 2008 on combating certain forms and expressions of racism and xenophobia by means of criminal law, as well as with the recommendations of the UN Committee on the Elimination of Racial Discrimination (CERD).<sup>1</sup>

In the field of administrative law, one should mention the facts constituting administrative criminal acts, namely discrimination on grounds of race (Article III (1) item 3 of the Introduction Act to Administrative Procedures Law – EGVG), as well as the dissemination of National-Socialist ideas as prohibited by the Prohibition Act (Article III (1) item 4 of the EGVG), and the possibility to dissolve unlawful associations and gatherings (law on associations, law on assemblies).

It should be borne in mind that concepts such as racism, xenophobia and Anti-Semitism primarily refer to the mental attitude of persons, which cannot be the subject of statutory bans. It is only the forms of expression given to these attitudes that can be the subject of bans, for

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<sup>1</sup> See Government Programme for the XXIVth Legislative Period, chapter on „Strengthening criminal-law protection against discrimination and severe human-rights violations“

example insults of a racist content (however, not the underlying racism as such), as well as defined discriminatory acts.

The concept of “racial discrimination” is a concept that has not been determined in more detail by law. In addition to Article 14 of the European Human Rights Convention (ECHR), which has constitutional standing in Austria, it is especially the federal constitutional law of 3 July 1973, Federal Law Gazette No. 390/1973 (which implements the International Convention on the Elimination of All Forms of Discrimination) that stipulates a ban on discrimination.

Article 1 (1) 2<sup>nd</sup> sentence of the federal constitutional law implementing the International Convention on the Elimination of all Forms of Racial Discrimination reads as follows:

“The legislature and the executive shall refrain from any distinction based solely on the grounds of race, colour of skin, origin or national or ethnic origin.”

### **Incitement**

§ 283 of the Criminal Code stipulates that a sanction of up to two years of imprisonment will be imposed on persons who publicly incite against specific groups of persons (for example, persons belonging to a certain religious denomination, a people, a “race”), or who insult and denigrate them in a manner violating human dignity (paragraph 2), or who publicly incite to a hostile act against these groups, in a manner that is suited to jeopardise public order (paragraph 1).

In the year 2009, 131 new criminal proceedings in connection with § 283 of the Criminal Code were pending in Austria’s courts, and 22 of these proceedings ended with a verdict.

### **Insults based on racial grounds**

According to § 115 of the Criminal Code a sanction will be imposed on persons who publicly or in front of several persons insult other persons, ridicule them, cause them physical abuse, or threaten them with physical abuse. According to § 117 (3), the offender shall be prosecuted by the prosecutor, with the authorisation of the injured person, for an act carrying a punishment under § 115, if the act against the injured person is directed against him/her on account of this affiliation with one of the groups listed in § 283 (1) and consists either of assault and battery, or a threat of assault and battery, or of an insult or ridicule that violates human dignity.

### **Activities to revive National-Socialism**

Pursuant to § 3 of the Prohibition Act, racist comments are regarded as facts constituting an offence if the National-Socialist attitude of a racist ideology becomes manifest in these acts, if persons are rejected especially on account of their alleged “racial inferiority” and if similar thoughts are expressed, especially in a form similar to the propaganda vocabulary of the “Third Reich”. Administrative offences in connection with the dissemination of National-Socialist ideas, as defined in the Prohibition Act, have been governed by Article III (1) item 4 of the

Introduction Act to Administrative Procedures Law – EGVG (previously Article IX (1) item 4 of the EGVG).

### **Data collection by the judiciary**

The number of offences motivated by xenophobia or Anti-Semitism, or the cases of ethnic or religious discrimination can only be ascertained in restricted form in relation to the respective offence in question. The Austrian legal system does not have a general offence motivated by xenophobia or Anti-Semitism, or by ethnic or religious discrimination.

At present, offences motivated by discrimination can only be recognised in statistics by way of proceedings in cases of incitement (§ 283 of the Criminal Code) and – to a limited extent – by way of offences against the Prohibition Act. It is also essential that, as a complementary feature, the Federal Ministry of Justice has set up a working group in order to improve the data basis of the criminal statistics which also deals with identifying criminological phenomena irrespective of the offence such as a racist motivation underlying an offence.

### **Protection of victims**

In addition to enacting effective criminal-law sanctions, the protection of victims of racially motivated violence is of central importance. The law reforming criminal proceedings, which entered into force on 1 January 2008, considerably strengthened the role of victims, as every victim and every private intervening party now has an autonomous role with specific procedural rights, independent of their involvement in the proceedings. This finds expression in the rights of victims to information, to see the file, to be informed of the progress of proceedings, to obtain assistance in translation/interpretation, as well as to participate in adversarial examinations or in the trial, for example, including being summoned to these procedural steps. Moreover, the Federal Ministry of Justice helps victims of certain offences of violence by resorting to about 50 institutions working in the field of assisting victims, so that they are accompanied throughout the proceedings.

### **Data collection and motivation research by the security authorities**

Since 2007 the Federal Bureau for the Protection of the Constitution and the Fight against Terrorism has been collecting and processing data on all phenomenon-related offences in connection with the protection of the State with regard to the motivation and course of the offence concerning the reported suspects, as well as the actual offences. Offences under § 283 of the Criminal Code (incitement) are also taken into account in these processing activities.

In the overwhelming majority of cases, the offences in this field that have become known were committed primarily out of a general hatred against foreigners and strangers, or out of vague and traditional prejudices, rather than Anti-Semitism based on physical aggression. Only a very small number of offences were committed out of ideologically based right-extremist motivation. The large majority of the identified offenders could not be classified as belonging to any right-extremist wing. However, in more than half of the cases of physical injuries, the identified offenders were members of the skinhead scene.

## **The police and human rights**

As a result of the historical development, there is very often the tendency to regard the police and human rights as constituting a problematic and/or ambivalent relationship. In this context, the police are often described as jeopardising human rights, and human rights as being a restriction upon the police. In 2006 the Human Rights Advisory Board set up a working group “Security forces/law-enforcement officers – agents protecting human rights”, with the objective of obtaining a general overview. This working group developed the project “Police.Power.People.Rights”. The goal of this project with interdisciplinary co-workers is to establish a police force that is systematically oriented to securing and defending human rights. In the course of the project, the direction of day-to-day police practice, the structural conditions and the entrenched patterns of thought and behaviour are reviewed critically, and the error management of the police is examined in detail. The modern understanding of this system of relations, which is increasingly gaining global ground as a change of paradigm, now assigns an active role to the police in connection with the implementation of human rights. Human rights are not regarded as a restriction, but as a basis for and objective of police activities. The police are not primarily seen as a danger to human rights, but as a human-rights organisation with the special means of a monopoly over power, which derives a special responsibility from this constellation. In a paper outlining the principles, the working group underlined the conditionalities, due to the inherent organisational structure, with a view to a basic understanding of the police as a human-rights organisation, and it outlined the cornerstones for the further content development (focusing on the self-assessment of the police, defining performance, human-resources management, organisational structures and organisational processes).

Racist behaviour by police officers is never tolerated and firmly prosecuted under criminal and/or administrative criminal law; in other words it is reported to the courts or other penal prosecuting agencies. Police intervention must follow the clearly defined code of professional obligations, statutory orders and service instructions. Of course, this also refers to avoiding discrimination on grounds of ethnic origin.

It is also pointed out in this context that police officers are subject to strict service regulations and/or disciplinary law. In case of criminal offences in office, as well as violations of official duties, they must expect the respective sanctions.

The Federal Ministry of the Interior is making every effort to prevent any first trace of racism or discrimination among the police. The measures range from tolerance training during basic and further training by way of intervention training modules, where the subject of human rights is an essential component, to setting up the Human Rights Advisory Board. Senior and superior officers are expressly called upon to also create awareness among their staff, on the one hand, and to check on their interventions, on the other hand.

## **The Human Rights Advisory Board**

The Human Rights Advisory Board was set up with the Federal Ministry of the Interior in 1999 and can already look back on ten years of activities.

The activities of the Human Rights Advisory Board are geared to the structural and institutional level and not to reviewing individual cases or individual persons. With this approach, the Advisory Board is clearly distinct from the tasks of criminal justice bodies, the Independent Administrative Panels or the disciplinary bodies.

The task of the Human Rights Advisory Board is to monitor and review, in an accompanying manner and from the perspective of safeguarding human rights, the activities of the security agencies, the bodies under the control of the Federal Minister of the Interior, as well as of the units acting as administrative bodies which are authorized to exercise direct powers of command and coercion. On the basis of its observations and reviews the Human Rights Advisory Board submits proposals for improvement to the Federal Minister of the Interior.

The Human Rights Advisory Board also has the task of analysing structural modalities of the police's activities from a human rights' perspective. This can be on the basis of specific incidents, or by way of significant individual cases. However, also in these cases it is decisive that the Human Rights Advisory Board does not regard the grievances and infringements as isolated individual incidents, but as cases that have their roots in the system. As the Advisory Board also submits the respective proposals for improvement, its task is also to act in a preventive manner, in the sense of protecting human rights whenever the security forces fulfil their duties.

The Human Rights Advisory Board is a collegiate body with advisory functions and the authority "to propose improvements" (§ 15a (1) of the Security Police Act), and/or to make recommendations (§ 15c (6) of the Security Police Act).

The Human Rights Advisory Board does not have the competencies of an authority. In particular, § 15c (1) of the Security Police Act does not grant any sovereign powers in connection with acts of direct powers of command and coercion, as is the case with administrative authorities. The Human Rights Advisory Board has eleven members and just as many deputy members, who are free from instructions. They are appointed for a period of three years and serve in their function on an honorary basis.

§ 15c (1) of the Security Police Act authorises the Human Rights Advisory Board to send a delegation or commission to visit every service unit of the security and law enforcement bodies, as well as every location at which the security and law enforcement bodies exercise their powers of command and coercion as an administrative authority. Moreover, commissions need to be set up along regional criteria so that they are in a position to review the detention of persons in the service units of the security and law enforcement bodies. The members of the Human Rights Advisory Board are bound to official secrecy; the head of the visited service unit must grant them access to the files and provide them with information. In this context, the head of a unit is not obliged to preserve official secrecy. The Human Rights Advisory Board must be granted access to all premises, as well as contact to detainees, without any third person being present. If a case of ill treatment or a form of discrimination is communicated to the members of a commission, they are not required to file a report with the police, but will report the incident in a form that is agreed with the person involved and that has proven to be most appropriate, on account of their experience.

So far, the Human Rights Advisory Board has sent 334 recommendations with proposals for improvement to the respective Federal Minister of the Interior. The recommendations of the Human Rights Advisory Board are administered by an office that has been set up specifically in the Federal Ministry of the Interior. The recommendations made by the Human Rights Advisory Board are reviewed comprehensively for the feasibility of their implementation and the appropriate measures, or a dialogue is launched with the Human Rights Advisory Board. According to most recent information, 183 recommendations have already been fully implemented; the other recommendations are either being implemented or under discussion with the Advisory Board, as it is not or only partly possible to implement these recommendations.

### **The human rights training of the police**

In the framework of the basic and further training of police officers, the Federal Ministry of the Interior is taking several measures in connection with human rights and the fight against prejudices that may lead to racial discrimination. The police officers are especially alerted and trained for the aforementioned phenomena. In this connection, one should mention a structural concept for human rights education. The subjects of racism and xenophobia are presented during the basic training by explaining the statutory provisions and legal stipulations, with the goal of creating a better reference to the legal basis for police interventions.

The following measures and/or priorities concerning the subjects of racism and xenophobia are taken during the basic and further training:

- In general, the guarantees under constitutional law are communicated during the basic training and, in particular, the fundamental rights and human rights during law enforcement duties. Moreover, seminars lead to more sensitivity in the field of human rights. The basic training of law enforcement officers comprises the topic in several of the subjects taught, and it is given further in-depth coverage in the training of duty leaders and senior officers.
- Applied psychology: Here, the approach to future occupational activities is enlarged, analysing possible areas of tension whenever people live together. The officers are also reinforced in their social competencies in police interventions so that they can successfully cope with the specific requirements of their occupation. The topic of official interventions involving different groups of persons and marginalised groups is also covered.
- The situation of and contacts with foreigners: The police officers should better understand and assess the living circumstances and situations of foreigners, with whom they deal in their practical operations; they should act less biased and deal with the conflict situations that result from cultural differences in a manner that is more compatible with the situation and the people involved; and they should be able to better understand the work of social institutions, their methods, objectives and motivation.
- A better understanding of the culture and the living circumstances of foreigners creates confidence and removes fears. This results in a clear quality improvement concerning the work of the police and contributes essentially towards a better understanding.



- “Human-Rights”: The human rights problems are addressed in this course. This will then lead to more awareness and sensitivity in the field of human rights: These are the topics:
  - ▶ The origin and history of human rights,
  - ▶ Forms of existing (and possible) human-rights violations
  - ▶ Outline of the human rights organisations
  - ▶ Outline of the legal situation
  - ▶ Work on individual studies and case studies
  - ▶ Research into the causes, with a view to (erroneous) self-presentation and job profiles (external as well as internal)
  - ▶ Motivation
  - ▶ Processes and mechanisms of decisive effect
  - ▶ Social, psychological and group-dynamic aspects, especially in connection with aggression, frustration, prejudices, camaraderie, authority and management of power, and
  - ▶ Drawing up approaches to prevention, in connection with human rights violations.
- Basic and further training of officers for deportation operations: Through interaction with different organisational units in the Federal Ministry of the Interior, training courses were held for police officers who are assigned to deportation operations. These are the topics:
  - ▶ Human Rights Convention and
  - ▶ Psychological instruction
- “Anti-Defamation League“: One of the efforts to combat prejudices and discrimination, which began as early as 2010, is a cooperation project between the “ANTI-DEFAMATION LEAGUE” (ADL) and the Federal Ministry of the Interior under the programme title “A World of Difference”. The cooperation with the ADL comprises the holding of 40 further-training seminars per year, covering three times eight hours. This network of trainers for basic and further-training measures helps to create an unprejudiced attitude among security and law enforcement officers.
- Xenophobia and use of language: The teachers of the school departments were given the opportunity to attend this further-training event, launched by the Federal Ministry for Education, Science and Culture. This also serves to create more awareness for the subject matter.
- Continuation of the course “Police intervention in a multi-cultural society”: With the course “Police intervention in a multi-cultural society” police officers who are often in contact with migrants in their day-to-day work are given the opportunity to deepen their experience and their theoretical and practical knowledge, as well as to have it certified.
- One should also mention the close cooperation with the Human Rights Advisory Board in the field of basic and further training. For example, the recommendations of the Human



Rights Advisory Board on the language used by security and law enforcement officers have resulted in the implementation of special content for the existing training modules.

### **National Action Plan for Integration**

The National Action Plan for Integration, which the Federal Government adopted in January 2010, also contains the steps planned by Austria in the field of combating racism and xenophobia. (National Action Plan against Racism and Xenophobia). The National Action Plan for Integration specifically and especially underlines the significance of combating incitement to xenophobic and racist developments. Both the general guidelines for an integration policy, as well as the specific areas of action, i.e. “language and education”, “law and order and values” and “intercultural dialogue” list measures against racism and discrimination. The target groups of the National Action Plan for Integration are society as a whole, people with a migration background (Austrian and foreign nationals), as well as the autochthonous minorities.

The area of action “language and education” pays special attention to the further development of the basic and further training of teachers in the field of “intercultural competencies, multi-lingualism, as well as basic competencies in contacts with multi-lingual and culturally heterogeneous classes”. Special significance is also attached to creating awareness for anti-racism at Austrian schools. For example, measures are taken in class-room teaching that will counteract prejudices, racism, discrimination and xenophobia, as well as the concomitant intolerance.

The area of action “law and order and values” emphasises, *inter alia*, the better use and communication of the legal foundations against racism and xenophobia. The victims of racism and discrimination must be informed of their rights and their respective possibilities to complain and to obtain legal protection. Moreover, intercultural awareness in public administration, especially among the police and the judiciary must be further developed.

For the area of action “intercultural dialogue” the schools should act as the driving engine against racism. The media, too, have a special responsibility for intercultural dialogue, the elimination of prejudices and the representation of the minorities.

### **Human rights education at school**

As was discussed in detail in the Second State Report, and as was commented positively by the Council of Europe in its Opinion, human rights education and activities against racism play an important role in Austria’s educational system. At Austria’s school, but also in adult education, special workshops are being offered and projects of relevance to human rights are promoted. Every year the “Austrian Society for Political Education” promotes projects on various political subjects of priority; one of the topics is “racism and anti-racism today” ([www.politischebildung.at](http://www.politischebildung.at)).

“Centre Polis – Learning politics at school” offers special workshops on human-rights issues for school classes. The objectives of this human rights education can best be described by “understanding, defending and respecting human rights”. Centre Polis offers workshops and seminars on political education and human rights education throughout Austria ([www.politik-](http://www.politik-)

[lernen.at](http://lernen.at)). The programme is geared to pedagogical colleges and universities, as these are teacher-training and further-training institutes, as well as to all Austrian schools. Moreover, Centre Polis also makes available publications that range from basic knowledge about human rights to active interventions against racism and right-wing extremism, to handling violence and conflicts. The modules may be requested both by teachers and the interested general public.

2008, the European Year of Intercultural Dialogue, was an incentive for clearly visible action and many different contributions. In this connection, the brochure “Intercultural Dialogue, Intercultural Learning” was published, giving practical examples of school projects and teaching units on the subject of “intercultural learning”.

### **Presentation of the minorities in the media**

The Advisory Committee referred to the responsibility of the media to promote tolerance, and to avoid stereotyping of negative prejudices and the negative portrayal of persons belonging to different ethnic and religious groups. (See paragraph 91 of the Second Opinion) The Advisory Committee recommended raising awareness among journalists on these issues. It also recommended establishing effective complaint mechanisms concerning minority reporting. (See paragraph 92 of the Second Opinion)

The **National Action Plan for Integration** especially calls upon the media to increasingly communicate the principles of equality and non-discrimination, which are embedded in the Austrian legal system.

According to paragraph 5.5 of the **Code of Honour of the Austrian Press**, every form of discrimination on grounds of race, religion, nationality, sexual orientation or for others reasons is inadmissible. This code of honour contains the principles applicable to the work of journalists, which Austria’s media have imposed upon themselves.

The **Audience Council of the Austrian Broadcasting Corporation (hereinafter referred to as ORF)** has the task of protecting the interests of listeners and viewers of the ORF programmes. It copes with this task primarily by issuing recommendations on how to design the programmes. It also delegates six members to the Foundation Council.

In keeping with § 28 (11), in conjunction with paragraph (4) of the ORF Act, the Federal Chancellor nominated Karl Hanzl as a member of the Audience Council in February 2010, who is responsible for the national minorities. During the previous term of office, Karl Hanzl was already a member of the Audience Council, and in this function he was actively committed to the concerns of the six national minorities. His position as chairperson of the national minority advisory council of the Czech minority also made it possible for him to provide information to persons belonging to his own minority, as well as to the five other national minorities and/or to bundle their concerns and to introduce them to the ORF Audience Council. In this context, one should mention, in particular, that the Regional ORF Studio Burgenland has become established as a so-called “centre of competence for the national minorities” for the regions of Vienna, Lower Austria and Burgenland. The long-standing demand that radio broadcasting be transferred from medium wave to ultra-short wave was also satisfied on account of the decision by the Federal Communications Senate of 27 June 2008. Please refer to the comments in

Article 9 for further details. One further reason for this development was the discontinuation of the Bisamberg broadcasting centre, which disseminated the medium-wave programmes in the languages of the national minorities in Vienna.

The public mandate of the ORF is divided into the service provision mandate and the programme mandate. The service provision mandate of the ORF ultimately stipulates the number of television and radio broadcasting programmes which the ORF has to organize. The service provision mandate also includes operating an online service and providing services to the autochthonous national minorities.

In the course of **2008, the European Year of Intercultural Dialogue**, a great many initiatives were taken in Austria in order to make the broad general public aware of the added value obtained from cultural diversity, as well as to conduct a positive discussion on diversity, migration and integration. In the course of a joint dialogue tour with the ORF, more than 180 NGOs, as well as cultural and educational facilities from all of Austria's Federal Provinces presented their regional and local initiatives to promote an intercultural dialogue. One further central communication project was the "Radio dialogues – Voices of diversity" organised by the independent radio stations. Six independent radio stations trained a total of 50 editors who together produced 24 multilingual radio magazine programmes. The goal was to sustainably strengthen media competence.

Since 2007, "**Association M-Media – Association to promote intercultural media activities**" has been receiving financial support from the federal budget. In 2007 the association received EUR 3,000, and in the years 2008 and 2009 EUR 5,000 each. M-Media was launched as an association in 2005 in order to cover the subject of migration and to support journalists from the mainstream media in their day-to-day work on the topic of migration. M-Media is the leading Austrian organisation promoting cultural diversity among Austria's media and media institutions.

Simon Inou, a well-known journalist and media critic, is the chairman of the association. In 2007 he was the Austrian winner of the journalists' award "For diversity, against discrimination" of the EU Commission.

These are the activities of the association:

- ▶ To organise symposia, seminars, and workshops
- ▶ To set up a centre to perform all these activities
- ▶ To network with all interested institutions and persons
- ▶ To set up a documentation centre, as well as an online data base
- ▶ To publish publications
- ▶ To cooperate with Austria's media producers in order to promote a discrimination-free form of reporting, as well as to draw up standards in journalism which are valid for all population groups

Every year the Federal Ministry for Education, Arts and Cultural Affairs awards prizes to promote and acknowledge work done on the topical issues of a given year. As was mentioned before, 2008 was proclaimed by the European Union as the "Year of Intercultural Dialogue".

The prizes were therefore dedicated to this subject. In December 2008, the prize in the amount of EUR 7,500, promoting the best project in the area of “intercultural dialogue”, went to “M-Media”, the association promoting intercultural media work. Together with the newspaper “Die Presse”, the association launched a project which made it possible for journalists with a migration background, whose centre of life is in Austria, to present themselves and to discuss their environment in every Wednesday issue in reports and commentaries. The purpose is to present these portraits – away from any ghetto focus on “migrant topics” – and to achieve a major enhancement in the often one-sided reporting about migrants in Austria’s mainstream media. Two women representing the autochthonous national minorities, i.e. a Slovene from Carinthia and a Croatian from Burgenland, also work on this cooperation project of “M-Media” and “Die Presse”.

**Presentation of the national minorities in films:** For a long time, literature was the artistic medium to portray the national minorities, especially among the Carinthian Slovenes. The medium film, as an expression of emancipation and culture, is increasingly gaining in importance. In the first issue in 2010 of “STIMME” (= journal of the association “Initiative Minderheiten” – Minorities Initiative) theoretical and critical texts on films communicate an impression of the film productions by and about the national minorities. Especially young Slovenes in Carinthia (Stefan Hafner, Andrina Mračnikar, etc.) use film as a medium and form of expression in order to document what it means “being Slovene”. The Federal Government and the City of Vienna are giving financial support to this issue of the journal “STIMME”:

|   |           |
|---|-----------|
| ▶ BMUKK national minorities                 | EUR 1,500 |
| ▶ BMUKK literature                          | EUR 3,700 |
| ▶ City of Vienna, department MA 7 - Science | EUR 6,500 |

### Integration and the relationship among the population groups

The Advisory Committee recommended continuing to develop the integration measures and to take resolute measures to further promote equal opportunities for immigrants. The authorities should ensure that new legal residency and citizenship requirements do not lead to the long-term exclusion of foreigners. (See paragraph 97 of the Second Opinion)

It would exceed the scope of the present State Report if one were to give a presentation of the laws applying to aliens and citizenship, as well as a description of the comprehensive integration measures for immigrants on the federal, regional and local level. Nor are they a subject of the Framework Convention, to the extent that it was ratified by Austria. As was mentioned before, Austria does not see any reason to generally expand the scope of application of the Framework Convention.

