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Position of national minorities in Europe

Report[1]
Committee on Legal Affairs and Human Rights
Rapporteur: Mr Paul STRUYE, Belgium

1. 1959 - 11th Session - Second part

A. Draft Recommendation

Having taken formal note of the Report of the Legal Committee on current legal and administrative provisions and the present status of national minorities in the Member States of the Council of Europe (Doc. 1002);

Noting with interest that the status of the national minorities in question appears on the whole to be satisfactory;

Considering that, wherever that status is giving rise, or may in the future give rise, to disputes between two or more Member