**Measures to integrate Roma (jobs, housing, education):** The issues raised by the Council of Europe concerning the integration of the Roma are explained in further detail in connection with Articles 4 and 12.

### II.2.7 Article 7

The Parties shall ensure respect for the rights of every person belonging to a national minority to freedom of peaceful assembly, freedom of association, freedom of expression and freedom of thought, conscience and religion.

Please refer to the comments provided in the second State Report.

### II.2.8 Article 8

The Parties undertake to recognise that every person belonging to a national minority has the right to manifest his or her religion or belief and to establish religious institutions, organisations and associations.

Please refer to the comments provided in the second State Report.

### II.2.9 Article 9

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes freedom to hold opinions and to receive and impart information and ideas in the minority languages, without any interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that person belonging to a national minority are not discriminated against in their access to the media.
2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.
3. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television broadcasting, they shall ensure, as far as possible, and take into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.
4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access to the media for persons belonging to national minorities and in order to promote tolerance and permit cultural pluralism.

The Advisory Committee recommends developing ways of better responding to the needs expressed by the national minorities in the field of radio and television broadcasting. The Advisory Committee recalled that the use of the languages of the national minorities on the radio and on television substantially contributes to preserving their languages and their cultural

heritage. (See paragraph 112 of the Second Opinion) Moreover, it recommended that the needs of persons belonging to the national minorities in relation to the print media should be adequately met. See paragraph 113 of the Second Opinion.)

### The ORF Act

As was already described in the second State Report submitted by Austria in connection with the Framework Convention, amendments to the federal law on the Austrian Broadcasting Corporation (ORF Act) entered into force in 2002. They committed the ORF to dedicate a commensurate portion of its programmes to the languages of the national minorities.

In the currently available government bill concerning the federal law that is intended to amend the Federal Constitution Act, the Federal Law on the Establishment of a Communications Authority, the 2003 Telecommunications Act, the 2006 Copyright and Collecting Societies Act, the ORF Act, the Private Television Act, the Private Radio Act and the Television Exclusive Rights Act<sup>2</sup>, the current arrangements pursuant to § 5 (1) concerning programme portions in the languages of the national minorities are taken over into the “public-law core mandate” for systematic reasons. This merely legislative change does not change the substance of the public-law mandate. However, these arrangements are complemented with the effect that the online programmes offered by the ORF also contain portions in the languages of the national minorities (as has, in fact, already been the case).

§ 4 (5a) of the current government bill reads as follows:

“In course of disseminating the programmes pursuant to § 3, commensurate portions shall be produced in the languages of the national minorities for which there is a national minority advisory council. The programmes offered pursuant § 3 (5) item 2 shall also comprise portions in these languages. The scope of the programme portions offered shall be laid down in the respective broadcasting scheme for the year, or the respective scheme of programmes offered for the year after hearing the Audience Council.”

Under the heading “further special mandates” it is also stipulated that the ORF can comply with its programmes pursuant to § 4 (5a) partly also by disseminating broadcasts in the territories of the autochthonous national minorities which are domiciled in Austria by using the broadcasting capacities assigned to other broadcasting organisers, after reaching a contractual agreement with these other broadcasting organisers.

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<sup>2</sup> The objective of this government bill is to transpose the Directive on Audio-Visual Media Services; to create an independent media authority; to adapt the legal framework of the public-law broadcasting services with regard to mandate and financial management, as well as to ensure its control; to further develop for the ORF the existing provisions and institutions in order to ensure the equal treatment of men and women on the legislative level, similar to the Federal Equal Treatment Act; to adapt the Private Television Act (now Audio-Visual Media Services Act) to the digitisation of television broadcasting, which has been completed to a large extent; to create the legal basis for digital terrestrial radio.



In this connection, the **decision of the Federal Communications Board** dated 27 June 2008 was a hallmark for the specific programme of the ORF designed for the national minorities. It can be regarded as a guiding decision by a regulatory authority for radio broadcasting in a European context.

Explanation: The Federal Communications Board is responsible for the ORF as a regulatory authority (first and final instance), as well as the administrative penal authority. It decides whether the ORF Act has been violated, upon a submission by a person who maintains to have been damaged directly by a violation of that law, or upon a submission by a “popular complaint” if the complaint is supported by a minimum of 120 persons. Moreover, the Federal Communications Board takes action whenever complaints are submitted by affected companies (complaints by competitors), as well as upon a submission by specific entities (such as the Audience Council). In connection with the investigations it is of particular importance whether the ORF has observed the principles of objectivity and impartiality concerning reporting, the diversity of opinions and a balanced mix of its programmes.

The complaint in 2007 was submitted by a person, claiming that the ORF had not complied with its programme mandate in the period between 1 January 2006 and 30 June 2007 with regard to disseminating commensurate portions of its radio and television broadcasts in the languages of the national minorities. In its lead statement, the Federal Communications Board said the following:

“During the period between 1 January 2006 and 30 June 2007 the Austrian Broadcasting Corporation (ORF) failed to produce commensurate portions of its programmes disseminated pursuant to § 3 of the ORF Act in languages of the national minorities, i.e. the Slovene, the Slovak, the Czech and the Hungarian minorities. A complaint claiming a violation of the programme mandate pursuant to § 5 of the ORF Act cannot, at random, be extended into the past. The protective purpose of the law, i.e. to particularly preserve the language and culture of those national minorities who – as autochthonous minorities – have settled in specific Federal Provinces, allows one to conclude that the mandate of the ORF essentially relates to the autochthonous settlement areas. When examining whether the programme portions were commensurate, one must primarily look at the dissemination in regional television and radio programmes and review whether the supply to these autochthonous settlement areas was sufficient. The provision in § 5 (1) of the ORF Act neither commits the ORF to include broadcasts in specific or even in all programmes pursuant to § 3 (1) of the ORF Act, nor to grant these broadcasts special broadcasting slots. If one were to determine the content of programmes and the broadcasting times, this would constitute an unjustified interference with the freedom of action of the ORF.”

With a view to the importance of the decision, in terms of social and media politics, it was regarded as appropriate to order the publication of the decision in the news broadcasts at prime broadcasting times – namely at about 19.30 hrs. on television and between 12.00 and 13.00 hrs. on the radio. As § 5 of the ORF Act especially also refers to the programme portions in the languages of the national minorities, it was also ordered that the publication of the decision about the violation of the regulations should also be made in the respective languages.



## The programmes offered by ORF

With its radio and television programmes, the ORF offers a variety of programmes for the six autochthonous national minorities via terrestrial and satellite broadcasts, as well as the Internet and teletext.

The programmes are offered in the respective minority languages, on the one hand, and in German, on the other hand, in order to bring subjects relating to the national minorities closer to the German-speaking majority. Moreover, the ORF stages numerous off-air events for the national minorities on an ongoing basis.

The programmes offered by the ORF for Austria's national minorities in 2010 are a continuation of the broadcast volume that was expanded in 2009.

Since the new ORF Act went into force, the ORF has continuously expanded the programmes that it offers to the national minorities on the radio, on television, on the Internet and on teletext in the course of recent years. This correlates with its special mandate pursuant to § 5. Only the most recent developments are therefore mentioned here.

Since early 2009, Radio Burgenland broadcasts programmes for national minorities living in the eastern part of Austria, i.e. the Burgenland Croats, the Hungarians in Vienna and Burgenland, the Czechs and the Slovaks in Vienna, as well as the Roma in Burgenland and in Vienna. Radio Burgenland can be received in Vienna at the VHF frequency 94.7. The magazine for the national minorities on Monday has been extended by 60 minutes, the new broadcasts for the Czech minority, i.e. "Zvídavý mikrofon" and "Radio Drát'ák", and for the Slovak minority, i.e. "Radio Dia:Tón" and "Radio Špongia" have been integrated into this magazine. The magazines for the Hungarian minority and the Roma have each been extended by five minutes.

The Hungarian broadcasts take account of topics both of the Hungarian minority in Vienna and that in Burgenland. The weekly radio broadcasting time for the Hungarian minority in Vienna and Burgenland is thus 85 minutes long, that for the Czech minority 30 minutes, and those for the Slovak and the Roma minorities 20 minutes each.

Since March 2009 the Hungarian TV magazine, "Adj'isten magyarok", of which every transmission lasts 25 minutes, has been broadcast at the same time by ORF 2 Burgenland and ORF Vienna, every second Sunday in January, March, May, July, September and November at 13.05 hrs.

The new TV magazine in Czech and Slovak, "České Ozvěny / Slovenské Ozveny", of which every programme lasts 25 minutes, has been broadcast by ORF 2 Vienna at 13.05 hrs. every second Sunday in February, April, June, August, October and December since August 2009.

The new, additional radio and television programmes offered in the Czech and Slovak languages by the national minority editors of Regional Studio Burgenland are offered on Internet-on-demand – as has been the case so far for the minority broadcasts for the Croatian and Hungarian minorities, as well as the Roma. All national minority programmes by Radio Burgenland are transmitted at the same time and can be received via ORF digital, Astra, the digital satellite, free-to-air throughout Europe, and worldwide via livestream on the Internet.

When using mobile Internet, the livestream programmes can also be received on an UMTS mobile phone that has the necessary player installed. In addition, there are the topical reports and documentaries of the Croatian and Hungarian magazines that can be obtained as podcasts for computers and mp3 players, and as free subscriptions.

Since March 2009 the TV magazine “Dober dan, Štajerska” (duration: 25 minutes) has been available on ORF 2 Styria for the Slovene minority in Styria every Sunday at 13.30 hrs. The programme “Dober dan, Koroška” by the Slovene editors at the Regional Studio Carinthia is supplemented with relevant information and topics relating to the Slovene minority in Styria. It can now also be received in Styria at the same time. Moreover, “Dober dan, Štajerska” is offered on demand on the Internet at <steiermark.ORF.at>.

ORF-Radio DVA-AGORA, the 24-hour full programme for the Slovene minorities, which the ORF produces in cooperation with AKO-Lokalradio GmbH, has also been offering relevant information and topics for the Slovene minority in Styria since 2009. An application was filed with KommAustria (Federal Communications Board) to obtain the transmission capacities required to disseminate Radio DVA-AGORA in the respective regions of Styria.

As soon as the transmission frequencies have been assigned to Radio DVA-AGORA for the settlement areas of the Slovene minority in Styria, especially trained editors of the national minority will produce the reports. Until that time, the radio and television minority programmes for the Slovene minority in Styria will continue to be produced by the Slovene editors at the Regional Studio Carinthia.

The **programmes offered by the ORF for the national minorities** thus comprise the following elements:

- in **Burgenland**: 35 radio programmes and one television programme per week, supplemented by additional twelve television magazines per year in Burgenland-Croat, Romany, Hungarian.
- In **Vienna**: 35 radio programmes per week, supplemented by twelve television programmes per year in Hungarian, Czech and Slovak.
- in **Carinthia**: every day eight hours of radio programmes in the Slovene language, as part of Radio DVA-AGORA, plus twelve radio programmes and one television programme per week.
- in **Styria**: every day eight hours of radio programmes in the Slovene language, as part of Radio DVA-AGORA, plus one television programme per week.
- on **ORF 2**: weekly television programmes, which can be received throughout Austria, i.e. “Dobar dan, Hrvati”, the Burgenland-Croat television magazine, and “Dober dan, Koroška”, which is the Slovene-language television magazine of the Regional Studio Carinthia.
- on **teletext**: programme information about all ORF radio and television programmes that are of relevance to the national minorities, as well as up-to-date information about national-minority events (“Ethno-Tipps”) every day on page 414.

- on the **Internet**: every day up-to-date mother-tongue information from society, politics, culture of special relevance to the national minorities; livestream from Radio Burgenland, Radio Carinthia, Radio DVA-AGORA; all broadcasts of the Regional Studio Burgenland in Burgenland-Croat, Romany, Hungarian, Czech and Slovak, the Slovene broadcasts of the Regional Studio Carinthia and the Regional Studio Styria on Radio DVA-AGORA on-demand (TVthek); current documentaries and reports of the Croatian and Hungarian minority magazines, available as podcasts for computer, mp3 player and subscribers.
- **digital satellite**: All aforementioned programmes offered by Radio Burgenland and Radio Carinthia can be heard free-to-air and throughout Europe via the digital satellite Astra, the television programmes – including local slots in Burgenland, Carinthia, Styria and Vienna – as well as teletext can be received throughout Austria.

The detailed list gives a comprehensive overview of the programmes offered by the ORF on the radio, on television, on the Internet and as teletext for the six autochthonous national minorities.

#### **ORF programmes for the national minorities in 2010 (according to programme titles and broadcasting times)**

#### **Radio programmes for the national minorities in Burgenland and Vienna**

**Table 7 Radio Burgenland**

| Programme   | Broadcast | Start | End   | Length |
|---|-----------|-------|-------|--------|
| News in Croatian  | Mon - Sat | 12:38 | 12:40 | 00:02  |
| Croatian journal  | Sun - Fri | 18:15 | 18:25 | 00:10  |
| Croatian journal  | Sat       | 18:15 | 18:22 | 00:07  |
| Misao za smisao (religious programme in Croatian)                             | Sat       | 18:22 | 18:25 | 00:03  |
| Hungarian journal   | Mon - Sun | 18:55 | 19:00 | 00:05  |
| Programmes in Croatian:   | Mon - Sun | 18:25 | 18:55 | 00:30  |
| Kulturni tajedan (Croatian culture programme)                                 | Mon       | 18:25 | 18:55 | 00:30  |
| Plava rasa (Croatian children's programme)                                    | Tues      | 18:25 | 18:55 | 00:30  |
| Širom-barom (Croatian magazine)   | Wed       | 18:25 | 18:55 | 00:30  |
| Poslušajte priliku (Croatian Talk)  | Thurs     | 18:25 | 18:55 | 00:30  |
| Živo srebro (Croatian youth programme)  | Fri       | 18:25 | 18:55 | 00:30  |
| Časak radosti (musical request programme)                                     | Sat, Sun  | 18:25 | 18:55 | 00:30  |
| Multilingual magazine for the national minorities                             | Mon       | 20:04 | 22:00 | 01:56  |
| Rub i sredina (magazine in Croatian)  | Mon       | 20:04 | 20:30 | 00:26  |
| Színes Kultúránk (Hungarian culture programme)                                | Mon       | 20:30 | 20:50 | 00:20  |
| Roma sam (magazine in Romany)   | Mon       | 20:50 | 21:10 | 00:20  |
| Zvídavý mikrofón (magazine in Czech)  | Mon       | 21:10 | 21:20 | 00:10  |
| Radio Drát'ák (Czech magazine)  | Mon       | 21:20 | 21:40 | 00:20  |
| Radio Dia:Tón / Radio Špongia (magazine in Slovak, alternating every 2 weeks) | Mon       | 21:40 | 22:00 | 00:20  |
| Magyar Magazin (magazine in Hungarian)  | Sun       | 19:30 | 20:00 | 00:30  |

Radio Burgenland is broadcast in Vienna on VHF 94.7.

Source: ORF General Management, 2010

In addition to reporting on topical issues in the Croatian and Hungarian languages, the ORF national minority desk of the Regional Studio Burgenland broadcasts a total of 13 radio magazines every week (seven in Croatian, two in Hungarian, one Slovak magazines and one magazine in Romany) covering subjects from politics, culture and sports. The German-speaking radio and television programmes and the special television productions of the Regional Studio Burgenland also cover national minority topics extensively. All programmes for the national minorities from Radio Burgenland can be received at the same time via ORF digital, the digital satellite Astra, free-to-air throughout Europe, and worldwide on the Internet via livestream. When using mobile Internet, the programmes on livestream can also be received by an UMTS mobile phone with an installed appropriate player. Moreover, the national minority magazines are offered on demand. The up-to-date documentaries and reports from the Croatian and Hungarian magazines can also be obtained as podcasts for computers and mp3 players and as a free subscription. The mother-tongue programmes for the national minorities broadcast by Radio Burgenland can be received in Vienna via the VHF frequency 94.7.

## Radio programmes for the Slovene minority in Carinthia and Styria

### Table 8 Radio Carinthia

| Programme  | Broadcast  | Start | End   | Length |
|--|------------|-------|-------|--------|
| Dežela ob dravi / Land along the Drava (Slovene) | Wed        | 21:03 | 22:00 | 00:57  |
| Servus, Srečno, Ciao (German, Slovene, Italian)  | Mon – Fri  | 16:03 | 19:00 | 02:57  |
| News in German, Slovene, Italian                 | Mon – Fri  | 18:30 | 18:33 | 00:03  |
| Dobro jutro / Good morning (Slovene, German)     | Sun + holi | 06:06 | 07:00 | 00:54  |

Source: ORF General Management, 2010

### Table 9 ORF programmes on RADIO DVA-AGORA

| Programme   | Broadcast | Start | End   | Length     |
|---|-----------|-------|-------|------------|
| News in Slovene at 06.30, 07.30, 08.30, 09.30, 10.30, 11.30, 15.30, 16.30 | Mon - Sun |       |       | 00.03 each |
| Dobro jutro / Guten Morgen (Good morning)                                 | Mon – Fri | 06:00 | 10:00 | 04:00      |
| Studio ob 12-ich / Studio um 12 (Studio at 12)                            | Mon – Sat | 12:00 | 13:00 | 01:00      |
| Lepa ura / Schöne Stunde (Happy hour)                                     | Mon – Fri | 15:00 | 17:00 | 02:00      |
| Studio ob 17-ich / Studio um 17 (Studio at 17)                            | Mon – Sun | 17:00 | 17:30 | 00:30      |
| Naša pesem / Unser Lied (Our song)  | Mon – Fri | 17:30 | 18:00 | 00:30      |
| Dobro jutro / Guten Morgen (Good morning)                                 | Sat, Sun  | 06:00 | 09:00 | 03:00      |
| Veseli vrtiljak / Das lustige Karussell (The merry carousel)              | Sat       | 09:00 | 10:00 | 01:00      |
| Farant / Feierabend (After work)  | Sat       | 15:00 | 18:00 | 03:00      |
| Zajtrk s profilom / Frühstück mit Profil (Breakfast with profile)         | Sun       | 09:00 | 10:00 | 01:00      |
| Čestitke in pozdravi / Wunschkonzert (musical request programme)          | So        | 12:00 | 13:00 | 01:00      |
| Vikend / Wochenende (Weekend)   | So        | 15:00 | 18:00 | 03:00      |

Source: ORF General Management, 2010

In addition, the programmes for the national minorities from Radio Carinthia can be received via ORF digital, the digital satellite Astra, throughout Europe, as well as worldwide on the Internet via livestream. <Volksgruppen.ORF.at> offers a full 24-hour programme on Radio DVA-AGORA via livestream, and the information programmes of the Slovene editing desk on demand for one week. AKO-Lokalradio GmbH is responsible for the time zones 10.00 - 12.00, 13.00 - 15.00 and 18.00 - 06.00 and produces these programmes. The programmes available on livestream can also be received by a UMTS mobile phone with an appropriate, installed mp3 player via mobile Internet. It is technically feasible to broadcast from ORF-Radio-DVA-AGORA via VHF to the settlement areas of the Slovene minority in Styria. Applications for the necessary transmission capacities have been filed with KommAustria which must assign them now.

## Television programmes for the national minorities

### Table 10 Television programmes in Burgenland

| Programme                      | Station   | Broadcast       | Start | End   | Length | Language   |
|--------------------------------|-----------|-----------------|-------|-------|--------|--|
| Dobar dan, Hrvati              | local – B | Sun             | 13:30 | 14:00 | 00:30  | Burgenland-Croat                                     |
| Adj'isten magyarok             | local – B | Sun<br>6 x p.a. | 13:05 | 13:30 | 00:25  | Hungarian  |
| Servus, Szia, Zdravo, Del tuha | local – B | Sun<br>6 x p.a. | 13:05 | 13:30 | 00:25  | German,<br>Hungarian,<br>Burgenland-Croat,<br>Romany |

Source: ORF General Management, 2010

### Table 11 Television programmes in Vienna

| Programme                       | Station   | Broadcast       | Start | End   | Length | Language         |
|---------------------------------|-----------|-----------------|-------|-------|--------|------------------|
| České Ozvěny / Slovenské Ozveny | local – V | Sun<br>6 x p.a. | 13:05 | 13:30 | 00:25  | Czech,<br>Slovak |
| Adj'isten magyarok              | local – V | Sun<br>6 x p.a. | 13:05 | 13:30 | 00:25  | Hungarian        |

Source: ORF General Management, 2010

### Table 12 Television programmes in Carinthia and Styria

| Programme                                 | Station                 | Broadcast | Start | End   | Length | Language |
|---|-------------------------|-----------|-------|-------|--------|----------|
| Dober dan, Koroška<br>Dobar dan Štajerska | local – C<br>local – St | Sun       | 13:30 | 14:00 | 00:30  | Slovene  |
| Dober dan, Koroška                        | TV Slovenija            | Mon       | 15:05 | 15:35 | 00:30  | Slovene  |
| Dober dan, Koroška, repeat                | TV Slovenija            | Wed       | 17:35 | 18:05 | 00:30  | Slovene  |

Source: ORF General Management, 2010

In addition, the television programmes for the national minorities in Burgenland, Vienna, Carinthia and Styria can also be received throughout Austria via ORF digital, the digital satellite Astra, and they are also available worldwide on demand. The programmes available on demand can be accessed as of one hour of their dissemination on television and they are always kept available until the next broadcasting date.

**Table 13 Television programmes that can be received throughout Austria**

| Programme                        | Station | Broadcast | Start           | End | Length | Language             |
|----------------------------------|---------|-----------|-----------------|-----|--------|----------------------|
| Dober dan,<br>Koroška,<br>repeat | ORF 2   | Sun       | night programme |     | 00:30  | Slovene              |
| Dobar dan,<br>Hrvati,<br>repeat  | ORF 2   | Sun       | night programme |     | 00:30  | Burgenland-<br>Croat |

Source: ORF General Management, 2010

## Internet

<http://volksgruppen.orf.at>

Every day up-to-date information about society, politics, culture with special reference to the national minorities; livestream of the 24-hour full programme for the Slovene minority from Radio DVA-AGORA – it can also be received via mobile Internet on a UMTS mobile phone with an appropriate, installed player; all broadcasts of the Regional Studio Burgenland in Burgenland-Croat, Romany, Hungarian, Czech and Slovak, as well as the Slovene programmes on Radio DVA-AGORA for downloading; the up-to-date documentaries and reports from the Croatian and Hungarian minority magazines are available as podcasts for computers, mp3 players and on subscription. The programmes available online for the national minorities go beyond the statutory mandate and are therefore a voluntary service by the ORF.

Languages: German, Burgenland-Croat, Slovene, Hungarian, Romany, Czech, Slovak

<http://burgenland.orf.at>

Radio Burgenland live + all television programmes + radio magazines for the national minorities for downloading

<http://kaernten.orf.at>

Radio Carinthia live + the Slovene television programme and the information programmes of the ORF on Radio DVA-AGORA for downloading

<http://steiermark.orf.at>

“Dober dan, Štajerska” is available on demand

## Teletext

Programme information about all ORF radio and television programmes of relevance to the national minorities, as well as daily up-to-date information about events of relevance to the national minorities (“Ethno-Tipps” on page 414).



## Private radio stations

Since 2009 it has been possible to grant financial support to non-commercial private radio stations – also to so-called “national minority radio stations”.

With the amendment of the KommAustria Act ((Federal Law on the Establishment of an Austrian Communications Authority), a fund has been set up with Telekom Regulierungs-GmbH (RTR-GmbH) to grant financial support to non-commercial private radio stations. The fund is managed RTR-GmbH and receives EUR 1 million every year, partly from the fees collected pursuant to § 3 (1) of the Broadcasting Fees Act, which were formerly transferred to the federal budget. The money is used to support non-commercial radio stations within the Austrian dual broadcasting system, and they are intended to support broadcasting organisers in providing a high-quality and multi-faceted range of programmes.

Non-commercial broadcasting organisers qualify for filing an application. Their programmes need to be registered or notified, as defined in the Private Television Act or in the Private Radio Stations Act.

In the course of the first round of money grants in December 2009, **Radio Agora** received an amount of EUR 25,000. In 2010, too, financial support will be given to Agora (the deadline for applications was 9 April).

Radio Agora is a partner of Agora Korotan AKO Lokalradio GmbH = the holder of the license for the broadcasting area “settlement area of the Slovene minority”. Radio Dva, the second partner of the license holder, will most likely also receive financial support from the Private Radio Fund in 2010. However, the two stations (Agora and Dva) produce the programmes autonomously and in the **Slovene language**. The two minority organisations work separate from each other in preparing the programmes.

One further broadcasting organiser – **Hit FM Burgenland** – will most likely receive financial support from the Private Radio Fund in 2010. Its programmes also comprise sections in **Burgenland-Croat**.

## The print media

The recommendation of the Council of Europe, namely to take account of the national minorities in the print media, is taken into account by granting financial support to press publications, on the one hand, from the federal press support scheme (see the table on financial support for newspapers and press publications of the national minorities) and from the financial support budget for publications of the national minorities within the federal budget to support the national minorities.

**Table 14 Financial support for national minority newspapers in 2009**

| Weekly newspaper  | Publisher   | Financial support in 2009 in euros |
|---|---|------------------------------------|
| GLASNIK – Crikvene novine<br>Zeljezanske biskupije          | Diözese Eisenstadt, Kroatische Sektion des<br>Pastoralamtes<br>St. Rochusstraße 21<br>7000 Eisenstadt | 7,769.90                           |
| Hrvatske Novine   | Kroatischer Presseverein<br>Hotterweg 54<br>7000 Eisenstadt   | 11,161.70                          |
| Nedelja – Slowenische<br>Kirchenzeitung der Diözese<br>Gurk | Bischöfliches Seelsorgeamt<br>Viktringer Ring 26<br>9020 Klagenfurt                                   | 16,728.90                          |
| NOVICE  | Slomedia GmbH<br>Tarviser Straße 16<br>9020 Klagenfurt  | 31,521.10                          |

Source: Federal Communications Authority Austria (KommAustria)

For reasons of costs, the organisations of the national minorities which publish newspapers for the national minorities are not in a position to publish daily newspapers. The associations therefore focus their activities on publishing journals, association newsletters, information sheets, bulletins and similar publications at regular intervals. In order to promote and preserve publications in the six languages of the national minorities, they are given financial support from the budget of the Federal Chancellery earmarked for the national minorities.

In general, the Federal Chancellery attaches great importance to the fact that receipt of financial support from the budget for the national minorities for the publication of these print media is linked, to the greatest possible extent, to the use of the language of the respective national minority, or their bilingual character. Many of these publications are, in fact, published in two languages, or contain at least summaries in the respectively other language, which is particularly meaningful from the perspective that the majority population and the minority population should live together on amicable terms. This approach also helps to enlarge the potential readership. These publications address members of the national minorities with limited knowledge of the respective national minority language, on the one hand, while, on the other hand, providing the interested monolingual population with access to information about the national minorities.

One should also note that financial support to the specific publications of national minorities also contributes towards raising the image of the languages of the national minorities.

In the modern media landscape, where the primary characteristic is the availability of so many television programmes, the young people of the national minorities, in particular, have only limited contact to the written form of their national languages (outside of possibly receiving bilingual instruction). It must be stated, in general, that the image of the national minority also correlates with the frequency with which the national minority language is used in a written form. It is an indicator for the functionality of a language, which in turn has a strong influence on the attractiveness of a national minority language to young people. The Federal Chancellery therefore attached particular significance to promoting newspapers for pupils, students, and

young people. In general, it appears that directing the use of financial support for the national minorities towards attractive, bilingual print media, as much as possible, is a sustainable and effective measure for the benefit of preserving the languages of the national minorities.

The following tables give an overview and show the current financial support given to the newspapers of the national minorities from the budget for the national minorities of the Federal Chancellery:

**Table 15 Financial support for the national minorities in 2009: newspapers of the Roma minority**

| Association   | Newspaper           | Financial support in 2009 in euros          |
|---|---------------------|---|
| Kulturverein österreichischer Roma – Dokumentations- und Informationszentrum                  | Romano Kipo         | 13,000.00<br>+ back-up funding <sup>3</sup> |
| Romano Centro – Verein für Roma   | Romano Centro       | project with back-up funding                |
| Verein Roma – zur Förderung von Roma  | “Romani patrin”     | project with back-up funding                |
| Verein Roma-Service   | dROMa               | 15,400.00                                   |
| Verein Roma-Service in cooperation with the adult-education college for the Burgenland-Croats | Mri Nevi Mini Multi | 11,842.00                                   |

Source: Federal Chancellery, Department for National Minority Matters

**Table 16 Financial support for the national minorities in 2009: newspapers of the Slovak minority**

| Association                              | Newspaper | Financial support in 2009 in euros |
|--|-----------|------------------------------------|
| Österreichisch-Slowakischer Kulturverein | Pohlady   | project with back-up funding       |

Source: Federal Chancellery, Department for National Minority Matters

<sup>3</sup> **Project with back-up funding:** For this type of project the agreement on financial support does not indicate a maximum amount of financial support. The maximum amount of financial support is guided by the respective overall amount of financial support. If the recipient of financial support succeeds in realizing potentials for savings in connection with the supported projects or basic expenses, the recipient can use that money, as a rule, for one of the so-called “projects with back-up funding”, which thus increases the amount of financial support for that specific project. At the present moment, it is therefore not possible to indicate the precise amount spent on these newspapers, as it will only be established when the recipient documents the spending of the financial support received.

**Table 17 Financial support for the national minorities in 2009: newspapers of the Czech minority**

| Association   | Newspaper                 | Financial support in 2009 in euros |
|---|---------------------------|------------------------------------|
| Minderheitsrat der tschechischen und slowakischen Volksgruppe in Österreich | “Vídenské svobodné listy” | 20,000.00                          |
| Kulturklub der Tschechen und Slowaken in Österreich                         | “Kulturní Klub”           | 9,500.00                           |

Source: Federal Chancellery, Department for National Minority Matters

**Table 18 Financial support for the national minorities in 2009: newspapers of the Croatian minority**

| Association  | Newspaper                             | Financial support in 2009 in euros |
|--|---------------------------------------|------------------------------------|
| Kroatischer Presseverein (weekly newspaper)                                  | Hrvatske Novine                       | 145,000.00                         |
| Kulturvereinigung Pannonisches Institut                                      | Pannonisches Jahrbuch                 | 28,000.00                          |
| Kroatischer Akademikerklub   | “Novi Glas”                           | 6,800.00                           |
| Kroatischer Kulturverein im Burgenland                                       | “Glasilo”                             | 13,100.00                          |
|  | “Dvotočka”<br>(youth magazine)        | 2,100.00                           |
| Volkshochschule der burgenländischen Kroaten                                 | “Novi mini multi”                     | project with back-up funding       |
| Diözese Eisenstadt –<br>Kroatische Sektion im Pastoralamt (weekly newspaper) | “Glasnik”                             | 91,000.00                          |
| AG kroatischer Kommunalpolitiker im Burgenland                               | “Moje selo”<br>(information bulletin) | 3,000.00                           |

Source: Federal Chancellery, Department for National Minority Matters

**Table 19 Financial support for the national minorities in 2009: newspapers of the Hungarian minority**

| Association   | Newspaper                                  | Financial support in 2009 in euros |
|---|--|------------------------------------|
| Zentralverband Ungarischer Vereine und Organisationen in Österreich | “Bécsi Napló”                              | project with back-up funding       |
| Ungarische Evangelische Gemeinde A.B. in Österreich                 | “Másokért Együtt”                          | 4,800.00                           |
| Verein von Siebenbürger “Ungarn in Österreich“                      | “Erdélyi Szemmel”<br>(The Trans-Sylvanian) | 1,940.00                           |
| Club ungarischer Studenten und Akademiker in Graz                   | „Gráci Magyar Újság”<br>newsletter         | 1,950.00                           |
| Peter Bornemisza Gesellschaft                                       | “Bécsi Posta”                              | project with back-up funding       |
| Dachverband der unabhängigen ungarischen Vereine in Österreich      | “Új Magyar Kronika”                        | project with back-up funding       |
| Ungarischer Arbeiterverein in Wien                                  | association newsletter                     | 1,000.00                           |
| Verband Ungarischer Studenten und Akademiker Innsbruck              | “RIKKANCS”                                 | 1,400.00                           |
| Mittelburgenländischer ungarische Kulturverein                      | “Közép – Burgenlandi Hírek”                | 1,840.00                           |
| Burgendländisch-Ungarischer Kulturverein                            | “Őrvidéki hírek”                           | 4,600.00                           |
|   | Children’s newspaper<br>“Napocska”         | project with back-up funding       |
|   | association newsletter<br>“Őrség”          | 4,800.00                           |

Source: Federal Chancellery, Department for National Minority Matters

**Table 20 Financial support for the national minorities in 2009: newspapers of the Slovene minority**

| Association  | Newspaper  | Financial support in 2009 in euros |
|--|--|------------------------------------|
| Gemeinschaft der Kärntner Slowenen und Sloweninnen   | “Skupnost”   | project with back-up funding       |
| Kärntner Studentenverband                            | pupils’ newspaper<br>“Cajt&he”                     | 1,000.00                           |
| Schulzeitschrift Mladi rod                           | school newspaper<br>“Mladi rod”                    | 5,000.00                           |
| SODALITAS Katholisches Bildungshaus                  | programme newspaper<br>“DIALOG”                    | project with back-up funding       |
| Artikel VII Kulturverein für Steiermark – Pavelhaus  | “Signal”   | project with back-up funding       |
| Slowenischer Kulturverein Jepa – Basko jezero        | association newsletter                             | 1,500.00                           |
| Klub slowenischer Studentinnen und Studenten         | information brochure<br>“Kärnten ist auch Koroška” | 2,000.00                           |
| KIS – Bäuerliche Bildungsgemeinschaft                | News bulletin<br>“KIS-INFO”                        | project with back-up funding       |
| Klub slowenischer Studentinnen und Studenten in Graz | „Informator“                                       | 700,00                             |
| Österreichische Volksgruppen in der SPÖ              | “Zusammenleben – Sožitje”                          | 2,000.00                           |

Source: Federal Chancellery, Department for National Minority Matters

## II.2.10 Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of the nature and cause of any accusation against him or her, and to defend himself or herself in this language, if necessary with the free assistance of an interpreter.

The Advisory Committee recommended implementing the Constitutional Court ruling of 4 October 2000, file number V 91/99-11, concerning official languages. (See paragraph 122 of the Second Opinion) Further measures should be taken to enable civil servants in local administration to communicate with persons belonging to national minorities in their languages. (See paragraph 123 of the Second Opinion)

### Official language

General changes in the ordinances concerning official languages have, as yet, not been made in reaction to the Constitutional Court ruling of 4 October 2000, file number 91/99-11. The implementation is planned in the course of a comprehensive change of the law applicable to national minorities.

In connection with the practical application of the official language, it can be reported that the languages of the national minorities are rather used in oral communications with the authorities than in written communications. This might also be due to the fact that many members of the national minorities, just as many members of the majority population, have less mastery of the specific vocabulary used in administrative proceedings in the language of their national minority. A number of application forms have been prepared in the various languages of the national minorities in order to make it easier for such persons to use the official language (<http://www.volksgruppenbuero.at/services/C4>, [https://www.bmf.gv.at/Service/Anwend/FormDB/show\\_mast.asp](https://www.bmf.gv.at/Service/Anwend/FormDB/show_mast.asp)). On the occasion of a possible amendment of the ordinance on administrative forms, the inclusion of bilingual forms or forms in the languages of the national minorities will also be discussed. In addition, circumstances vary greatly from authority to authority, which is documented by the examples given below. The languages of the national minorities are likely to be used most frequently in oral communications with the local authorities of bilingual municipalities.

At all those tax offices and customs offices where Slovene, Croatian and Hungarian have been admitted as official languages, staff in sufficient numbers is available at all locations who (are able to) ensure customer contacts in the languages of the national minorities. The number of staff members with minority-language skills ranges from 1% to almost 20%. At the Federal Finance Academy the respective languages are taught. Special qualifications can be obtained in these language courses for the technical vocabulary of the finance sector. At the tax office of Bruck-Eisenstadt-Oberwart, there are about 1,000 customer contacts every year, where Croatian or Hungarian is used at the information centre. This does not automatically imply that the forms in the respective languages are being used.

One of the two civil servants employed by the test firing service of the test firing office at Ferlach has a good knowledge of the Slovene language, and the other civil servant has basically sufficient language skills so as to ensure the use of Slovene as an official language.

During the past ten years there was no request to use either the Croatian or the Hungarian language at the surveying offices in Burgenland during official acts or in the course of customer contacts. The Eisenstadt calibration office used Hungarian as the language of an official act on one occasion at Oberwart in 2009. One staff member of the Eisenstadt surveying office has a command of the Croatian language. Whenever there is a request for use of the minority



language, these civil servants can be deployed. The surveying offices at Neusiedl and Oberwart do not have any staff members who speak Hungarian or Croatian. Here, one would have to ask the staff members of the district administrative authorities or the local court to intervene. The calibration office in Klagenfurt has not, as yet, reported a single case where a party wanted to use Slovene. There was one case during the past 20 years at the surveying office in Klagenfurt where a party used the Slovene language. The office has one Slovene-language staff member who is able to ensure the performance of an official act in the language of the national minority. The surveying offices at Villach and Völkermarkt did not report any cases where parties wanted to use the language of the national minority. The surveying office at Völkermarkt can use the services of two staff members of the district administrative authority of Völkermarkt who are completely fluent in the Slovene language. The surveying office at Villach would ask a staff member of the Villach tax office to meet any requests for use of the national minority language. Moreover, the interpreting/translation services of the National Minority Office of the Regional Administrative Government can provide further human resources in Carinthia.

The Federal Social Services Office, Regional Office for Burgenland, holds about 2 to 5 counselling sessions per year in the Croatian language. If there is no specific request, but if the surname, for example, so implies, the person is asked about his/her whereabouts and whether he/she would like to speak Croatian. If that is the case, the conversation switches from German to Croatian, and the counselling session is continued. At the Regional Office for Carinthia of the Federal Social Services Office advice and information can be provided in Slovene. In recent years not a single person in Carinthia requested that advice be provided in the Slovene language. The Slovene translator only had to translate two or three documents from Slovene into German in recent years. The forms to establish employment criteria pursuant to § 14 of the Handicapped Persons Employment Act and the application for a passport pursuant to § 40 to § 47 of the Handicapped Persons Employment Act (including the information sheet) are available in the Slovene language.

One staff member of the 13<sup>th</sup> supervisory district (Klagenfurt) of the works inspectorate has Slovene language skills. However, there were no requests for advice to be given in the Slovene language in the last few years. The head of the works inspectorate office for the 16<sup>th</sup> supervisory district (Eisenstadt) provided information in Croatian in a few cases during 2009. He is also capable to provide information and advice in Hungarian. Several folders of the works inspectorate are available on its website in the Czech, Slovak, Hungarian and Croatian languages: <http://www.arbeitsinspektion.gv.at/Al/Service/Publikationen/> default.htm.

The Office of the Administrative Government in Carinthia processed in Slovene 19 submissions during the second half of 2008 and 43 submissions in 2009. The district administrative authority at Völkermarkt received 46 submissions in Slovene during the second half of 2008 and 106 submissions in 2009. The district administrative authorities of Klagenfurt and Villach did not send in any figures.

## II.2.11 Article 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) and first names in the minority language and the right to official recognition of them, according to modalities provided for in their legal system.
2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his or her minority language signs, inscriptions and other information of a private nature visible to the public.
3. In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal system, including, where appropriate, agreements with other States, and taking into account their specific conditions, to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.

The Advisory Committee recommended implementation of the Constitutional Court decision of 13 December 2001 concerning bilingual topographical signs. (See paragraph 129 of the Second Opinion)

### Regulations pertaining to topographical signs in Carinthia

In the reasons given in the Constitutional Court decision dated 13 December 2001, files number G 213/01-18, V 62.63/01-18, the Constitutional Court stated that, in connection with bilingual topographical signs and inscriptions, it also deems a village to be an “administrative district with mixed population” as defined in Article 7 item 3 of the State Treaty of Vienna, if it has a share of more than 10% of a Slovene-speaking population in population censuses, which is observed over a longer period of time. The decision of the Constitutional Court, which is final and enforceable, lifted the previously applicable 25% threshold.

Ever since, the case law of the Constitutional Court has confirmed this judgment. Supreme Court case law also clarified that it is unconstitutional to indicate the name of a village in one language on the topographical signposts “name of village” and “end of village” and in the other language on an additional signpost (see the decision of the Constitutional Court of 13 December 2006, file number V 81/06-14).

It is regrettable that in spite of intensive efforts by different Federal Governments it has not been possible to adopt legislation that takes account of the legal opinion held by the Constitutional Court, as reflected in the reasons given in the ruling dated 13 December 2001, on the one hand, and that, on the other hand, will succeed in having the support of the decisive political forces, especially in Carinthia, the region primarily affected by the ruling. The efforts undertaken since the last report in 2006, in fact, led to a government bill submitted on 4 July 2007 to the National Council to amend the National Minorities Act. However, no decision was taken on this bill.

However, the current Government Programme for the period 2008 to 2013 states that the regulations for implementing the decisions of the Constitutional Court on topographical signs should be underpinned by constitutional law obtaining the broadest possible consensus of the national minority, on the basis of the proposals made to date. At present, there is a broad-based discussion which is to lead to comprehensive new regulations governing the law on national minorities.

## II.2.12 Article 12

1. The Parties shall, where appropriate, take measures in the fields of education and research to foster knowledge of the culture, history, language and religion of their national minorities and of the majority.
2. In this context the Parties shall inter alia provide adequate opportunities for teacher training and access to textbooks, and facilitate contacts among students and teachers of different communities.
3. The Parties undertake to promote equal opportunities for access to education at all levels for persons belonging to national minorities.

### Intercultural education and dissemination of knowledge on national minorities

The recommendation of the Council of Europe to enlarge the number of textbooks available in the languages of the national minorities and to expand the knowledge of the history and culture of the national minorities is being implemented on various levels and by many different measures.

Curricula in Austria also take account of the history and culture of persons belonging to the national minorities. It is a defined educational objective to develop and strengthen bilingualism. In addition, personality development and finding one's identity is also to be promoted among pupils.

Austria's primary schools, not only those within the scope of application of the minority school laws, comprise intercultural education as a general educational goal. The curriculum for primary schools says that "... the aspects of intercultural learning, taking special account of the cultural wealth of the respective national minority, will especially have to be implemented in those Federal Provinces where persons belonging to a national minority and/or Austrian and foreign children are being taught together." The following educational objective has also been laid down: "In this connection, intercultural learning is to contribute to a better understanding and/or better mutual appreciation, to identifying common features and to removing prejudices. One must ensure cross-linkages to the didactic principle of social learning and the educational principle of political education, including peace education."

The number of textbooks and teaching materials available in the languages of the national minorities is being updated and expanded continuously. As in comparable countries in Europe, the production of textbooks in the languages of the national minorities is a major challenge.

This is mainly due to the fact that the textbooks from neighbouring countries cannot simply be taken over. There are too many differences in the linguistic nuances, and the curricula are also different. The materials must be prepared by qualified teaching staff, with a good command of the respective minority language. Here, efforts are made to especially cooperate with scientific institutes at Austria's universities. For the Roma minority, for example, there is much support by the Institute of Linguistics at the University of Graz. There are also efforts to cooperate with national minority associations which receive financial support from the regional school councils, the Federal Ministry for Education, Arts and Culture or the Federal Chancellery when producing high-quality teaching materials in the language of the respective national minority. The "Bildungsserver Burgenland" (Education Server Burgenland) also provides teaching materials for the national minorities in the languages of the national minorities that are spoken in Burgenland. In connection with developing teaching materials one should also mention the new Slovak textbook "Slovenčslovo za slovom" for pupils between 13 and 18 years of age, which has been approved for use both at Austrian and Slovak schools.

In Vienna the association "Exil" organises special events and workshops for school classes, which receive financial support from the Federal Ministry for Education, Arts and Culture, in order to raise the level of information about Roma and their culture.

The project "CentroLING", launched by the Vienna municipal school council, is of particular significance in communicating the languages and cultures of the Czech, Slovak and Hungarian population in Vienna. Its goal is to raise the language skills of pupils in Vienna concerning the languages of these national minorities which are also the languages of the regions neighbouring on Vienna. This is achieved by language courses, but also by direct language encounters in the neighbouring regions of the Czech Republic, Slovakia and Hungary. A great many school partnerships, excursions, as well as project activities also aim at changing the attitude vis-à-vis the people in the neighbouring countries and to thus countering contact fears by building up institutional and private networks.

The regional school councils take measures on an ongoing basis in order to review and ensure the quality of bilingual instruction. To this end, surveys are conducted regularly on the satisfaction of teachers with bilingual textbooks and teaching materials.

Three current projects are given below as examples for the minority school system in Burgenland.

- ▶ Educational pilot project "Immersion and rotation" – a day focusing on the Croatian language, for which a folder with methodological and didactic instructions is being produced
- ▶ The children's newspaper in Croatian "moj novi minimulti" – it is published six times per year and distributed free of charge among pupils
- ▶ EU Comenius project "Support of national minority languages in multilingual regions through teacher training" which produces multilingual picture books with text, a textbook and a CD-ROM "7 Stories in 4 Languages".

Moreover, one should also mention that the aforementioned children's newspaper "moj novi mini multi" is being translated into Burgenland-Romany by a Roma association and, if

necessary, supplemented by specific Roma chapters. This children's newspaper in Burgenland-Romany is being used both for Romany teaching at school and outside school.

Comparable attention was and is also being focused on the production of new didactic materials, partly also inter-active electronic teaching aids, in the other languages of the national minorities. A few examples are given below:

- ▶ Initiatives by a working group for Slovene in the middle-school range (as part of the Center for School Development. The project is called "sloviklik", [www.sloviklik.at](http://www.sloviklik.at)),
- ▶ Initiative "mala sova" (by the Special Pedagogical Association, [www.sova.at](http://www.sova.at))

### Teacher training

In Austria teachers are trained at different institutes and on different educational levels. Whereas the training of nursery-school teachers is conducted on secondary level II (BAKIP = **Educational Institute for Nursery-School Teachers**) ending with a school-leaving and diploma examination, the training of teachers for compulsory schools takes place on the post-secondary level at **pedagogical colleges**, and that of teachers for the general and vocational lower and upper-level secondary schools at **universities**. On all levels of teacher training attention is paid to the needs of the national minorities, to the promotion of multilingualism and to giving due consideration to intercultural learning.

In the framework of the European LEPP process (Language Education Policy Profile), an initiative of the Council of Europe, Austria continuously receives impulses to optimize the development of its profile concerning language policy and to take an active part in numerous European projects. These impulses also have a positive effect on designing and fine-tuning the Austrian educational system in the field of languages which, in turn, has a positive impact on the school system for the national minorities.

Special attention is being paid to a good command of the minority languages among nursery-school teachers and teachers, as well as on the significance of intercultural pedagogics and didactics in the field of multilingualism.

The "Private Pädagogische Hochschule (PH) Stiftung Burgenland" (Private Pedagogical College Foundation Burgenland) stipulates a basic module "**Multilingualism and Intercultural Education**" as a compulsory module for future teachers at primary and special schools. It especially covers the special situation of the national minorities in Burgenland. It states that "coping with the linguistic scenarios in everyday communication" is one of the educational targets. Students are free to choose among seven languages, including Romany. Both practising teachers and students striving to become teachers of the minority language school system can attend a course at the Pedagogical College Burgenland of 34 ECTS (6 modules) that qualifies them to teach in two languages (German-Hungarian or German-Croatian) at primary schools and lower-level secondary schools, or Hungarian/Croatian, again at primary and lower-level secondary schools.

The requirement for attending the aforementioned Hungarian course is a B2 level command of Hungarian, as defined by the Common European Framework of Reference for Languages. By

the end of the fourth semester, the language proficiency should reach the C1 level. During the 2007/2008 study year 25 students attended this course (study year 2008/2009: 24 students). Most of the students attending this course are teachers and have Hungarian nationality; their teaching certificate is recognised in Austria. As to the further and continuous training in Hungarian, a total of three specific seminars are being offered during the summer semester 2010 (inter alia on special didactics for Hungarian and on teaching religion in German and Hungarian).

**Master course “Language Pedagogics and Multilingualism”:** As of the summer semester 2010, the pedagogical colleges of Lower Austria, Burgenland and Carinthia are jointly offering a tertiary-level study cause on “language pedagogics & multilingualism”, ending in a master’s degree. It is particularly gratifying that this new course was developed jointly by three pedagogical colleges, and that the languages of the national minorities and/or the neighbouring countries are being taken into account. The course is initially held for the target languages English, Croatian, Slovene and Hungarian and targets persons with a university diploma and teachers who have completed their studies, as well as adult-education trainers and staff members of cultural associations and the media editorial desks of the national minorities.

The master course is an important step to promote bilingual instruction in Austria by providing qualifications to teachers. The course modules are comprehensive and implement important language-policy objectives such as communicating the theoretical basis for two, three and multi-language didactics, by including the European Language Portfolio and by promoting bilingual instruction. The goals of the master course are the following:

- ▶ To qualify participants to communicate the language of their choice to different target groups.
- ▶ To promote recognition of and appreciation for the languages in the multilingual regions as languages with a future and of social and economic importance.

**Pedagogical colleges:** It should be mentioned in general that with the transition in the training of teachers from the pedagogical academies and/or pedagogical institutes to the newly created pedagogical colleges, and especially with the accompanying drafting of new curricula, the training for instruction of and/or in the languages of the national minorities has received important impulses. The interest of students has also grown. For example, at the aforementioned Pedagogical College Burgenland, the course on “bilingual instruction at primary and/or lower-level secondary schools with German and Croatian as the languages of instruction, as well as teaching Croatian at primary and/or lower-level secondary schools” had twice as many students during the 2008/2009 study year than during the 2007/2008 study year (previously 8, then 19 students), of which 8 students enrolled to train as teachers (diploma for primary school teaching) and 11 students enrolled for their further and continuous education.

Since the Pedagogical College Carinthia was launched, the courses offered for the Slovene language also experienced improvements in quality, when comparing them to courses offered by the pedagogical academies:

- A group of experts (university, regional school council, pedagogical college) drafted and implemented a new curriculum with 54 credits (instead of 32 credits as before) for the study



course “Bilingual instruction at primary schools with German and Slovene as languages of instruction”. The content was given a completely new concept and adapted to the current needs of actual school life.

- A group of experts (university, regional school council, pedagogical college) has been evaluating the new curriculum ever since it was implemented. The results of the evaluation are communicated back to students and teachers at regular intervals.
- The number of students has risen significantly. There are 18 newly enrolled students for the bilingual teachers’ course (at the former structure of a pedagogical academy there were 5 to 8 students per study year, on average) for the first semester of the 2009/2010 study year. The number of newly enrolled team teachers also went up considerably (19 newly enrolled students for the first semester of the 2009/2010 study year, compared to 6 to 9 students per study year at the former pedagogical academy).
- The number of trainers for the multilingual school systems was significantly expanded by experts from the University of Klagenfurt and experienced teachers.
- A new study course for team teachers on active duty will start as of the 2010/2011 study year. A curriculum especially geared to this target group has been developed.

Moreover, the teaching of Eastern-European languages is being expanded at the Pedagogical College in Vienna under the title “PG goes East”. There, the language of the Hungarian national minority will be given particular attention.

In cooperation with the regional school council for Burgenland, the centre of competence for applied research and development at the pedagogical college in Burgenland set up three regional centres for the subjects of multilingualism and intercultural education, which focus on languages and the specific didactics in language teaching. They give priority to the languages of the national minorities in Burgenland. The centres are located at Eisenstadt, Langeck and Großpetersdorf. These so-called **language workshops** serve the following purposes:

- ▶ To hold further training and continuous professional development seminars,
- ▶ To provide a location to work on projects,
- ▶ To accommodate a specialized library and mediatheque with publications by the national minorities in Burgenland (especially didactic materials and textbooks which may be used on the spot, loaned or bought),
- ▶ To serve as a venue for the presentation of new publications, and
- ▶ To serve as a place for meetings and cooperation events of the national minorities in Burgenland.

Teaching materials, which meet modern requirements, are developed and drafted by working groups meeting at the language workshops. Special attention is paid to producing digital learning games and CD ROMs, as these tools make language learning attractive to children.



Another focus is to continue the enlargement of the content on the Burgenland Education Server. Here, too, model examples and teaching materials for bilingual instruction, meeting today's teaching standards, are made available to users.

On the basis of more than 300 questionnaires (sent to pupils, parents and teachers) the University of Klagenfurt conducted an evaluation of the Comenius project "Promoting minority languages in a multilingual region through teacher training", which showed a high level of satisfaction with bilingual teaching.

### **Equal access to education**

The following can be said in reaction to the recommendation of the Council of Europe to pay special attention to the integration of Roma children into the Austrian educational system and to see to it that they are not transferred to special schools:

Austria attaches special attention to the educational situation of Roma children and makes every effort to integrate them into the standard school system. As it is recognized that a good education is the basis for integration into society and offers job opportunities, major efforts are being undertaken on various levels in order to enable Roma children to obtain a good school education and thus a positive start into working life.

In connection with the autochthonous minority of the Roma in Austria, these efforts have shown very good results. While in the 80's many Roma children still attended special schools, one can say today – and this is corroborated by feedback from the Ministry of Education and scientific studies – that this is a problem of the past and that autochthonous Roma children have been integrated into the standard schools system. Thanks to the many educational initiatives of the past two decades, the educational situation has improved greatly. Furthermore, the initiative of several Roma associations and the contribution by academe (such as the research work at the University of Graz, in close cooperation with Roma associations) has led to improvements and thus clearly enhanced the self-consciousness of the Austrian Roma population. Projects like the ones already described in the second State Report ("Learning Assistance for Roma" and "Roma Assistants"), which acted as an intermediary force between schools and parents, have made a major contribution towards improving the situation. Both the federal authorities (Federal Ministry of Education, Arts and Culture, Federal Chancellery) and the Federal Provinces of Vienna and Burgenland gave their financial support to these positive initiatives.

In connection with the non-autochthonous Roma children, who mostly migrated from the former Yugoslavia, the optimum solution to their school situation has not yet been found. Here, the number of Roma children (as well as migrant children in general) attending so-called special schools or "special pedagogical centres" is generally higher, which can mostly be explained by a lack of language skills or poorer learning situations. In this respect, important education-policy measures have been taken in recent years, for example to partially replace special schools by alternative school types. The goal is to enable children with a non-German mother tongue to also benefit from these new options and to promote them in the best possible manner, integrating them into the standard school system.

As, in general, pupils with a migration background can be found in larger numbers in Austria's special schools – about 26% of the pupils at special schools have another language than German as their mother tongue – the Federal Ministry of Education, Arts and Culture issued new guidelines for this segment in 2008. The mandatory criteria, which are described in these guidelines, provide a set of tools which are intended to provide more transparency and a better documentation of the need to assign pupils to special pedagogical courses. These guidelines serve as a basis for ensuring that children are given special pedagogical support in line with their needs in their respective regions, and – also on a preventive basis – they facilitate **alternative promotional measures** for children with learning difficulties (Circular No. 4: 19/2008 of the Federal Ministry of Education, Arts and Culture dated 5 August 2008, <http://www.cisonline.at/index.php?id=319>).

This circular also highlights the support options available at the school-entry stage, as the pre-school year and the first and second year of primary school make up one unit. During that period children with learning difficulties or personality development problems can be given individual support.

The following paragraph in the guidelines is, amongst others, of particular relevance to Roma children with a non-German mother tongue: “Whenever learning difficulties appear with pupils having another language than German as a first language, one must first of all identify the cause of the learning difficulties. To the extent possible, qualified persons speaking the mother tongue of the child should be involved in this process. The fact that a child has no command of the language of instruction must definitely not be used as a criterion for determining a need for special pedagogical support. The existing legal possibilities must be exhausted for all pupils and appropriate support measures must be implemented (language training courses for extraordinary pupils; instruction with German as a second language according to the curriculum for ordinary pupils having another first language).”

### The “Learning Assistance” project for Roma children in Vienna

Since 2005 the field of extra-mural education and parents' education has been one focus in promoting and supporting children from the group of the immigrant Roma. Several Roma associations have been receiving a total of altogether 200,000 euros per year by the City of Vienna to support their activities geared to providing learning assistance. The options available for parents are also offered in Romany.

A suitable programme of learning assistance has been developed together with the associations, which meets the needs of children and parents. The project is to help both children and young persons to better understand what they are being taught, as well as to teach them working and learning skills. The parents are supported in adopting a positive attitude towards such topics as school and education. The principle of cooperation and creating a model role effect is therefore at the centre of the project, as every learning group is run by a teacher and a member of the Roma group. The coordinators themselves are parents or young adults who have sufficient knowledge about the Austrian school system and communicate a positive attitude towards it.

The City of Vienna supports the associations in developing and implementing the individual steps of the project. Already the pilot phase during the 2006 winter semester yielded very positive results. The project was continued and some of the courses were expanded during 2007 and 2008. In 2009 it was possible to further intensify work with the parents. An evaluation of the project, undertaken by the Institute of Linguistics at the University of Vienna, confirmed the effectiveness and efficiency of the project.

In 2009 five associations (Bahtalo Rom, ERO, Romano Kahm, Roma Kulturzentrum and Vida Pavlovic) participated in the learning assistance project. Since January 2010 the Vienna Roma Association is responsible for the learning assistance project. The goal is to merge the associations into one organisation in order to create synergies for this project and other education and integration projects for Roma in Vienna.

The extra-mural learning assistance provided by the Romano Centro association and supported with funding from the budget for the national minorities is provided within a family setting.

### **Mandatory nursery-school year and early promotion of language skills**

In 2009 an important step was taken in Austria in the direction of fair opportunities for all children to obtain an education, irrespective of their socio-economic background. With the agreement pursuant to Article 15a of the Federal Constitution Act on the introduction of half-day gratuitous and mandatory early promotion in childcare establishments, a mandatory year of nursery-school attendance and the early promotion of language skills in children was introduced for the year before school entry.

These are the objectives of the agreement:

- ▶ In the year before entering school children shall be required to attend suitable childcare establishments for a minimum period of 16 to 20 hours on at least four days per week in order to offer all children, irrespective of their socio-economic background, the best-possible education possibilities and opportunities to then begin working life.
- ▶ The half-day attendance of a nursery school in the amount of 20 hours per week in suitable childcare establishments during the year before school entry is to be free of charge so as not to impose any financial burden on families.

The educational tasks during this mandatory nursery-school year include, amongst others, support to children to obtain maturity for school attendance and to provide early promotion for the language skills of children. Both tasks are important measures to obtain fair access to education and fair education opportunities for all children, irrespective of their socio-economic background. The goal to create a nation-wide pre-school education plan marks one further important step towards introducing quality standards in pre-school childcare.

## II.2.13 Article 13

1. Within the framework of their education system, the Parties shall recognise that persons belonging to a national minority have the right to set up and manage their own private educational and training establishments.
2. The exercise of this right shall not entail any financial obligation for the Parties.

### National minority school system in Vienna

Both the City of Vienna and the federal authorities (Federal Chancellery, Federal Ministry of Education, Arts and Culture) have followed up the recommendation by the Council of Europe to continue close cooperation with the Czech and Slovak minorities in order to ensure on a long-term basis for the operation of the Komensky private school.

The Komensky School Association is responsible for running this private bilingual educational establishment with public status in Vienna, which receives substantial public-sector funding. This also ensures that, in the future, bilingual instruction and bilingual education from nursery school to school-leaving diploma can be provided in Czech/German and Slovak/German. Public funds – a so-called “living grant” – are used to pay the teachers. In addition, the school association is supported with funding from the budget of the Federal Chancellery for the national minorities.

**Table 21 Evolution of the financial support for the Komensky School Association granted from the budget of the Federal Chancellery and the City of Vienna**

| Year | Federal Chancellery | City of Vienna, Department 10 | City of Vienna, general budget |
|------|---------------------|-------------------------------|--------------------------------|
| 2006 | 286,732.03          | 54,697.02                     | 50,000.00                      |
| 2007 | 411,550.36          | 62,942.88                     | 149,750.00                     |
| 2008 | 415,270.00          | 93,127.25                     | 150,000.00                     |
| 2009 | 391,397.00          | 228,455.89                    | 149,300.00                     |

Source: Federal Chancellery, Komensky School Association

**Table 22 Evolution of the financial support for the Komensky School Association granted from the budget of the Federal Chancellery according to national minorities**

| Year | Czech minority | Slovak minority | Hungarian minority |
|------|----------------|-----------------|--------------------|
| 2006 | 286,732.03     |                 |                    |
| 2007 | 364,691.36     | 39,355.00       | 7,504.00           |
| 2008 | 281,690.00     | 50,100.00       | 83,480.00          |
| 2009 | 308,377.00     | 50,000.00       | 33,020.00          |

Source: Federal Chancellery, Komensky School Association

In 2009 the grants from the national minority budget of the Federal Chancellery were primarily used to cover the staff expenses for the Czech-speaking, Slovak-speaking and Hungarian-speaking nursery-school and day-school teachers. Moreover, parts of the operating expenses for the two school buildings at Schützengasse and Sebastianplatz, as well as refurbishing costs were covered by the Federal Chancellery.

The Federal Ministry of Education, Arts and Culture is also making great endeavours to grant financial support the Komensky School Association on a continuous basis. One-off payments will also be considered in case of major construction projects. For 2010, for example, an amount of one million euros has already been earmarked in the budget of the Federal Ministry of Education, Arts and Culture for the general overhaul of the school building of the private bilingual upper-level secondary school (grades 9 to 12) of the Komensky School Association (1030 Vienna, Schützengasse 31). The City of Vienna has also committed an amount of one million euros to ensure the refurbishing of the second school building. The school association will raise the remaining money needed for the refurbishing costs. The overall budget for the overhaul and enlargement of the school building at Schützengasse in Vienna amounts to about 3.4 million. No final solution has as yet been found for the financing of the operating costs, amounting to about 1.2 million euros per year, which have also gone up on account of the rising number of pupils.

In recent years the demand for obtaining a bilingual education at the Komensky School has risen steadily. During the present 2009/2010 school year a total of 416 children and young persons are attending this private bilingual education establishment. By comparison, 380 children attended this school during the 2005/2006 school year. On account of this growth and the associated space problems the school was refurbished and further enlarged in 2006. Since the fall of 2006 additional premises have been available for bilingual instruction and the multilingual nursery school (Czech, Slovak, Hungarian and German).

Since the 2005/2006 nursery-school year the private bilingual education establishment of the Komensky School Association has also been offering bilingual care to nursery-school pupils. This option has been expanded ever since and a Slovak group was added in the 2007/2008 nursery-school year care, as well as a Hungarian group in the 2008/2009 year. During the 2009/2010 nursery-school year a total of 96 children in five groups are receiving multilingual pedagogical care. They are divided up into three Czech/German groups, one Slovak/German group and one Hungarian/German group.

Instruction in the Slovak language is also being offered at the Komensky School under the motto "From nursery school to school-leaving diploma". A full-range education has thus also been ensured for Slovak children in Vienna.

The altogether 416 children and young persons, who are attending the education facilities of the Komensky School Association during the 2009/2010 school year, are divided into the following groups:

- ▶ Five nursery-school groups as of age 2
- ▶ Eight primary-school classes (parallel groups for every school grade)
- ▶ Five classes of secondary school (parallel groups in the second school grade)

- ▶ Four classes of upper-level secondary school (grades 9 to 12)

Up to 2009, 100 pupils have passed the school-leaving examination.

**Table 23 Number of nursery-school groups and children at the Komensky School in Vienna**

| Year    | Groups | Children | Comment                                 |
|---------|--------|----------|---|
| 2005/06 | 3      | 66       |   |
| 2006/07 | 4      | 71       |   |
| 2007/08 | 4      | 79       | of which 1 Slovak group                 |
| 2008/09 | 5      | 89       | of which 1 Slovak and 1 Hungarian group |
| 2009/10 | 5      | 96       | of which 1 Slovak and 1 Hungarian group |

Source: Komensky School Association

**Table 24 Evolution of classes and pupils at the Komensky School in Vienna**

| School type                                     | Year    | Number of classes | Pupils |
|---|---------|-------------------|--------|
| Primary school                                  | 2005/06 | 6                 | 123    |
|   | 2006/07 | 7                 | 143    |
|   | 2007/08 | 8                 | 147    |
|   | 2008/09 | 8                 | 140    |
|   | 2009/10 | 8                 | 138    |
| Secondary school                                | 2005/06 | 4                 | 96     |
|   | 2006/07 | 4                 | 92     |
|   | 2007/08 | 4                 | 93     |
|   | 2008/09 | 5                 | 107    |
|   | 2009/10 | 5                 | 108    |
| Upper-level secondary school<br>(grades 9 - 12) | 2005/06 | 4                 | 73     |
|   | 2006/07 | 4                 | 82     |
|   | 2007/08 | 4                 | 83     |
|   | 2008/09 | 4                 | 85     |
|   | 2009/10 | 4                 | 74     |

Source: Komensky School Association

The following comments can be made in reaction to the recommendation of the Council of Europe to further expand the language teaching available to the autochthonous minority groups domiciled in Vienna:

The educational environment of the national minorities domiciled in Vienna, the federal capital, cannot be compared on a 1:1 basis to the situation of the minority school system in Carinthia, Styria or Burgenland. On the one hand, the percentage of the national minorities domiciled in

Vienna is partly lower; on the other hand, one cannot expect any concentrated settlement in certain parts of the town. All efforts to date by the responsible authorities and national minorities involved have therefore focused on offering the best-possible individual solutions to persons belonging to the national minorities domiciled in Vienna. They range from financial support by the public sector (City of Vienna, Federal Ministry of Education, Arts and Culture, Federal Chancellery, etc.) to private education establishments (such as, for example, the aforementioned private school run by the Komensky School Association) to language and ethnicity courses in the minority languages held by associations on a weekly basis, as well as additional language options and projects as part of the public school system. These are supplemented by special pilot projects in schools and an expanded range of adult-education options (for example at the adult-education colleges).

In recent years “Vienna’s Hungarian School” and “Vienna’s Hungarian Nursery School”, set up by the Central Association of Hungarian Associations and Organisations in Austria, domiciled in Vienna, also received financial support from the budget of the Federal Chancellery for the national minorities. The courses on the Hungarian language and ethnicity, as well as Hungarian folk music, organised on a weekly basis by the Hungarian School Association (also domiciled in Vienna) within the framework of the “Honismeret” project, also receive financial support from the Federal Chancellery and its budget for the national minorities. At the “Honismeret – Holiday Camp” special attention was also paid to promoting the Hungarian language. This was also the case when a textbook for teaching Hungarian was published.

In this connection one should not forget to mention that children and young persons, who live in regions outside the autochthonous settlement areas (Vienna and Burgenland) also receive care in the Hungarian language, which is granted financial support. The so-called “Hungarian weekend school” in Linz can be mentioned here as one example. The fees of the Hungarian language teachers are paid from the budget for the national minorities.

It also needs to be mentioned that interest in learning the Hungarian language has significantly increased in Vienna, and the total amount spent on such projects by the Federal Ministry of Education, Arts and Culture has risen in recent years.

Additional comment: During the 2007/2008 school year 14 languages were offered at compulsory schools in Vienna, either in integrated form or in parallel to classes, as mother-tongue instruction of children with a migration background. Mother-tongue instruction focuses on children whose mother tongue is not German. However, mother-tongue instruction at school is not necessarily identical to the respective national language of the country of origin. The Vienna School Council has allocated 153 jobs in the service roster for compulsory schools for the teaching of these classes. Mother-tongue instruction is given as a non-compulsory exercise during three lessons per week and during 5 lessons per week as part of the project “bilingual literacy”. Instruction as a bicultural process is guided by the following range of tasks which have been determined in the curriculum for mother-tongue teaching:

- ▶ Consolidating mother-tongue skills
- ▶ Communicating information about the country of origin
- ▶ Discussion of the bicultural process



The overwhelming part of the lessons is held by a team of teachers, in coordination with the German-language lessons.

As part of an overall concept the Vienna school council also strives to motivate a growing number of pupils to learn the languages of the neighbouring regions, as well as to show persons speaking those languages a large measure of appreciation, as well as to support them.

During the 2007/08 school year, schools in Vienna offered the Czech, Slovak and Hungarian (Hungaricom project) languages as non-compulsory exercise of two lessons each per week. The language courses are offered both as a living foreign language and as the mother tongue, or as a second or third language. This means a large degree of personalised teaching. The language courses are held in collective groups; this means that children from different schools are taught together at one location.

**Table 25 Language teaching at Vienna's compulsory schools**

| School type               | Slovak                  | Slovene                 | Hungarian               |
|---------------------------|-------------------------|-------------------------|-------------------------|
| Primary school            | 2 locations<br>4 groups | 3 locations<br>4 groups | 6 locations<br>7 groups |
| Cooperative middle school | 2 locations<br>3 groups | 1 location<br>1 groups  | 3 locations<br>5 groups |
| Poly-technical school     | 1 location              | 1 location              | 1 location              |

Source: City of Vienna

It must be stated, as a matter of principle, that there is growing demand for the languages listed in the table at all school types, also the general upper-level schools. There is now also the possibility to choose these languages as a subject for the school-leaving examination.

The school concepts "European Primary/Middle/High School", developed by the EU project CERNET (Central European Regional Network for Education Transfer) are very popular and meet with growing interest so that a steadily rising number of pupils with a command of Slovak, Czech and Hungarian are attending these school types. At these schools, these languages are offered as a mother tongue or a second language.

The project "Living Neighbourhood" ("Gelebte Nachbarschaft") has been conducted since the 2008 summer semester, in the course of which about 1,000 primary-school pupils from Vienna at 30 primary schools in Vienna came into a first contact with the language and culture of one of the neighbouring countries. As part of this project, pupils are offered a "work placement" in the neighbouring regions.

In the course of the EU project "EdQ" (Education Quality) "Slovenčináslovo za slovom", the first foreign language textbook in Slovak for pupils aged 13 to 18 years, was developed and approved in both countries.

The "CentroLING" project promotes the learning, teaching and use of the aforementioned languages of the neighbouring countries. Language courses for education experts are

therefore being offered at the Federal Pedagogical Institute in cooperation with the Information and Further Training Centre for Foreign-Language Teaching. More than 140 teachers have availed themselves of this opportunity. The courses are held by trainers and independent examiners from the neighbouring regions. The project was awarded the European seal for innovative language projects.

#### **II.2.14 Article 14**

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is sufficient demand, the Parties shall endeavour to ensure, as far as possible and within the framework of their education systems, that persons belonging to those minorities have adequate opportunities for being taught the minority language or for receiving instruction in this language.
3. Paragraph 2 of this article shall be implemented without prejudice to the learning of the official language or the teaching in this language.

#### **Bilingual nursery schools**

It is mentioned again, by way of introduction, that the introduction of a compulsory nursery-school year and the early support to children to obtain language skills one year before school entry also mark an important step for the early promotion of children of persons belonging to the national minorities in terms of languages and pedagogics.

#### **The situation of bilingual nursery schools in Vienna**

Please refer to Article 13 for more detailed information.

#### **The situation of bilingual nursery schools in Carinthia**

Numerous studies and, in particular, statistical facts and practical experience with Carinthia's educational system show very clearly that pre-school bilingual education is becoming increasingly important. A growing number of children of persons belonging to the Slovene minority have only little to no Slovene language skills. Great importance attaches therefore to the bilingual nursery-school system in Carinthia.

As was mentioned in earlier reports, the Carinthian Nursery-School Fund Act, Regional Law Gazette No. 74/2001, went into force on 1 October 2001. The objective of this legislation is to promote private bilingual or multilingual nursery schools in the settlement areas of the Slovene minority in Carinthia. A fund has been set up in order to achieve this objective. The fund grants financial support to the operators of bilingual or multilingual nursery schools to cover their operating deficits, to advise the operators of bilingual and multilingual nursery schools on

matters of language teaching in educating and caring for children, as well as to evaluate the language-teaching concept of the operators of bilingual and multilingual nursery schools. The law grants bilingual or multilingual nursery schools a legal title to receiving financial support to cover their operating deficits if they meet the necessary requirements. It does not exclude nursery schools that will be set up in the future.

The Carinthian Nursery School Fund Act and the associated financial support by the Federal Province of Carinthia created an incentive to set up bilingual nursery schools, on the one hand, and it also ensures a high quality of bilingual care for the children, on the other hand, on account of the clear guidelines stipulated in the law. One further advantage of the private bilingual nursery schools in Carinthia is the fact that municipal boundaries do not have to be observed when enrolling a child at a nursery school, so that a Slovene-speaking child may also use the options available in one of the neighbouring municipalities. Moreover, a regular scientific follow-up and evaluation is given to the language and teaching activities. In this connection, it is justified to say that the bilingual teaching of small children is on a high level, and it is not by coincidence that there is great general demand for these nursery schools.

For several years the Federal Chancellery has also been supporting a group of small children in a bilingual settlement area in order to promote bilingual teaching and care for children below the age of three.

Moreover, bilingual nursery-school groups (Slovene/German) at a total of seven municipal nursery schools receive financial support from the budget of the Federal Chancellery for the national minorities. These are located at Ludmannsdorf, Globasnitz, St. Michael ob Bleiburg, Eisenkappel-Vellach, Sittersdorf, Bleiburg and Feistritz im Rosental.

**Table 26 Bilingual municipal nursery schools in Carinthia**

| Municipal nursery schools receiving financial support | 2007              | 2008              | 2009              |
|---|-------------------|-------------------|-------------------|
| Urban municipality of Bleiburg                        | 15,770.00         | 15,770.00         | 15,770.00         |
| Market municipality of Eisenkappel-Vellach            | 23,655.00         | 23,655.00         | 23,655.00         |
| Municipality of Feistritz ob Bleiburg                 | 31,540.00         | 31,540.00         | 31,540.00         |
| Municipality of Globasnitz                            | 23,655.00         | 23,655.00         | 23,655.00         |
| Municipality of Ludmannsdorf                          | 23,655.00         | 23,655.00         | 23,655.00         |
| Municipality of Sittersdorf                           | 7,885.00          | 7,885.00          | 7,885.00          |
| Market municipality of Feistritz im Rosental          | 11,827.00         | 7,885.00          | 7,885.00          |
| <b>Total</b>  | <b>137,987.00</b> | <b>134,045.00</b> | <b>134,045.00</b> |

Source: Federal Chancellery, Department for National Minority Matters

The municipal nursery school at Ludmannsdorf must be mentioned as a positive example in this context, as it was awarded the European seal for innovative language projects in November 2007. The successful work undertaken at this nursery school proves that experiencing a bilingual education of high quality and learning one further foreign language do

not exclude one another. In addition to the bilingual nursery-school teachers, an English teacher (native speaker) comes to the nursery school once per week.

The responsible department of the Regional Government of Carinthia offers workshops as further-training activities in order to ensure the best-possible further training of the bilingual nursery-school teachers.

The Working Community of Private Bilingual and Multilingual Nursery Schools and the Association of Professional Pedagogics also offer further-training activities to bilingual and multilingual nursery-school teachers. These projects and workshops regularly receive financial support from the budget of the Federal Chancellery for the national minorities.

### **The situation of bilingual nursery schools in Burgenland**

The Burgenland Child Education and Childcare Act, Regional Law Gazette No. 7/2009, has been in force since 1 January 2009. According to § 7 (9) of the aforementioned law childcare establishments in bilingual municipalities in Burgenland must engage in activities in the language of the national minority during a minimum of 12 hours per week and group. The general observation is that appreciation for multilingual education at the childcare establishments in Burgenland is rising. An increasing number of parents want their children to learn Croatian or Hungarian – which are not only the languages of the national minorities but also the languages of their “neighbours”.

Burgenland provides an assistant nursery-school teacher each for the Croatian and Hungarian minority whenever the nursery-school teacher at the municipal nursery school is only monolingual/German. The Federal Province will bear the cost for the first two years; as of the third year all expenses are re-transferred from the nursery-school operator to the Federal Province.

At present, German and Croatian are used at 35 childcare establishments in Burgenland, and German and Hungarian at 17 childcare establishments. A total of about 900 children receive bilingual care in Burgenland. In the autochthonous municipalities children must receive bilingual education on a compulsory basis. However, the persons responsible for a child's education may cancel the child's attendance of the establishment. So far, this has not happened in a single case. In the non-autochthonous areas children must be signed up for a language of a national minority in addition to German if the parents want a bilingual education for their children.

The bilingual nursery-school teachers are trained at the Federal Training Institute for Nursery-School Teachers at Oberwart, where they must take the school-leaving examination in the subjects Croatian or Hungarian.

### **The minority school system in Carinthia**

The positive trend concerning enrolment for Slovene instruction in Carinthia has continued in recent years. Below are the figures for the area of application determined by the National Minorities School Act for Carinthia (§ 10 (1)):

**Table 27 Enrolment for bilingual education with classes taught in Slovene, a comparison of the years since 1959/60**

| School year | Total  | Bilingual | in %  | Klagenfurt |
|-------------|--------|-----------|-------|------------|
| 1959/60     | 10,325 | 1,994     | 19.31 | 0          |
| 1979/80     | 7,435  | 1,065     | 14.32 | 0          |
| 1998/99     | 6,108  | 1,620     | 26.52 | 103        |
| 2005/06     | 5,018  | 1,819     | 36.25 | 165        |
| 2006/07     | 4,818  | 1,855     | 38.50 | 180        |
| 2007/08     | 4,666  | 1,892     | 40.55 | 187        |
| 2008/09     | 4,506  | 1,853     | 41.12 | 190        |
| 2009/10     | 4,437  | 1,831     | 41.27 | 185        |

Source: Federal Ministry of Education, Arts and Culture, Federal Province of Carinthia

In addition, the following development was observed for two bilingual primary schools in Klagenfurt that can also be considered in this context:

- ▶ 2006/2007: 180 pupils
- ▶ 2007/2008: 187 pupils
- ▶ 2008/2009: 190 pupils
- ▶ 2009/2010: 185 pupils

These statistics clearly document the desire for different types of multilingual schooling and an education that includes the language of the national minority. Children with a highly diverse language background attend the bilingual classes. Many have no previous knowledge of the minority language when entering school. One factor that has a positive effect on the relative increase in enrolments for bilingual classes on the primary level is the statutory special provision on the formation of classes, especially the requirement that the number of pupils in grades 1 to 4 must not exceed 20 pupils (§ 16a).

During the 2009/2010 school year there are altogether 9 school branches (*Exposituren*) of primary schools in the area of application of the Minority Schools Act for Carinthia (Görtschach-Föderlach, Radsberg, St. Georgen im Gailtal, Ebriach, Leppen, Rinkenberg, St. Philippen, Schwabegg, Untermitteldorf); at least one half of the pupils at all schools (with one exception) have been enrolled for bilingual education.

During the reporting period the number of school branches has remained stable. At the end of the 2008/2009 school year the school branch at Greutschach (primary school Griffen) was closed; at the beginning of the 2006/2007 school year the school branch Ebriach (primary school Bad Eisenkappen) was re-opened.

Below is an overview of the currently relevant school statistics for Carinthia:

**Table 28 Type of Slovene teaching according to school levels (2009/2010 school year)**

| Educational level   | Mainly Slovene as language of instruction | German and Slovene as languages of instruction | Slovene as a classroom subject | Total number    |
|---------------------|---|--|--------------------------------|-----------------|
| Primary level       | 0   | 2,016  | 37                             | 2,053           |
| Secondary level I   | 346                                       | 0  | 543                            | 889             |
| Secondary level II  | 186                                       | 293  | 558                            | 1037            |
| <b>Total number</b> | <b>532</b>                                | <b>295,016</b>                                 | <b>1138</b>                    | <b>1928,053</b> |

Source: Federal Ministry of Education, Arts and Culture, Federal Province of Carinthia

**Table 29 Slovene language skills of the pupils enrolled in the first grade since the 1980/81 school year**

| School year | Normal (%) | Little (%) | None (%) | Normal (N) | Little (N) | None (N) |
|-------------|------------|------------|----------|------------|------------|----------|
| 1980/81     | 43.05      | 25.69      | 31.25    | 124        | 74         | 90       |
| 1990/91     | 31.03      | 20.48      | 48.49    | 103        | 68         | 161      |
| 2000/2001   | 25.15      | 19.80      | 55.05    | 127        | 100        | 278      |
| 2006/07     | 12.48      | 16.07      | 71.45    | 66         | 85         | 378      |
| 2007/08     | 15.22      | 15.92      | 68.86    | 88         | 92         | 398      |
| 2008/09     | 13.30      | 20.40      | 66.30    | 73         | 112        | 364      |
| 2009/10     | 14.28      | 12.85      | 72.85    | 80         | 72         | 408      |

Source: Federal Ministry of Education, Arts and Culture, Federal Province of Carinthia

**Table 30 Slovene teaching at general middle and upper-level secondary schools in Carinthia in the 2009/10 school year**

| School  | Selected compulsory or alternative compulsory subject | Optional subject |
|---|---|------------------|
| <b>Upper-level general secondary schools</b>  |   |                  |
| Europagymnasium Klagenfurt  | 0   | 11               |
| BG/BRG Mössingerstr. Klagenfurt   | 0   | 22               |
| ORG Klagenfurt  | 0   | 2                |
| BORG Klagenfurt   | 8   | 0                |
| BG/BRG Lerchenfeldstr. Klagenfurt   | 0   | 15               |
| BG/BRG Viktring   | 0   | 18               |
| BG/BRG St. Martin Villach   | 8   | 15               |
| BG/BRG Villach Perau  | 0   | 15               |
| BG/BRG Alpen-Adria Völkermarkt  | 63  | 20               |
| BG Tanzenberg   | 0   | 9                |
| BG Porcia Spittal   | 0   | 21               |
| BG/BRG St. Veit   | 0   | 8                |
| <b>Total for upper-level general secondary schools</b>  | <b>79</b>   | <b>156</b>       |
| <b>Upper-level vocational schools</b>   |   |                  |
| BHAK International Klagenfurt   | 46  | 0                |
| BHAK I Klagenfurt   | 0   | 27               |
| BHAK Völkermarkt  | 49  | 7                |
| HBLA Villach  | 0   | 7                |
| HBLA Klagenfurt   | 0   | 20               |
| HBLA St. Veit   | 0   | 7                |
| HTBLVA Villach  | 0   | 5                |
| HTL Mössingerstraße Klagenfurt  | 0   | 27               |
| FS f. Sozialberufe II Klagenfurt  | 174   | 75               |
| BAKIP Klagenfurt  | 0   | 46               |
| BHS Gesamt  | 269   | 221              |
| <b>Total for upper-level general and vocational schools</b>   | <b>348</b>  | <b>377</b>       |
| <b>Upper-level general and vocational schools with Slovene and German as languages of instruction</b> |   |                  |
| BG/BRG für Slowenen Klagenfurt  | 532   |                  |
| ZBHAK Klagenfurt  | 168   |                  |
| HLA St. Peter   | 115   |                  |
| Einjährige Wirtschaftsfachsch. St. Peter  | 10  |                  |
| <b>Total for upper-level general and vocational schools</b>   | <b>825</b>  |                  |
| <b>Total for Carinthia</b>  | <b>1,550</b>  |                  |

Source: Federal Ministry of Education, Arts and Culture, Federal Province of Carinthia



### **Compulsory general schools**

In the area of application of the Minority School Act there are 73 primary schools, of which 9 are school branches and, in addition, 2 bilingual primary schools in the town of Klagenfurt in 2010. A total of 4,622 pupils are attending these schools during the current school year.

At 67 locations, of which 8 are school branches, 1,831 pupils have enrolled for bilingual instruction, which amounts to 41.27%. Moreover, 185 pupils receive bilingual instruction at 2 primary schools in Klagenfurt. Altogether, 2016 pupils attend bilingual classes at primary schools.

In Carinthia 37 pupils attended Slovene classes held as optional exercise. At 6 primary schools in the area of application of the Minority Schools Act there were no pupils enrolling for bilingual instruction.

376 pupils at 17 lower-level secondary schools attend Slovene classes.

### **Upper-level general and vocational schools**

During the current school year 352 pupils are enrolled at the federal upper-level grammar school (*Bundesgymnasium*) and the upper-level secondary school (*Bundesrealgymnasium*) for the Slovene population in Klagenfurt.

The bilingual Federal Commercial College in Klagenfurt has 168 pupils, and 125 pupils have enrolled in the Private Higher Learning Institute for Commercial Occupations at St. Peter.

725 pupils have enrolled for Slovene instruction at the other upper-level general and vocational schools outside the area of application of the Minorities School Act, of which 348 pupils attended Slovene classes given as an alternative compulsory subject, and 377 pupils attended Slovene classes given as an optional subject.

### **The minority school system in Burgenland**

Almost all children attend the bilingual classes (Croatian/German or Hungarian/German) of the bilingual schools located in the autochthonous settlement areas in Burgenland. Outside the settlement areas, too, interest in learning Croatian or Hungarian is growing. In connection with the Hungarian language, interest rose rapidly after Hungary's EU accession.

In both cases lessons in the compulsory schools are given as optional exercises, optional subjects, compulsory subjects or bilingual instruction in all grades. Generally speaking, it can be said that German-speaking parents, too, increasingly avail themselves of the possibility to have their children attend classes in the languages of the national minorities.

**Table 31 Number of children learning Croatian, Hungarian and Romany in Burgenland (2009/2010 school year)**

| School types                                   | Croatian     | Hungarian    | Romany   |
|--|--------------|--------------|----------|
| General compulsory schools                     | 1,670        | 2,191        | 5        |
| Upper-level general schools                    | 332          | 258          | -        |
| Training institute for nursery-school teachers | 28           | 6            | -        |
| Vocational middle and upper-level schools      | 141          | 268          | -        |
| <b>Total</b>                                   | <b>2,171</b> | <b>2,723</b> | <b>5</b> |

Source: Office of the Burgenland Regional Government

The Office of the Burgenland Regional Government notes with astonishment that, time and again, the opinions expressed on the State Reports allege that the Minorities School Act is not being implemented in Burgenland. This is vehemently rejected, as it does not reflect the actual facts. Both the teaching of languages and bilingual instruction are being implemented in compliance with statutory requirements.

A large number of information sessions for parents are organised by the school principals, in cooperation with the district school supervisory authorities and the department for the national minorities of the regional school council. This serves to supplement the information about available options in the languages of the national minorities. These options are increasingly also accepted by parents in the non-autochthonous settlement areas.

### Language courses in the languages of the national minorities

In connection with the recommendation of the Council of Europe to take adequate measures to ensure bilingual education pursuant to Article 14 of the Framework Convention, please refer to the comments made under Article 13 (minority school system in Vienna).

**Slovenes in Styria:** In Styria, a total of 40 lessons are offered by the job roster for Slovene. These 40 lessons are divided up into 20 lessons each for the districts of Leibnitz and Radkersburg. Within these districts the 20 school lessons each are distributed among the general compulsory schools, as required.

Concerning the recommendation of the Council of Europe, namely to increase the language competencies also outside the autochthonous settlement areas, we can report about interesting projects of the Centre for Language Competencies for Lower Austria.

### Centre for Language Competencies for Lower Austria

**Czech courses for the fire brigades** throughout the area along the border between Lower Austria and the Czech Republic: The Czech courses developed by the Centre are offered throughout the area along the border between Lower Austria and the Czech Republic. Approximately 300 members of the fire brigades already acquired some basic language skills in Czech and are now able to communicate in typical situations involving fire brigades. The

concept developed by the Centre for Language Competencies for Lower Austria was so successful that it is also being used in other border regions in Europe such as Euregio egrensis (Bavaria/Czech Republic) and Euregio Ore Mountains (Erzgebirge) (Saxony/Czech Republic). The adult-education college at Husum (northern Germany) is also developing a Danish course for the fire brigades on the basis of this specialised language course.

The Centre for Language Competencies for Lower Austria is also offering language courses for other groups of occupations:

- ▶ Czech for the health sector (ambulances, hospitals, etc.)
- ▶ Czech for the tourism industry

A **Czech language guide** was developed especially for the safety and security agencies in Lower Austria. It contains phrases and technical terms used by police officers. It comprises chapters on “personal data and documents”, “vehicles”, “road traffic”, “accidents”, “breaking-in and theft”, as well as “police cooperation”.

A language guide was also developed for the cross-border health system, including guidance on the pronunciation of Czech words relating to subjects such as “communicating with patients”, “medications”, “hospital”, “ambulance service” and “report on health status”. The language guide was developed with the support of the EZT projects “Zdraví-Gesundheit” and “Health across”. It therefore also comprises a comprehensive section with technical terms on cross-border project management.

As part of this Language Offensive the Lower Austrian Regional Academy also supports pupils who work as trainees in the neighbouring countries of the Czech Republic, Slovakia and Hungary. Moreover, students from Lower Austria receive financial support for their studies when enrolling in courses for Slavic studies or Hungarian studies (including interpreting and translation). As part of the promotion programme “diploma/doctoral thesis/company” financial support is granted for final course papers by students from Lower Austria focusing on companies and the region, especially papers on language issues that deal with the Lower Austrian Language Offensive.

In this context, one must also mention the Lower Austrian Language Offensive. Its objective is to promote Czech, Hungarian and Slovak, the languages of the neighbouring countries, at nursery schools and schools and in adult education. The goal is to strengthen the position of Lower Austria as an educational and economic site, especially in the border regions. Since the Language Offensive was launched in Lower Austria in 2003

- ▶ 20,000 pupils attended the courses on a voluntary basis,
- ▶ 141 schools offer language courses during the 2009/10 school year,
- ▶ 4,000 children at 100 nursery schools are learning Czech and Slovak by playing, and
- ▶ so far 700 adults have attended language courses offered by adult-education programmes.

## II.2.15 Article 15

The parties shall create the conditions necessary which alter the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

### National minorities' advisory councils

The Advisory Committee recommended determining the composition of members on the minority advisory council for the Slovak minority. (Paragraph 184 of the Second Opinion) In this connection it is stated that the composition of the members on the Slovak minority advisory council has been determined and that a first meeting in the council's new composition took place on 11 February 2009.

The Advisory Committee also recommended reviewing the appointment procedures for the national minorities' advisory councils in order to achieve a more adequate and inclusive representation of the national minorities. The authorities should engage in exchanges with all national minorities, in particular on issues affecting them. (Paragraphs 185 and 186 of the Second Opinion)

The national minorities' advisory councils are appointed by a complex formal procedure which is defined by law. In a first step, proposals for appointments are obtained from the representative organisations of the national minorities, the political parties and the churches. The authorities then check whether the candidates meet the statutory requirements. The composition of the advisory councils must ensure that all political and ideological opinions, which are of significance for a national minority, are adequately represented. The representative organisations of the national minorities and the respective regional governments are then informed of the envisaged composition. Here, the Federal Provinces have the right to express an opinion, whereas the organisations of the national minorities have full party position. This means that their objections concerning the envisaged composition must be processed by way of a decree. In a final step, the Council of Ministers decides on the appointment of the members of the national minorities' advisory councils; this decision is issued by way of decree. The representative organisations of the national minorities have the right to lodge a complaint with the Administrative Court. The Slovene minority, in particular, has resorted to this right repeatedly. The appointment procedure has been in force unchanged since 1 January 1977, when the National Minorities Act went into force.

As far as the political representatives on the national minorities' advisory councils are concerned, the appointment of the so-called political fraction on the advisory councils is determined by the results of the regional and municipal elections in the respective autochthonous settlement areas. The results of the elections to the National Council are used for corroboration purposes. The basic assumption is that the political direction of the persons belonging to national minorities does not differ to any major extent from the political direction of the overall population in the respective region. Moreover, the secrecy of the ballot and the fact that persons belonging to the national minorities are not recorded in any lists oppose any

determination of the actual voting direction applied by the national minorities. With the exception of “enotna lista/Einheitsliste der slowenischen Volksgruppe” (Single List of Candidates of the Slovene Minority) there are no parties that expressly define themselves as the political representative of a specific national minority. The advisory council for the Slovene minority always also includes persons who are nominated by the representative organisations of the national minority, yet, at the same time, they also reflect the political direction represented by the Single List.

The recommendations of the national minorities’ advisory councils for financial support are accepted to a large extent – with the Federal Chancellor bearing ultimate responsibility for the decisions. The national minorities’ advisory councils are also consulted outside their meetings, especially by sending them drafts for legislation and asking them for their opinion. One recent example in this connection was the planned amendment of the ordinance on administrative forms, which was sent to all national minorities’ advisory councils, and the request for their opinion on an amendment of the Federal Constitution Act which is to introduce a system of administrative courts. The regional governments consult the national minorities’ advisory councils with different intensity. The Office of the Carinthian Regional Government regularly sends bills to the advisory council for the Slovene minority, asking it for an opinion. In addition to the formal contacts with the national minorities’ advisory councils, there are also informal contacts between members of the advisory councils, other representatives of the national minorities and the authorities. The advisory councils have direct contacts especially with the departments for the minority schools of the regional school councils.

### **The participation of Roma in socio-economic life**

Please refer to the comments on Articles 4 and 12 in connection with this group of issues.

#### **II.2.16 Article 16**

The Parties shall refrain from measures which alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present framework Convention.

Please refer to the comments in the second State Report.

#### **II.2.17 Article 17**

1. The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with persons lawfully staying in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.

2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international level.

Please refer to the comments in the second State Report.

## II.2.18 Article 18

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.
2. Where relevant, the Parties shall take measures to encourage trans-frontier cooperation.

### Cultural agreements with the neighbouring States

This is to report that cultural agreements have been signed with Hungary, Croatia, Slovenia, the Czech Republic and Slovakia.

### Agreement between the Government of the Republic of Austria and the Government of the Czech Republic on cooperation in the fields of culture, education, science, youth and sports, Federal Law Gazette III No. 38/2009

#### Article 8 of the Agreement:

The Parties shall support, wherever possible, the activities of the school operated by the Komensky School Association in Vienna.

The minutes of the first session of the Joint Commission pursuant to Article 18 of the Agreement between the Government of the Republic of Austria and the Government of the Czech Republic on cooperation in the fields of culture, education, science, youth and sports of 21 November 2008 refer, as follows, to issues concerning the Czech minority in Austria in items 19, 20 and 24:

**Schools of the Komensky School Association:** Both sides recognise with appreciation the successful activities of the schools operated by the Komensky School Association in Vienna. The schools receive the best-possible support that can be provided under Austrian laws.

**Bilingual schools:** Both sides note with satisfaction the outstanding performance of Austrian teachers at the bilingual schools in the Czech Republic, and of Czech teachers at the bilingual schools in Austria. Their activities are regarded as an important means to disseminate the language, as well as the culture and knowledge about the civilization of the respective delegating country.

**Czech as a living foreign language:** The Austrian side informs that Czech is a firmly rooted element in all curricula of upper-level general schools, as well as occasionally of the curricula of the upper-level vocational schools. It lies within the discretion of the individual school whether and in what type of subject Czech is being offered.

**Agreement between the Government of the Republic of Austria and the Republic of Slovenia in the fields of culture, education and science, Federal Law Gazette III No. 90/2002**

**Article 10 of the Agreement:**

The Parties shall endeavour to improve knowledge about the culture of the respectively other side, to further develop cultural cooperation in all fields and on all levels and to thereby contribute to Europe's cultural identity. In order to promote a better knowledge of the culture, contemporary arts, literature, music and related areas on the respectively other side, the Parties shall, wherever possible, provide assistance, especially d) in promoting the possibilities to receive radio and television programmes on the territory of the respectively other Party; in this connection the Republic of Austria will especially take the appropriate measures to make it easier for persons belonging to the Slovene minority in the Republic of Austria to receive radio and television programmes from the Republic of Slovenia.

**Article 14 of the Agreement:**

Without prejudice to the already existing rights of the Slovene minority in Austria, the Parties will always also include in the programmes of the Joint Commission, to be set up pursuant to Article 20 (3), and, if applicable, in the joint working programmes of the Ministries of both sides pursuant to Article 20 (3) projects for the benefit of the educational and scientific concerns of the Slovene minority in Austria (such as, for example, in the field of language teaching and the preservation of monuments, scholarships and alike).

**Article 16 of the Agreement:**

The Parties will always also include in the programmes of the Joint Commission, to be set up pursuant to Article 20 (3), and, if applicable, in the joint working programmes of the Ministries of both sides pursuant to Article 20 (3) projects for the benefit of the educational and scientific concerns of the Slovene-speaking population in Austria, living outside the settlement area of the Slovene minority (such as, for example, in the field of language teaching and the preservation of monuments, scholarships and alike).

The **minutes of the 2<sup>nd</sup> session of the Austro-Slovene Joint Commission** pursuant to Article 20 of the Agreement between the Government of the Republic of Austria and the Government of the Republic of Slovenia on cooperation in the fields of culture, education and science of 30 April 2001 (Ljubljana, 15 and 16 May 2007) define a 2<sup>nd</sup> working programme on cooperation in the fields of culture, education and science for the period 2008 to 2012.



**Article 19 of the work programme – instruction in the mother-tongue and culture for children of migrant workers:**

In conformity with the EC Council Directive on the education of children of migrant workers (77/486/ECS) both sides will support supplementary teaching of the mother tongue and culture for children of migrant workers from the Republic of Slovenia in the Republic of Austria and from the Republic of Austria in the Republic of Slovenia. The Austrian side informs that in all those places where a sufficient number of pupils have enrolled, language-homogenous teaching of the Slovene language can take place. The responsible school authority in Austria selects, employs and pays the teachers for mother-tongue lessons in Austria.

**The chapter on “promoting cultural diversity” refers to the Slovene minority as follows:****Article 33 – The Slovene minority in Austria, the persons belonging to the German-speaking minority in Slovenia and the Slovene-speaking persons in Austria living outside the settlement area of the Slovene minority:**

Both sides support the diversified and intensive cooperation of the Slovene minority in Austria (Article 14 of the Agreement between the Republic of Slovenia and the Republic of Austria on cooperation in the fields of culture, education and science), as well as of Slovene-speaking persons in Austria outside the settlement area of the Slovene minority (Article 16 of the aforementioned Agreement) with partner organisations in Slovenia, as well as of persons belonging to the German-speaking minority in Slovenia (Article 15 of the aforementioned Agreement) with partner organisations in Austria in the field of language and culture and encourage the further development of these contacts. Both sides strongly support the promotion of cultural projects and other activities of the groups listed in Articles 14 to 16 of the Agreement between the Republic of Austria and the Republic of Slovenia on cooperation in the fields of culture, education and science and will give due consideration to the relevant proposals, as part of their promoting measures, in keeping with their budgetary possibilities, including those projects that contribute towards preserving and developing the cultural identity of the Slovene minority in Austria, of the persons belonging to the German-speaking minority in Slovenia and the Slovene-speaking persons in Austria living outside the settlement area of the Slovene minority.

**Article 34 – Preserving and developing the historically grown linguistic and cultural diversity:** Both sides confirm that it is a concern of both States to preserve and promote the historically grown linguistic and cultural diversity of the two States. Both sides therefore deem it to be of significance to further develop a spirit of tolerance and intercultural dialogue and to thereby contribute to mutual respect and mutual understanding. In keeping with this concern, both sides will support persons and groups who, with their projects, contribute towards preserving and developing the historical linguistic and cultural diversity. Both sides welcome specific, project-related and cross-border cooperation for the benefit of persons belonging to the Roma minority living in Slovenia and Austria, as well as of persons belonging to the Hungarian minority.

**Article 35 – The Pavel House (Pavlova hiša):** Both sides welcome the activities of Pavel House (Pavlova hiša), the cultural centre under the leadership of the Article VII Cultural Association for Styria, and emphasise its importance for presenting the Slovene and other different cultures and arts on a broader level and for publishing technical and scientific works; and they encourage the centre to continue its activities.

**Article 36 – Activities of the umbrella organisations in the cultural field:** Both sides support the activities of the two umbrella organisations of the Slovene minority in Austria in the cultural field, namely of the Christian Cultural Association (Krščanska kulturna zveza) and of the Slovene Cultural Association (Slovenska prosvetna zveza) and encourage both to continue their cooperation.

**Agreement between the Government of the Republic of Austria and the Government of the Slovak Republic on Cooperation in the Fields of Culture, Education and Science, Federal Law Gazette No. 170/2000**

**Article 7 of the Agreement:**

(1) The Contracting States endeavour to improve the mutual knowledge of the culture of their countries, to further develop cultural cooperation in all areas and on all levels, and to thereby contribute to a European cultural identity.

(2) In line with this cooperation they will provide assistance to each other, in keeping with their financial possibilities, especially 1) by encouraging the development of the culture of minorities and the activities of associations of the national minorities on the territory of the respectively other State, as well as to other cultural institutions of the minorities.

The **minutes of the 3<sup>rd</sup> Session of the Joint Austrian-Slovak Commission** pursuant to Article 13 of the Agreement between the Government of the Republic of Austria and the Government of the Slovak Republic on cooperation in the fields of culture, education and science, Bratislava 2 and 3 June 2008, refer to the Slovak minority as follows:

**The chapter “Supporting the Culture and Education of National Minorities” states the following:**

Both sides welcome the direct cooperation between legal and physical persons that will contribute towards developing the culture of ethnic groups in the Slovak Republic and the culture of ethnic groups in the Austrian Republic. They will exchange information about the implementation of the Framework Convention of the Council of Europe for the Protection of National Minorities, as well as on the implementation of the European Charter of the Regional or Minority Languages.

Both sides welcome, in keeping with their budgetary possibilities, the exchange of experts working in the field of preserving the identity of the respective national minorities, and in particular in developing their culture and mother tongue, as well as in publishing periodic and non-periodic print products and alike.

**Agreement between the Government of the Republic of Austria and the Government of the Republic of Croatia in the Fields of Culture and Education, Federal Law Gazette III No. 177/2005**

**Article 6 of the Agreement:**

(1) The States endeavour to promote knowledge about the culture of the respectively other State, to further develop cultural cooperation in all areas and on all levels and to thereby contribute towards a European cultural identity.

(2) In this spirit they will cooperate, wherever possible, especially by h) encouraging the development of the culture of national minorities and the activities of associations of national minorities on the territory of the respectively other State, as well as of other cultural institutions of these minorities.

The **cooperation programme** pursuant to Article 13 (1) of the Agreement between the Government of the Republic of Austria and the Government of the Republic of Croatia in the fields of culture and education for the period 2010 to 2012 states the following:

**Article 15 – Mother-tongue teaching:** Both sides support mother-tongue teaching in Austria as a means to promote the learning of the Croatian language among pupils having Croatian as a first language. The Croatian side expresses its wish, and the Austrian side looks into the possibility, that in all those places where a sufficient number of interested pupils have enrolled, language-homogenous teaching of the Croatian language and civilisation will take place. The responsible school authority of the Republic of Austria will select, employ and pay the teachers for mother-tongue lessons in Austria.

Both sides welcome the “Croatian Children’s School” in Vienna, which was founded in 2002 as an initiative of the Austro-Croatian Cultural Association “Anno 93”, where (with the support of associations from Vienna and the Federal Ministry of Science, Education and Sports of the Republic of Croatia) supplementary lessons in the Croatian language and about Croatian civilisation are being given.

The Croatian side welcomes the Austrian initiative to offer bilingual education (German/Croatian) at various compulsory schools. The teaching materials for mother-tongue education are partly produced in Austria and partly bought in the Republic of Croatia, with the proviso, however, that they correlate with the Austrian curricula.

In addition to a considerable presence of German as a foreign language, as part of the standard education offered at Croatian schools at all educational levels, the Croatian side also offers bilingual teaching (Croatian/German) at individual schools.

**The chapter “Ethnic Groups/National Minorities” states the following:**

**Article 27:**

Both sides support the cultural activities of the Croatian minority in the Republic of Austria and of the Austrian minority in the Republic of Croatia. The minority rights enshrined in the

respective laws of the two countries are the basis for this cooperation, as is the commitment to protect the historical and cultural heritage. The Croatian side grants the persons belonging to the Croatian minority in Austria scholarships for regular studies in the groups of national subjects, as well as scholarships for one semester each to improve language skills in the Croatian language in the Republic of Croatia. Both sides welcome and support the initiative of the Scientific Institute of the Burgenland-Croats at Trausdorf for the project “On-line Dictionary of Burgenland-Croat – Croatian – German”. The Institute for the Croatian Language in Zagreb will be the project partner.

### **Agreement between the Government of the Republic of Austria and the Government of the Republic of Hungary on Cooperation in the Fields of Culture and Science of 19 May 1976**

The **minutes of the 11<sup>th</sup> Session of the Joint Commission** of the Republic of Austria and the Republic of Hungary pursuant to Article 26 of the Hungarian-Austrian Agreement on cooperation in the fields of culture and science of 19 May 1976, Budapest, 2007 specify the following points:

**Bilingual schools in Austria:** Both sides welcome the successful teaching activities in the area of bilingual education (Hungarian/German) in Burgenland. Both sides also welcome that – in addition to the bilingual grammar school at Oberwart and the Pannonian branch of the bilingual grammar school at Oberpullendorf, where Hungarian can be chosen as the language of instruction, there are also bilingual primary schools, as defined by the Minority Schools Act for Burgenland. The Hungarian side will continue to make available teaching tools in order to promote the teaching of Hungarian at these schools.

**Hungarian and German as living foreign languages:** Both sides report that Hungarian and German have been embodied in all curricula of the upper-level general schools and, occasionally, in the curricula of the upper-level vocational schools. It is in the discretion of the individual schools whether and in what subject area Hungarian or German is being offered.

**Support for the culture and education of the national minorities:** Both sides welcome the direct cooperation between legal and physical persons which contributes towards developing the cultures of the national minorities in Hungary and the culture of the national minorities in the Republic of Austria and encourage them in this respect. They will exchange information about the implementation of the Framework Convention of the Council of Europe on the Protection of National Minorities, as well as on the implementation of the European Charter of Regional and Minority Languages. Both sides welcome contacts and events in these respects in the area of literature, the theatre, music, further education, socio-cultural activities and minority research.

**The chapter “Cooperation in areas along the border and on the regional level” emphasises the following points concerning cross-border cooperation:**

**Culture Platform Central Europe:** Both sides support the activities of the Culture Platform Central Europe, which is part of the regional partnership, and promote the development of joint projects to present cross-border cultural traditions and contemporary artistic activities in the Central European region.

**Culture Scenery Fertő-Neusiedlersee:** Both sides welcome the joint management of the UNESCO world heritage “Culture Scenery Fertő-Neusiedlersee” and encourage the further expansion of the existing structures.

**Scientific field:** Both sides welcome the initiative, which serves to deepen cooperation between Hungary and Austria in the area along the border, as well as regional cooperation in the fields of science, education and culture such as, for example, the international symposium on history at Mogersdorf and the symposia “Schlaining Talks”. The forum on science policies of the Euroregio West/Nyugat Pannonia was founded with the support of both sides.

**Euregio West/Nyugat Pannonia:** Both sides welcome the cooperation between Burgenland and Győr-Moson-Sopron-Vas, laid down in the framework agreement on “Euregio West/Nyugat Pannonia”, which facilitates a further deepening of relations in the fields of culture, science, education and research. The working group Euregio has been founded and meets twice a year. The plenary assembly of Vas County is responsible for organising the meetings of the working group.

**Counties and Federal Provinces:** Furthermore, both sides welcome the cooperation between the counties of Bács-Kiskun, Baranya, Fejér, Győr-Moson-Sopron and Komárom-Esztergom and/or Budapest and the federal provinces of Burgenland, Lower Austria, Upper Austria, Styria and Vienna in the overall framework of the countries along the Danube River. One should mention, in particular, the close cooperation of the Hungarian regions in the Community of Danube Countries as part of the project INTERREG II/C “Danube – Culture Route” with the capital Budapest..

They also welcome the short-term scholarships that can be used within the framework of the Community of Danube Countries, which Lower Austria grants to experts in the field of culture, science and culture management. They welcome the cooperation implemented in the framework of Alps-Adria Working Community between the counties of Baranya, Győr-Moson-Sopron, Somogy, Vas and Zala and the federal provinces of Burgenland, Carinthia, Upper Austria, Salzburg and Styria, as well as the BASTEI cooperation between the county of Baranya and the federal province of Styria.

**Cooperation outside the border region:** Both sides suggest that regional cooperation also be extended to the counties and federal provinces beyond the border region.

**Interregional cooperation programmes:** Both sides welcome the possibilities of cooperating in regional politics, as part of the inter-regional operative programmes and endeavour to exchange their experience and good practices in the fields of rehabilitation of settlements and towns, as well as urban development.

The programme “Innovation, Integration and Competitiveness”, which takes priority in the Austro-Hungarian operative programme for 2007 to 2013, also pursues the development in the fields of tourism and cultural heritage.

In connection with the use of the European Union’s structural fund, both sides exchange their experience on the economic significance of culture and/or the role of the cultural crafts and trades to implement the Lisbon goals of the EU in the field of culture.

## Regional cross-border cooperation

Cross-border cooperation opens up new possibilities in the field of education which can be used when educating young persons. Living the cultural diversity of our country can be strengthened, promoted and expanded by way of projects in this field.

The school partnerships should be seen as an essential element of an educational policy initiative of Austria to develop educational cooperation with the immediate neighbouring countries.

A great many educational cooperation projects with the neighbouring countries are taking place especially Vienna and the border regions of Burgenland, Carinthia, Styria, as well as Lower and Upper Austria.

For about ten years the EU projects CERNET and EdQ have contributed towards forming an increasing number of school partnerships with the neighbouring regions of Bratislava, Brno, and Győr-Moson-Sopron. These school partnerships are met with great enthusiasm especially by pupils and their teachers. In the course of these partnerships, there are informal language meetings. Especially pupils whose mother tongue and/or second language is one of the languages of the neighbouring countries are thus given the opportunity to actually use their language skills. One should especially mention the **project “1000TWINS”** in the course of which 1,000 pupils from Vienna and Bratislava were able to get to know the language and culture of their neighbouring region.

All these measures are suited to also promote the appreciation by society of the autochthonous national minorities in Vienna. They thus make a major direct and indirect contribution towards implementing and complying with the Framework Convention on the Protection of National Minorities.

At the **Komensky School Association** great attention has been attached for years to cross-border cooperation with partner schools. During the term of the project Bilingual Forum cross-border activities in the field of sports were launched, which continue to be pursued and attended with great enthusiasm. These are games of skill played at the outdoor pool at Schwechat by the name of “Takeshi International”, which are taking place for the seventh time in 2010. Every year partner schools from the Czech and Slovak CETROPE region do not only take part in this popular event but also in an athletic triathlon “Sports without Frontiers”, which will also be held for the seventh time in the fall of 2010.

There is a lively partnership between the primary school of the Komensky School Association and the primary school at Krouna in the Czech Republic. The pupils of the secondary school level organise a great many joint activities with the Za kaasnou School in Bratislava, and the upper-level secondary school (grades 9 to 12) is engaged in cross-border activities with partner school at Breclav, where joint theatre performances and sports events in Vienna and Breclav are essential elements.

In Burgenland, too, great attention is paid to cross-border educational projects. The brochure “Diversity promotes schools. Schools promote diversity” (Vielfalt macht Schule. Schule macht

Vielfalt) gives an overview of the cross-border projects between schools in Burgenland with the neighbouring countries. It is the result of an Interreg project that is co-financed by the European Union, the Federal Government and the Federal Province of Burgenland.

In **Burgenland** initiatives are offered for projects working on educational policies; school partnerships and the exchange of pupils are promoted; many different publications on subjects such as educating for peace, democracy and human rights are written, and international events are held. Moreover, further-training events are organised throughout Europe for teachers and staff members of school authorities, and cooperation projects on the university level are created.

### II.2.19 Article 19

The Parties undertake to respect and implement the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular in the Convention for the Protection of Human Rights and Fundamental Freedoms, in so far as they are relevant to the rights and freedoms flowing from the said principles.

Please refer to the statements contained in the second State Report.



## III Annex: Comments

### III.1 Comments by the Council of Slovenes in Carinthia (Rat der Kärntner Slowenen – Narodni svet koroških Slovencev)

The Council of Slovenes in Carinthia/Narodni svet koroških slovencev was invited, through the Chairman of the Advisory Council for the Slovene Minority, to comment on the 3<sup>rd</sup> Report of the Republic of Austria pursuant to Article 25 (2) of the Framework Convention for the Protection of National Minorities before 20 September 2010. It is stated by way of introduction that the Advisory Council for the Slovene Minority ceased to exist in November 2008, as its term of office has expired. As yet, a new Advisory Council has not been appointed (see Administrative Court, file number 2008/03/0068-9, dated 27 January 2010).

The Council of Slovenes in Carinthia therefore takes the liberty to submit its comments directly within the set time limit.

#### Ad II.1 Follow-up to the recommendations of the Committee of Ministers

##### Ad II.1.1

The Committee of Ministers recommended to ensure the swift and comprehensive implementation of the decision issued by the Constitutional Court on 13 December 2001 concerning topographical signs, as well as to take steps without delay in order to remove any obstacles to the full application of the rules governing official languages. The response by the Republic of Austria on this subject is without any substance at all. In fact, the Federal Government, which is responsible for implementing both the decision of the Constitutional Court on topographical signs and its decision on rules applicable to official languages, has not presented a single specific proposal since the last report of the Republic of Austria on the Framework Convention. Political discussions do no longer even touch upon the subject of implementing the decision on topographical signs dated 13 December 2001. This decision relates to the municipality of St. Kanzian/Škocjan. The tacit assumption is that any possible future solution should **not** anymore comprise that municipality.

As to the decision concerning the rules applicable to official languages, it is especially in the municipality of St. Kanzian/Škocjan that citizens of that municipality, who wish to use Slovene as an official language, are currently exposed to massive chicaneries which go all the way to the municipal authorities incorporating liens on the real estate property of these citizens in respect of their municipal charges, in order to keep other citizens of that municipality from using the Slovene language as an official language. Since the last report on the Framework Convention, the Government of the Republic of Austria did not take any steps to implement the recommendation of the Committee of Ministers.

### **Ad II.1.2**

The recommendation to make efforts to ensure a consistent and inclusive approach to protecting the rights of persons belonging to national minorities has not been implemented. The level of protection afforded to Austria's national minorities continues to be highly divergent. However, this cannot be justified by the distribution of responsibilities between the federal and the regional authorities, as laid down in the Constitution. Renowned experts on constitutional law have drawn up specific proposals to implement the protection of all Austrian national minorities on a comprehensive basis. The representatives of all national minorities support this proposal. The representatives of the national minorities presented it to all parties in the National Council as well as the Federal Government. An opinion by the Federal Government has been outstanding to this day.

The Federal Government did indeed set up working groups. However, the working group which is to deal with the legal framework conditions for the protection of the national minorities has not even been convened once up to the date for the submission of the present comments. It should be pointed out that, as early as 2000, Austria signed Protocol No. 12 to the ECHR, which stipulates a general ban on discrimination; yet, so far Austria has not ratified this document. The implementation and application of a general ban on discrimination would also be a first essential step in the direction of facilitating the uniform and comprehensive protection of the rights of persons belonging to national minorities. In particular, it would make it possible to remove deficits in legal protection that still exist today, i.e. in the field of a collective protection of rights, and it would no longer be necessary to resort to artificial legal designs, which are difficult to comprehend, in order to assert the rights of the national minorities.

### **Ad II.1.6**

It must be acknowledged that improvements took place at the ORF, following the decision of the Federal Communications Board of 27 June 2008. However, the situation has remained more or less unchanged for the Slovene minority in Carinthia. Especially concerning television this is unsatisfactory, particularly when bearing in mind that it has been possible for several years to receive additional Austrian channels. However, the share of television broadcasts in Slovene has remained unchanged and therefore actually decreased in absolute terms in relation to the programs offered in Austria.

### **Ad II.1.7**

The Government refers to the fact that new options are being made available in order to promote international activities from the budget for the national minorities.

The Federal Government has always had the possibility to promote intercultural activities. It is not necessary to resort to the funds available to promote the national minorities in this context. It is a fact that the funds available to promote the national minorities have remained the same since 1995. However, the value of this money has, in fact, decreased by one third since that time. The Carinthian Slovenes have pointed to this problem for years; yet, the dire financial situation has not been remedied. Moreover, one continues to encounter chicaneries in the actual implementation of the support given to the national minorities, i.e. to associations. It is

not possible to spread costs over several years; long-term projects must be settled according to calendar years. This considerably complicates long-term projects and sometimes actually requires that money must be paid back.

It is mentioned that the advisory councils of the national minorities are free to set up an evaluation regime. This does not apply to the Slovene minority, as there has not been an advisory council for the Slovene minority since the year 2008 and, according to the decisions of the Administrative Court, previous advisory councils, at least those for the last two terms of office, had not been constituted lawfully.

#### **Ad II.1.8**

It is true that – compared to Carinthia – few members of the Slovene minority live in the federal capital. However, there is an urgent need that in Vienna, too, appropriate educational facilities in the Slovene language are being made available. At present, there are neither central, nor specialized educational options and/or facilities for members of the Slovene minority, and it is a reality that Slovene is not taught at public schools. Clinging rigidly and stubbornly to the principle of territoriality no longer meets the requirements of a modern regime for the protection of the national minorities. Efforts should therefore be stepped up in the central area of Vienna to make sure that Slovene language skills can be acquired and/or improved at public schools and special educational institutions.

#### **Ad II.1.9**

There has been no follow-up to the recommendation that the role of the advisory councils for the national minorities should be strengthened. This may already be gathered from the fact that the Advisory Council for the Slovene Minority does not exist at present. In the past, too, it had not been lawfully constituted and, in fact, it mainly met only once per year. A complete change in structure would be required in order to provide effectiveness to the advisory councils for the national minorities. The reference by the Federal Government, i.e. that no changes in the legal sources have occurred since the last report, must be viewed negatively. The present form of the advisory councils continues to serve essentially the purpose of making it possible for the Federal Government to influence the formulation of objectives on the part of the national minorities, and must therefore be viewed with scepticism.

#### **Comments on the Articles: Ad II.2.3 Article 3**

The Advisory Committee recommended also adequately catering for the needs of the members of the national minorities who live outside their traditional settlement areas. The Report of the Republic of Austria essentially states that no further measures are planned in this respect.

There is urgent need for action in this respect, especially with regard to the use of the official languages, in connection with the national minority of the Slovene population in Carinthia. Klagenfurt/Celovec, the regional capital, does not fall within the scope of application of the Minorities School Act for Carinthia and is thus, in general, not (no longer) part of the

autochthonous settlement area of the Slovene minority in Carinthia. However, it is a fact that in the meantime Klagenfurt/Celovec has become the municipality with the absolutely biggest number of Slovene inhabitants.

Nevertheless Klagenfurt/Celovec is exempt from the scope of application of the rules governing the use of official languages for the Slovene population.

However, Klagenfurt/Celovec, which is the regional capital, is the seat of authorities with responsibilities for the entire federal province. In this context, the 1977 Ordinance on Official Languages already stipulates that authorities with offices in Klagenfurt/Celovec are required to admit the Slovene language as an official language, whenever they take action as an authority with competencies for a person and/or a case coming from areas that are recognized as bilingual.

As early as 1999 the Constitutional Court established that regional authorities, within the meaning of the National Minorities Act, are not only obligated to admit the Slovene language as an official language for persons domiciled in recognized bilingual municipalities, but must grant every Austrian citizen this possibility (case file VfGH B 2611/96). Subsequently, in the case of Bickel and Franz (EU-Lex 6199630274-DE/96) the European Court of Justice adjudicated that within the EU every authority must provide this option to every EU citizen before which a minority language is admitted, as a matter of principle, as an official language.

In deviation from these rulings, the Regional Court Klagenfurt/Celovec continues to refuse persons the use of the Slovene language in court, unless they provide proof of their origin in one of the three recognized bilingual court districts. This did not only happen in one isolated case. One such case is currently pending. In spite of the decision of the Constitutional Court from the year 1999, the legislature has not deemed it necessary to date to clarify the Ordinance on Official Languages.

The general exclusion of the Slovene language as an official language before authorities in Klagenfurt/Celovec, the regional capital, has negative consequences for central institutions of the Slovene minority. As, of course, Klagenfurt/Celovec is also the regional capital for the Slovene minority, most of the central institutions of the Slovene minority also have their headquarters in Klagenfurt/Celovec. However, they are not allowed to use the Slovene language when communicating with the authority responsible for associations. They are forced, for example, to translate their bylaws, the information about the election of the representatives of their association, etc. into German, although the language of communication within Slovene organisations is, of course, the Slovene language. It would be appropriate if Klagenfurt/Celovec were also equipped to be actually also the regional capital of the Slovene minority, so that *de facto* equality would also be ensured in this respect.

In this connection one should also mention the efforts of the Council of Slovenes in Carinthia, i.e. to obtain at least a reference to the existence of the Slovene minority in the regional constitution of Carinthia. So far, these efforts have been in vain. One cannot gather from the regional constitution of Carinthia that there is a Slovene minority at all. There are no official translations into Slovene of the statutory provisions, not even of the provisions concerning the rights of national minorities. If one speaks of equality before the law, then it would be

appropriate to also publish at least the provisions concerning the protection of the national minorities in the respective languages of the national minorities, in order to make it easier for the members of the national minorities to actually apply these provisions – it is not easy for an average person without legal expertise to claim the use of the language of the national minority as the official language when having to translate himself/herself the respective statutory provisions.

#### **Ad II.2.4 Article 4**

Concerning this Article, the Report by the Republic of Austria refers to the legislation on anti-discrimination and equal treatment, as well as to awareness-raising measures.

In spite of these measures, the fact remains that Article 7 of the State Treaty of Vienna still has not been implemented, although it went into force 55 years ago, with the persons responsible for this state of affairs not having to fear any sanctions. During the period under review, in particular, there were two remarkable cases where two attempts to sanction conduct hostile to minorities failed and had effective media echo: For several years, the public prosecution office in Klagenfurt/Celovec conducted investigations against Gerhard Dörfler, Governor of Carinthia, as he refused to implement the decisions of the Constitutional Court on bilingual signposts. However, the investigations were ultimately suspended arguing that the Governor was not familiar with the matter and therefore cannot be accused of his personal conduct. To this end, the public prosecution office in Klagenfurt/Celovec drew up a 95-page report in which it demonstrates on 90 pages how the Governor committed abuse of office in this matter and where – on the final 5 pages – it suddenly turns around to arrive at the conclusion that, nevertheless, the Governor cannot be accused of this conduct. In another case the mayor of St. Kanzian/Škocjan was acquitted of the charge of abuse of office for having refused for several years and to the present day to admit the Slovene language as an official language. The judge argued that a criminal court was not the place to solve the problems of national minorities. These proceedings have not yet been ultimately completed. However, both cases show that it would be urgently needed to sanction obvious infringements of the rights of minorities, whereas, in fact, they continue to be regarded as trivial offences. The political realities actually show that they even contribute towards winning an election.

In this connection one should also point to item 7 of Article 7 of the State Treaty of Vienna which stipulates a ban on organisations that are hostile to minorities. To this very day there has never been any recourse to this provision, although there would have been sufficient occasions to do so.

In this chapter the State Report refers, amongst others, to the fact that there are no longer provisions for a confidential collection of data on a person's mother tongue, and that the new census law provides for this option only in exceptional cases. It is the view of the Council of Slovenes in Carinthia that this option should be completely deleted from the new census law. Although the State Report reaffirms that there are no plans to make use of this option, one should nevertheless draw attention to the fact that the provision is more dangerous, in political terms, than the previous provisions in the old census law.

Whereas in 1976 the Kreisky government was forced to conduct a nation-wide “special type of survey to determine the minorities”, which also gave the national minority the possibility to defend itself against this attack on its rights throughout Austria, the new census law makes it also possible for individual municipalities or villages to conduct “special types of surveys to determine the minorities”. In theory, it is therefore feasible that – in connection with the discussion on bilingual topographical signposts, for example – such surveys to collect data are conducted, at appropriate time intervals and thus without any media attention. The result would be, though, that, if so desired, the national minority can be “eliminated by repeated head-counting”. Especially when taking account of the fact that the ruling party in Carinthia keeps on demanding a survey to determine the minorities, such provisions in the new census law and their possible negative impact should not be underestimated.

With regard to school and educational statistics it must be criticized that the statistical surveys, especially concerning nursery schools, only distinguish between German as a mother tongue and not-German as a mother tongue. In this connection there have been repeated complaints by bilingual (German/Slovene) nursery-school teachers. It is well understood that such surveys are necessary as part of a migration policy for migrants. However, it is a distortion if no distinction is made between the needs of autochthonous national minorities, which do not need any “integration measures” but measures promoting the skills in their language, and other children having another language but German as their mother tongue.

#### **Ad II.2.5 Article 5**

One can gather from the figures given in the State Report that the funds for promoting the Slovene minority decreased in every respect between 2007 and 2009, i.e. both the federal and the regional grants. However, this statement is incomplete as, in fact, the funding granted to the Slovene minority in nominal terms has not been raised since 1995. The State Report refers to the “tight budget situation” which does not permit any increase in funding. Austria did, in fact, not increase promotional funding for the national minorities during the boom period. Of course, in times of crisis Austria pleads that no funds are available. The truth is, however, that the budget for promoting the national minorities has, in fact, been cut by one third during the last 15 years, after accounting for inflation, and the budget allocated to the national minorities in 1995 certainly did not correspond to actual requirements. Given the level of the total Austrian budget, the amount paid out to promote the national minorities is marginal, and the amount is almost a provocation.

The State Report mentions expressly that an “important contribution has been made to preserve Slovene-language culture and the Slovene language in Carinthia”, as the Slovene music school got a total of EUR 100,000.00 from the Federal Chancellery. The fact, though, is that the system of music schools is financed by all taxpayers in Carinthia from their ORF dues, which also includes the Slovene population in Carinthia. The German-language system of music schools receives annual support of more than EUR 28 million, whereas the Slovene music school receives the amounts listed in the State Report. After taking account of all Austrian promotional funding, i.e. both of regional and federal origin, a pupil at the Slovene “Glasbena šola” is funded with only 25% of the sum that is made available for a pupil at the German-language music school system. This is a clear case of discrimination; in the opinion of



the Council of Slovenes in Carinthia this is a violation of the provisions of the State Treaty of St. Germain concerning adequate consideration under educational expenses, and a violation of the provision of item 4 of Article 7 of the State Treaty of Vienna. The comments concerning this matter in the State Report are therefore cynical.

### Ad II.2.6 Article 6

In connection with the problem of topographical signs, one should mention on a positive note that the signposts at Bleiburg/Pliberk and Ebersdord/Drveša have been put up properly in the meantime – however only after the Constitutional Court had to deal with this issue for a fourth time (!). On the other hand, there are decisions of the Constitutional Court concerning 17 further municipalities that ought to have bilingual signposts. However, these have not been implemented as yet. On the other hand, too, the general solution for the issue of topographical signs, which would have been possible without any problems already in 2001 after the first decision of the Constitutional Court, still has not been implemented to date. In connection with the measures recommended by the Advisory Committee for the improvement in the climate of tolerance, the State Report refers to the book project and the discussions of Dr. Sturm and Dr. Feldner. However, these are book projects and/or discussion processes between two private individuals who do not stand for the Republic of Austria. No measures are known on the part of the Republic of Austria and/or the Federal Government which would serve the goal of consistently implementing the decisions of the Constitutional Court. The only exception is the appeals by the Federal President concerning this issue. However, to this day the responsible politicians have not heeded them. It is the opinion of the Council of Slovenes in Carinthia that it should be a matter of fact in a country under the rule of law that decisions of a supreme court are implemented, without involving years of discussions of their substance, and without requiring a consensus of all possibly interested groups for their implementation.

It is strange that the 90-year celebration of the Carinthian Homeland Association (*Kärntner Heimatdienst*) is mentioned in the State Report on the Framework Convention. For decades this association was regarded as the epitome of an organisation directed against the Slovene minority. The 90-year anniversary was attended by persons like Andreas Mölzer, MEP, Otto Scrinzy, former candidate for the office of Federal President, or Martin Graf, Third President of the National Council. A large part of the Slovene minority does not want to have any closer connections to this group of persons.

The State Report mentions that application forms in the Slovene-language, provided by the National Minority Office “are used to a very large extent”. The service, i.e. to provide Slovene-language forms on the website of the National Minority Office, was launched when Mag. Vladimir Smrtnik headed the National Minority Office. However, the service was discontinued when he was relieved from this position. It was only after an inquiry by the Slovene central organisations, addressed to the Federal Chancellery, that this service was re-activated. Funnily, the Federal Chancellery actually wanted to charge the central organisations a fee for this inquiry. In spite of the online availability of such forms, authorities have recently refused to accept the forms when completed in Slovene. It is pointed out that the online forms are only meant as a “support tool for completing the forms”, whereas the “original forms” in German have to be filled in. This certainly does not make it easier to use the Slovene language



as an official language; rather, this is a mockery of those who wish to avail themselves of this possibility.

Please refer to the comments under item II.2.5 concerning the grants to “Glasbena šola”. The same applies to the “promotional scene” for other measures to promote the national minorities which is mentioned in the State Report. In reality, though, the financial support given by the Federal Province of Carinthia to the national minorities has been decreasing for years; the system is designed in a politically arbitrary fashion, lacks transparency and shows clear tendencies of wishing to punish those who the current Carinthian rulers do not like. Two examples became known through the media. They do not directly involve the national minority; yet, they support it. The grants to “Unicum”, an association, were cancelled completely, the museum at Neuhaus/Suha was punished – the adopted plan to build a left lane for turning into the access road was cancelled because of critical comments by the owner.

The activities of M-Media, an association, and also the presentation of the national minority in films are laudable undertakings. However, it is characteristic of the entire State Report that the Report dedicated two pages to those activities, in the course of which amounts of EUR 5,000.00 and/or EUR 1,500.00 (from the budget for the national minorities) were used to promote activities of this kind. At the same time, only half a page is dedicated to the issue of topographical signs after nine years and 18 decisions by the Constitutional Court. No further comments are needed.

#### **Ad II.2.9 Article 9**

The decision of 27 June 2008, issued by the Federal Communications Board, which the State Report considers to be a hallmark decision, was not taken *ex officio* but after the Austrian National Minorities Centre had filed a complaint. Already before that date, concerns had been voiced repeatedly outside the legal channels. Regrettably, though, the readiness to improve the level of protection for the national minorities on a voluntary basis continues to be small. Time and again, legal disputes are necessary to achieve this goal. The State Report does not mention that the ORF is challenging the decision of the Federal Communications Board – to the detriment of the national minorities. This legal action is still pending.

With regard to the print media, the State Report indicates that “Novice”, the Slovene newspaper, received grants of EUR 31,521.10 for the year 2009. This amount corresponds more or less to the rate charged for a quarter-page advertisement in a supra-regional daily newspaper. The Federal Government, though, runs such advertisements more or less on a daily basis. If the survival of this only non-denominational weekly newspaper for the Slovene population in Carinthia depended on this funding, it would have had to suspend publication a long time ago. For years the national minority has been highlighting the fact that the law promoting the print media has been designed in such a way that the media of the national minorities are unable to obtain this kind of funding: A specific number of copies are needed, which it is impossible to reach for the media of the national minorities, or else the newspaper must be distributed on a supra-regional basis which, again, cannot be achieved for the regionally domiciled national minorities. For years the demands for a special provision to promote the media of the national minorities has remained unheard. We are of the opinion that

it cannot be justified that promotion for the media for the national minorities is evaluated according to the same criteria as they apply to media promotion for the majority population.

### Ad II.2.10 Article 10

Although ten years have passed, the decision of the Constitutional Court concerning official languages, dated 4 October 2000, file number V 91/99, has not yet been implemented. In spite of a clear recommendation issued by the Advisory Committee, Austria has not taken any measures in this respect.

In the specific case of the municipality of St. Kanzian/Škocjan, this fact results in insupportable difficulties. Ever since the year 2003, this municipality has refused to react to submissions by citizens who want decrees issued in the Slovene language. The submissions are neither rejected, nor dismissed – they are simply not processed. According to the decisions of the Constitutional Court, decrees are deemed to have been served when they are also issued in the language of the national minority, whenever use of the language of the minority language is lawfully requested. As a consequence, the inhabitants of the municipality no longer pay their municipal taxes but transfer the amounts to a fiduciary account, informing the municipal authorities that the money will be forwarded to the municipality as soon as the decrees have been issued in Slovene. The municipal authorities have reacted to this by lodging forced collection proceedings against the inhabitants concerned, in which connection they themselves issue the endorsement that their claims can be executed. Nor do the municipal authorities process the applications to lift these enforceability endorsements, which – in the opinion of these citizens – are issued unlawfully. As a result, default proceedings are already pending before the Administrative Court.

In the course of one of the default complaints, which ultimately can only be directed to the Administrative Court but not to the Constitutional Court, the Administrative Court made a mistake: The Court mixed up the terms “village” (*Ortschaft*) and “municipality” (*Gemeinde*). In the village of St. Kanzian/Škocjan the share of the Slovene population has decreased to below 10%, whereas its share is clearly above 10% in the municipality by the same name. However, the Administrative Court cited a decision of the Constitutional Court on topographical signposts, by means of which the Constitutional Court revised its own decision dated 13 December 2001 concerning the topographical signposts at St. Kanzian/Škocjan and where it commented that the share of the Slovene population had decreased to below 10%. The Administrative Court cited this decision of the Constitutional Court and adjudicated that the Slovene language is not admitted altogether as an official language in the municipality of St. Kanzian/Škocjan. An application to re-open the case on account of this obvious mistake is now pending. By the same token, the matter has also been filed with the Constitutional Court. However, all these difficulties could only arise because the Federal Government has been defaulting on the implementation of the decision on official languages for ten years.

However, as a result of the negative decision by the Administrative Court, the situation in St. Kanzian/Škocjan escalated. The municipal authorities have now lodged forced collection proceedings against those inhabitants who requested the use of the Slovene language. Although the full amount of the claimed sum has been deposited with the court, the municipal

authorities secured their claims by having an execution lien incorporated in the land register concerning the real-estate property of the inhabitants in question. The Federal Government has been alerted repeatedly to these problems; yet, it has not taken any steps at all in this matter.

In other areas the provisions on the use of the official languages also come up against difficulties. In the municipality of Ferlach/Borovlje, for example, one specific case has been pending for more than two years, where the legal action as such was lodged in the Slovene language. To this date, the municipality has reacted to all submissions only in the German language, whereas the reaction to the Slovene submissions, issued after several months, is that “they have been forwarded to the National Minority Office for translation”. There is no reaction on the substance of the matter.

The State Report mentions that the district administrative authorities of Klagenfurt/Celovec and Villach/Bejak did not record any cases. This creates the impression that there are no proceedings in the Slovene language before these authorities. This is not true. It is, however, true that especially the district administrative authorities of Klagenfurt/Celovec process cases in Slovene with extreme sluggishness, and occasionally not at all.

Cases under administrative penal law are known where citizens, who wish to have an order issued in the Slovene language for a traffic fine imposed on an unknown driver (*Anonymverfügung*), are punished by being issued a penal order (*Strafverfügung*) in the Slovene language, instead of an order imposed on an unknown driver, but for a higher fine (cases processed by the district administrative authority Klagenfurt/Celovec).

The State Report goes into great detail about the fact that no cases in the Slovene language were pending with the surveying office, the test firing office and similar authorities. However, the average citizen hardly ever has any contacts with the test firing office or the surveying office. In connection with the surveying office there have been cases pending for years in which it has been demanded to indicate the official address in the cadastre sheet for a real-estate property in the two languages, as the conditions for bilingual topographical signs are being met. Quite regularly, these cases are forwarded to the municipalities, and the municipalities do not process them. In one case, the municipal authorities were actually ready to write the address in the two languages. However, the attempt failed because the computer programme for addressing documents does not deliver the Slovene diacritic signs (the sibilants š, č, ž).

Although programmes are in place on every PC that can deliver the Slovene diacritic signs š, č, ž, the entire justice sector is not capable of handling this matter. The result is that parties are given incorrect names, whenever the name of a person comprises a diacritic sign. As a result, a company cannot be recorded in the company register by its correct name; yet, entering a company in the company register has constituting effect. In this connection, one case went all the way up the Supreme Court, and the Supreme Court expressly stated that this situation gives rise to concerns under constitutional law. No measures have been taken, though, to remedy the situation.

As it is not possible to correctly enter Slovene names in the land register, there are massive falsifications.

Several cases are known in which citizens ask that their place of birth or domicile is entered in both languages in official documents such as passports, birth certificates, or alike. In spite of the clear language in item 3 of Article 7 of the State Treaty of Vienna, the Austrian Constitutional Court has not been prepared in one single case to give effect to complaints against refusals to enter the bilingual topographical names.

Tax offices do have forms in the Slovene language, for example for filing the annual tax return. However, if a person completes the Slovene form, he/she will regularly be told that this is not admissible, as the Slovene form can only be used as a support tool for completing the form, while the German form, in fact, needs to be completed.

By the way, forms to file applications in the Slovene language are only available in exceptional cases. Moreover, in many cases they are outdated. Under practical conditions, the use of Slovene as an official language comes up against so many obstacles that most members of the Slovene minority abandon this approach, so that contacts with the authorities, which are unpleasant anyway, are further complicated. However, the State Report tries to present the situation in a way, as though there was no demand for them. This type of presentation in the State Report must be vehemently disapproved.

With regard to the judicial system, the Regional Court Klagenfurt/Celovec refuses to admit the Slovene language as an official language whenever persons do not come from the area of the three districts that are recognized to be bilingual.

One can expect problems in the future, on account of the scarcity of judges and other judicial staff with bilingual qualifications. At the Local Court Ferlach/Borovlje it has already happened that it was not possible to appoint a bilingual judge to a vacant position. However, in recent years there were a number of candidates who would have liked to train as judges but who were not hired. Practical experience shows that the use of the Slovene language as a court language depends overwhelmingly on whether the judge and the judicial staff have Slovene language skills or not. It would be necessary to take preventive measures and to make sure that human resources with sufficient qualifications are available at all times.

The fact continues to be dissatisfying that for first-instance proceedings inhabitants from municipalities that have been officially recognized as bilingual are also not in a position to use their own language in court, as the Slovene language has only been admitted as a court language at the local courts of Eisenkappel/Železna Kapla, Bleiburg/Pliberk and Ferlach/Borovlje. Citizens from Ludmannsdorf/Bilčovs in the area of the district court of Klagenfurt/Celovec or from St. Jakob im Rosental/Št. Jakob v Rožu in the area of the district court of Villach/Beljak are excluded from the possibility to use their language in court.

### **Ad II.2.11 Article 11**

The State Report is correct when stating that decisions of the Constitutional Court dated 13 December 2001, files number G 213/01, V 62, 63/01, have not been implemented to this day. In fact, the decisions of the Constitutional Court have led to an – in our opinion – inadmissible restriction, i.e. in that the Constitutional Court subsequently reversed its own decision concerning St. Kanzian/Škocjan, arguing that the share of the Slovene population in

that village had decreased in the meantime to below 10%. We are of the opinion that it is not admissible to wait for decades before implementing the rights of the national minorities and then to argue that this implementation is no longer required because the number of members belonging to the national minority has now dropped. Moreover, the number of members belonging to the national minority in St. Kanzian/Škocjan did not decrease in absolute numbers. In fact, it actually went up slightly. However, as the majority population grew faster, the percentage dropped to below 10%. We think that it would be required to implement the decision of the Constitutional Court dated 13 December 2001 for the status at that time.

One also needs to criticise that in its more recent decisions, the Constitutional Court strictly departs from the assumption that the current Slovene population must amount to 10% now. In the case of Gallizien/Galicija, for example, the Court did not launch proceedings for review of an ordinance, because the share of the Slovene population in Gallizien/Galicija only amounted to 9.9% in the 2001 census. However, in the 1991 census the share of the Slovene population was still 10.1%. The average therefore would be exactly 10%. In reality the difference is precisely one person; yet, this was sufficient ground for the Constitutional Court to not qualify Gallizien/Galicija as being bilingual within the meaning of item 3 of Article 7 of the State Treaty of Vienna.

Irrespective of the foregoing, there are 17 decisions of the Constitutional Court that have not been implemented; another 12 cases are pending. According to the restrictive alternative given by the Constitutional Court, about 250 villages should have bilingual topographical signposts. The most recent proposals by the Federal Government indicated 158 (May 2006), 141 (June 2006) and/or 163 (June 2007) villages. As a result, none of the proposals to date complied only with the restrictive interpretation given in the decisions of the Constitutional Court.

It should be pointed out that not even the current Carinthian ordinance on topographical signs is being implemented. It is identical with the 1977 ordinance on topographical signs, except for the addition of Bleiburg/Pliberk and Ebersdorf/Drveša vas. Bilingual signposts continue to be missing in several places. Especially direction signs or early indication signs hardly ever show the bilingual name of places. Investigative proceedings into these matters are pending with the public prosecution office for corruption cases.

#### **Ad II.2.12 Article 12**

The State Report refers to the introduction of a year of compulsory nursery-school attendance. From the perspective of the Council of Slovenes in Carinthia the introduction of a year of compulsory nursery-school attendance thus makes this year of nursery-school attendance part of the basic education within the meaning of item 2 of Article 7 of the State Treaty of Vienna, as a result of which it must be possible to sign up children for bilingual nursery-school education throughout the entire area of application of the Minorities School Act for Carinthia. In reality, though, there are no such regulations, nor such opportunities. Moreover, there are not sufficient bilingual nursery schools. Long before the year of compulsory nursery-school attendance was introduced, attention was drawn to this problem; yet, no adequate provisions were put in place.

In this connection one should mention, for example, the more progressive arrangements under the 2009 Burgenland Child Education and Childcare Act, where the languages of the national minorities are used in addition to the German language in the childcare facilities of the Burgenland municipalities, which are listed in full (see § 7 (1) of the 2009 Child Education and Childcare Act). In these municipalities of the autochthonous settlement area it is therefore not necessary to especially sign up for childcare in the language of the national minority. It is possible to remove one's name from the list (signing-off principle). § 7 (2) of the Burgenland Child Education and Childcare Act stipulates that mixed-language childcare must also be provided in additional childcare facilities of the municipalities in Burgenland if a minimum of 25 per cent of the parents so demand by signing on (signing-on principle).

#### **Ad II.2.14 Article 14**

Statutory arrangements for bilingual nursery schools in Carinthia continue to be missing for the public-sector nursery schools. As the nursery-school year has been introduced on a compulsory basis in the meantime, this deficit has also created problems under constitutional law. Please refer to the comments in connection with Article 12. One should mention as a positive feature that the existing private-sector bilingual nursery schools receive promotional funding. However, these private bilingual nursery schools do not ensure full coverage of the territory by bilingual facilities. With regard to the public-sector nursery schools, run by the municipalities, there are a few positive solutions, which are mentioned in the State Report. For many municipalities, though, no solution has been found. The introduction of a year of compulsory nursery-school attendance ought also to have removed the distinction between private and public nursery schools in financial terms, i.e. the financial burden on parents. In reality, though, private bilingual nursery schools continue to be more expensive. It would be necessary to obtain adequate compensation.

No regulations have been put in place concerning the qualifications of the bilingual nursery-school teachers. There is no recognised proof of their qualifications. There are no stipulations defining the criteria which they have to meet. This is also a drawback for the bilingual nursery-school teachers, as their additional qualification is also not taken into account in connection with their remuneration. The Burgenland Minorities School Act – in contrast to the Carinthian Minorities School Act – also covers the training of bilingual nursery-school teachers: its § 13 (1) stipulates that additional classes in the Croat and Hungarian languages must be offered, as well as corresponding additional possibilities to obtain practical nursery-school experience, which must be of such a scope that the requirements are satisfied for working in a bilingual nursery school. Pursuant to § 13 (4) of the Burgenland legislation, nursery-school teachers must also take additional examinations. In accordance with § 7 (5) of the 2009 Burgenland Child Education and Childcare Act, operators of private and public childcare facilities in the autochthonous settlement area must provide at least one pedagogical specialist, who “can prove to also have acquired knowledge of the language of the respective national minority.”

When considering the extraordinary significance of pre-school education for language competencies, and when aware of the enormous divergences in the language skills of children at their school-entrance age, it would be of particular importance to ensure high-quality education at nursery schools, as well as appropriate qualifications for the nursery-school



teachers. The workshops mentioned in the State Report are definitely insufficient and cannot replace training according to a syllabus.

The rising number of pupils signing up for bilingual education is a positive development. However, the dramatic decline in pupils with a normal or at least limited knowledge of Slovene gives rise to concerns, as this reflects the weakness of the national minority. While it is gratifying to note the increased interest of the majority population in the Slovene language, this cannot be a substitute for the decline in the Slovene minority as such.

It is regrettable that concerning the quality of bilingual education it is noted time and again that it is impossible to teach Slovene to a sufficient level of knowledge. In this respect experts are working on reforms, which need to be supported. In particular, one would have to ensure continuity in learning the Slovene language so that a bilingual education can be obtained from nursery school onwards and up to the end of the school education cycle and that it does not end – as is mostly the case today – after primary school. In addition, the sign-on principle, laid down in § 13 of the Minority School Act for Carinthia, must be replaced by a sign-off system: In objective terms, the present statutory provisions are contrary to the Constitution, as they create strong pressure to assimilate. This is incompatible with the provision of Article 8 (2) of the Federal Constitution Act and also contrary to the decision on value under constitutional law (Constitution Court, file number WI-9/79 VfSlg 9.224) in favour of the protection of national minorities (see detailed comments on this issue in *Öhlinger*: “Der Verfassungsschutz ethnischer Gruppen in Österreich” [The constitutional protection of ethnic groups in Austria], in FS Koja (1998) 381; *Marko*: “Artikel 7 StV” [Article 7 of the State Treaty of Vienna] [unpublished manuscript], pp. 26; *Mühlgaszner*: “Zum Entwurf eines Minderheitenschulgesetzes für das Burgenland” [Concerning the Draft for a Minorities School Act for Burgenland] in *Holzer/Pröll* [ed.]: “Mit Sprachen leben” [Living with Languages] (1994) 168 (168 f)). From the political perspective concerning minorities, as well as from a legal perspective, preference should be given to the introduction of a signing-off system, as it can also be found, for example, in the Minorities School Act for Burgenland with regard to primary schools in the autochthonous settlement areas. It is not necessary to sign on for bilingual classes at these schools. By force of law, every pupil is given schooling in two languages, while there is a right, guaranteed under constitutional law, to attend the classes in the minority language on a voluntary basis (§ 1 (2) of the Minorities School Act for Burgenland). It is therefore possible to sign off from attending bilingual classes (see in this context § 4 (2) in conjunction with § 6 (2) of the Minorities School Act for Burgenland). A signing-off system, as it has proved successful in Burgenland, would lead to more pupils accepting the option of obtaining a bilingual education. It would considerably reduce the pressure to assimilate and also contribute towards monolingual and bilingual classes being offered as equal alternatives, instead of bilingual classes being the exception.

One should also delete, without further amendment, the provision in the second sentence of § 7 of the Minority School Act for Carinthia, which continues to fall under constitutional law, i.e. that pupils may be taught in the Slovene language only with the consent of their parents. In the Austrian school system the Slovene language is thus the only language in the world which may only be taught with the consent of the parents, while all other languages may be taught independently of the consent of the parents, whenever they are part of the curriculum.



What also continues to be outstanding is a regulation concerning the necessary qualification for school principals at bilingual schools. We think that it is a logical and necessary prerequisite for running a bilingual school that the school principal also has bilingual qualifications. In reality, though, the bilingual qualification is, in fact, not taken into account in the process of ranking candidates according to their qualifications. It is not even given extra points.

### **Ad II.2.15 Article 15**

The State Report dwells in great detail on the composition of the advisory councils for the national minorities. However, it does not relate to the recommendation of the Advisory Committee, i.e. to amend the procedure for appointing the members of the advisory councils for the national minorities in order to obtain an adequate and comprehensive representation of the national minorities. The appointment procedure has, in fact, not been amended and continues to lack transparency. Except for the requirement that representative organisations of the national minorities must at least be included in the advisory council with one member, the Federal Chancellor apparently is completely free to appoint the members of the advisory councils. For years the Council of Slovenes in Carinthia has pointed to the urgent need for a reform in this respect.

On two occasions already the Constitutional Court held that the composition of the advisory council for the Slovene minority was unlawful. Since 2008 there has not been any Advisory Council for the Slovene Minority at all. In spite of the unlawful composition of the Advisory Council for the Slovene Minority, which a supreme court has established on two occasions, the Government has not taken any steps in order to achieve the necessary reform of this body. During the expired term of office, the Advisory Council for the Slovene Minority consistently met in this deficient composition, as the appointment of two members was revoked already at the beginning of their mandate. The advisory council consistently met with 14 members, instead of the stipulated number of 16 members. It must therefore be assumed that all decisions of the advisory council were not in conformity with the law.

In its present form the advisory councils are not suitable bodies for effective participation in state issues.

Numerous countries have made it easier for the representatives of national minorities to join the legislative bodies. In spite of many years of efforts and numerous proposals, especially on the part of Einheitsliste/Enotna lista, there are no provisions in Austria to allocate a seat in Parliament to the national minorities.

There are no statutory provisions concerning the representation of a national minority. The existing organisations are structured as private-law associations, and they have no other position than, for example, a savings club or provident society. Legislative measures would be required in order to facilitate at least limited self-government and autonomy. The Council of Slovenes in Carinthia proposed, pursuant to Article 120a of the Federal Constitution Act, to set up a self-governing corporation for the national minorities. There has not been any closer examination of this proposal by the Federal Government.

### **Ad II.2.16 Article 16**

The State Report does not contain any comments on this section. However, from our perspective these would be required. Article 16 stipulates that no measures are admissible that alter the proportions of the population in areas inhabited by persons belonging to national minorities and are aimed at restricting the rights and freedoms flowing from the principles enshrined in the present Framework Convention.

In case of the regulations for topographical signs it was exactly a violation of this provision that occurred. In its decision of 13 December 2001 the Constitutional Court adjudicated that St. Kanzian/Škocjan ought to have bilingual signposts. In a subsequent decision dated 26 June 2006, the Constitutional Court revised this decision, arguing that the share of the Slovene population had decreased to below 10%. On the contrary, though, the Slovene population has actually grown in absolute numbers. It is only due to the stronger increase in the majority population that, expressed in per cent, there is a decline. Nevertheless, this was taken as a basis for revoking rights that had been granted. In addition, it was obviously not even the same territory that was compared. Most likely the area of St. Kanzian/Škocjan in the year 2001 was different from that in the year 1991, and certainly different from that in the year 1981.

In our opinion this is clearly a violation of Article 16 of the Framework Convention. An application was therefore filed to re-open the case before the Constitutional Court, in the course of which written statements by more than 10% of the population of St. Kanzian/Škocjan were submitted, which indicated that they belonged to the Slovene minority. The Constitutional Court nevertheless refused to re-open the case, which – in our opinion – was due to political motifs, in order to facilitate an alternative solution of the topographical signpost issue that was discussed at that time, which would not have included St. Kanzian/Škocjan.

It is our viewpoint that the level of protection afforded to the Slovene minority, which is not very high in any event, should not be further deteriorated. One must strictly defeat court decisions that make it possible to subsequently revoke rights granted to the Slovene population in Carinthia, whenever the share in the population falls below a certain percentage mark, as this is in opposition to Article 16 of the Framework Convention.

### **Concluding Remarks:**

According to the report communicated by the Republic of Austria, an annex was to be attached which was to comprise the comments of the advisory councils of the national minorities. We note with surprise that the Republic of Austria already forwarded its report without consulting with the representatives of the national minorities, or at least their advisory councils and that, in formal terms, the report is already considered to have been submitted. As a result, the Republic of Austria has once again given proof of the fact that not even the advisory function of the advisory councils for the national minorities is being taken seriously.

## **III.2 Comments by the Central Association of Slovene Organisations in Carinthia (Zentralverband slowenischer Organisationen in Kärnten – Zveza slovenskih organizacij na Koroškem)**

The Advisory Council for the Slovene Minority in the Federal Chancellery deals with the situation of the Slovene minority in Carinthia and Styria on a comprehensive basis. It has stated repeatedly that Austria's legislation on the protection of national minorities has its roots in the 19<sup>th</sup> and 20<sup>th</sup> centuries (Basic State Law of 1867, State Treaty of St. Germain of 1919, State Treaty of Vienna of 1955, National Minorities Act of 1967), as a result of which the modernization trends in Austria's society, which of course do not stop short of the members of the national minorities, have not been taken into account, or only insufficiently.

On the initiative of the Advisory Council for the Slovene Minority in the Federal Chancellery the Federal Government has been contemplating a comprehensive reform of the National Minorities Act. In December 2009 an event took place to launch this process at which the working method was laid down. Three working groups were set up: education, economic and regional development, as well as structural and legal issues. The members of Austria's national minorities, together with scientists and experts cooperate in these working groups. One can expect results by the end of this year.

In this context we expect that a solution will be found for all open issues concerning the protection of national minorities in Austria (bilingual topography in Carinthia, official language in Carinthia, educational issues, etc.).

The report of the Republic of Austria is a sound basis for discussions whereby the current situation of Austria's national minorities can be examined. As the still open issues concerning the protection of national minorities in Austria are currently under discussion, no conclusive statement can be made on these points.

## **III.3 Comments by the Advisory Council for the Hungarian Minority**

The 3<sup>rd</sup> report on Austria's national minorities, drawn up in May 2010, stands out in its form on account of its clear and well-done structure, as well as its substance which is characterized by a concise and brief, objective presentation. The report contains facts; it does not draw comparisons but only refers to previous reports in a few instances. This means that readers have to be familiar with them. Due to this structure of its content, it is difficult to comment directly; it therefore appears appropriate to refer to the actual realities by commenting on the individual data.

Four issues are highlighted:

### **1. Scope of responsibility of the advisory councils.**

The many years of experience with advisory councils for the national minorities show that their merely advisory function restricts the rights of the national minorities. One must welcome the

initiative now taken by the Federal Government, i.e. to set itself the goal of amending the law on the national minorities. It is a positive feature that the members of the advisory councils have been asked to cooperate in this effort. One important chapter should be the representation of minority-group interests, especially expanding the legal and administrative competencies of the representatives of the national minorities.

The Advisory Council for the Hungarian Minority has therefore prepared suggestions and proposals that should be taken on board when clarifying the representation of interests (see annex). A survey on this issue is currently being conducted among the members of the Hungarian national minority.

## 2. Education and Schools

It is gratifying to note the rising number of pupils, both in Burgenland and Vienna, who attend Hungarian classes. However, one should not overlook in this context that Vienna still does not have a law on teaching classes in the languages of the national minorities. There is a Minority Schools Act for Burgenland; yet, its scope of application only covers pupils between the ages of 6 to 10. Beyond this age limit, Hungarian can only be studied on an optional basis. In practice, bilingualism creates a disadvantage for the languages of the national minorities, as the meaning and purpose of the statutory provisions, i.e. to obtain equivalent skills in both languages, is not obtained. It is a fact that the pupils use German when speaking among themselves, and that their knowledge of Hungarian is not sufficient to read Hungarian books, for example. Only 2 to 3 hours of Hungarian per week are not enough in a German-speaking environment. Additional exercises should be introduced.

One commendable exception is the bilingual upper-level secondary school at Oberwart. However its capacity is insufficient to meet all regional demands.

## 3. Media

Positive progress has been recorded in this area. The fact that the ORF programmes for Burgenland and Vienna are produced jointly should especially be mentioned as a positive feature. However, additional broadcasting periods are needed; the daily Hungarian Journal should be extended from 5 to 10 minutes. Its content should also be adapted to create interest especially among young people.

The same applies to the television broadcasts.

Apart from a few association newsletters, there is only one Hungarian-language newspaper in Austria, i.e. *Bécsi Napló*. For organizational, yet particularly for financial reasons, it can only be published every second month. The funds allocated from the budget for the national minorities only serves to cover 60% of the printing and mailing costs. The staff members of the newspaper work on a *pro bono* basis. Remunerations in symbolic amounts can only be paid occasionally.

#### 4. Financial support

For fifteen years the total amount of financial support from the federal budget for the national minorities has been frozen. The nominal amount has remained; yet, the annual inflation rates were neither taken into account, nor compensated.

A wish of the Hungarian minority, which it had had for many years, was partly fulfilled, namely to obtain an increase in the annual amount of the support payments, which were augmented from € 282,082 in 2002 to € 436,710 in 2009. A further increase is desirable in order to be able to render the national-minority activities more effective. In spite of various efforts, it has not been possible to clarify the criteria for obtaining support funding. The practical modalities for distributing funds also show divergences. More commitment and consistency should go into eliminating these two discrepancies.

#### AMENDING THE NATIONAL MINORITIES ACT Suggestions, Proposals

The development of Austria's national minorities gives rise to concern, as there are signs towards assimilation, in combination with latent resignation. The reasons for this trend are manifold. Last but not least, they are due to deficiencies in the policy for the national minorities, as well as inadequate legislative provisions.

The project of the Federal Government must therefore be commended, i.e. to “create a modern law for the national minorities”, in cooperation with the advisory councils for the national minorities, “which will satisfy the conditions and challenges of the 21<sup>st</sup> century.”

A new legal and administrative structure would lead to more democracy, in general, as well as organizational streamlining, in particular. This kind of reform would encourage the national minorities to take more initiatives themselves, to assume more responsibility and to become more active. In the last analysis, it would give them more leeway in implementing their objectives, as well as render their activities more effective.

To this end, the legal requirements need to be examined, and one must adopt a new approach to the question concerning representation of the national minorities.

In any event, this will require a new structure for and/or expansion of their activities and competencies. Especially the criteria and practices applied to date to establish the numerical strength of the national minorities are no longer relevant – also because the statistical recording of national minority members has been abolished.

When embarking on the planned amendment of the National Minorities Act, care must be taken, in particular, that the rights of the Austrian national minorities concerning co-determination are taken into consideration – irrespective of the form that is ultimately adopted.

**1.** The national minorities do not only consist of an imaginary or loose number of members but need to be seen as communities. One must therefore clarify how the national minorities are to be registered as communities, how they are defined, and what rights they should have.

Under Austrian laws, municipalities are political and not ethnic structures in legal and territorial terms. It therefore follows that the national minorities do not (are not able to) form autonomous political communities, having the rights to which they are entitled, in spite of their specific settlement areas. Apart from the foregoing, there are too few political municipalities in which one national minority constitutes the majority population. As individual municipalities, they would not be representative anyway, so that they would be able to represent the respective national minority in its entirety. It is therefore necessary to find other legal provisions that can be adopted.

**2.** Human beings (physical persons) can only become “established” by joining forces to form legal entities and thus creating communities in a legal sense. In this context, one must take account of the common objectives that the national minorities will develop, which find expression in the associations that they establish. As a consequence, more significance should be attached to the associations which pursue the interests of national minorities, as stated in their bylaws. The associations of the national minorities should be given the legal powers to be able to act as the representatives of their national minorities in order to achieve their objectives.

In addition, the representatives of the associations, which the national minorities set up, must safeguard and represent the global interests, which can only be ensured by the merger of various associations and organisations into representative organisations. It is for this reason that the associations of national minorities will always join forces and set up one or several umbrella associations. These are the basis for groups of persons who will eventually, together with representatives of political parties and churches, constitute the councils of the national minorities.

These are the legal successors to the advisory councils for the national minorities and have an expanded scope of activity and more competencies.

These competencies cover, in particular:

- ▶ Administration, organisation and coordination
- ▶ Legal issues, including the question of representation
- ▶ Education and schools
- ▶ Media
- ▶ Preservation and maintenance of the cultural goods
- ▶ Political, economic and financial support.

**3.** Every recognized national minority must have its own national minority council. The individual councils of the national minorities are representative organisations on an equal basis. Together and autonomously they form the conference of the national minorities, which jointly and autonomously deals with all issues relating to the national minorities.

**4.** The respective organisations on the federal level should be nominated and constituted at their own responsibility. However, they must be endorsed in their positions and functions by the competent body of the Federal Government (at present the Federal Chancellery).

Concerning their decisions and mandates, both the councils of the national minorities and the conference of the national minorities are responsible to the bodies delegating them (the associations) and the competent body of the Federal Chancellery (at present the Federal Chancellery). The latter one acts more or less as a reviewing body.

### **III.4 Comments by the Advisory Council for the Czech Minority**

The comments below follow the sequence of issues in the aforementioned report. Reference is made to the report in the order given there.

#### **Ad II.1.2**

This section deals with the situation of the national minorities in connection with education and schools. It must be noted in this context that the provisions governing the educational system in the federal provinces of Vienna, Burgenland and Carinthia are of a different quality for the national minorities living in these regions. While Burgenland and Carinthia have enacted school laws for the national minorities which take account of the requirements for teaching in several languages, such legislation continues to be outstanding in Vienna. In this respect no changes have occurred since the Advisory Committee on the European Charter of Regional or Minority Languages gave its report in January 2005.

The school competencies are shared by the federal and regional governments. The school laws for the minorities – and thus also the outstanding law for Vienna – fall within the legislative competencies of the Federal Government.

#### **Ad II.1.6**

The language of the Czech minority is not mentioned in the second paragraph of this section. As indicated under section II.2.9. the Federal Communications Board also established in its decree that the share of programmes in the Czech language is regarded as inadequate.

#### **Ad II.1.7**

A date has not yet been announced for the information meetings about the financial support for the national minorities.

#### **Ad II.1.8**

Only the private schools of the Komenský School Association are in a position to meet the educational requirements of the Czech minority on the school level. There are also other schools that offer Czech as one of the curriculum languages; yet, these are only optional exercises or optional subjects, which is inadequate in scope when wanting to obtain language skills.



### Ad II.2.13

At present, the school system for the national minorities in Vienna is exclusively provided by the schools of the Komenský School Association. As is stated in the report, public funding is made available for this purpose:

1. The teachers are paid from public funds.
2. Funds are available from the budget of the Federal Chancellery earmarked for grants in order to cover the additional costs of operating the schools.
3. There is also cooperation with the City of Vienna.

There is potential for improvement in all three points:

**Ad 1.** The number of teachers complies with the general provisions under Austrian school law. However, for teaching bilingual classes, a smaller number of pupils is required, as it is laid down in the minority school laws for Burgenland (§ 6 (4)) and Carinthia (item 1 of Art. 3 § 16a), i.e. a maximum of 20 pupils per class. As this type of law is still outstanding for Vienna (the Federal Government is responsible for this type of legislation), the general pupil numbers apply to the schools of the Komenský School Association. As a result, the funding is for a smaller number of teaching positions.

**Ad 2.** As a matter of principle, the grants of the Federal Chancellery are not meant for school purposes. The School Association receives this type of support on account of the fact that the associations of the Czech minority and their representatives give up about 75% of the funding earmarked for them for the benefit of operating the schools (compare table 4 on page 35 and table 23 on page 81).

**Ad 3.** The financial support by the City of Vienna is based on short-term cooperation and does not comprise any legal title, nor are there any guarantees for the future. One must therefore regard the future of the bilingual classes in the Czech and Slovak minority languages as being of relative certainty.

### Ad II.2.15

Concerning the cooperation of the public authorities with the advisory councils for the national minorities, this section refers to contacts of the advisory councils with the minority school departments of the regional school councils. This statement must be limited to the federal provinces of Burgenland and Carinthia, as the regional school council of the City of Vienna does not have such a department.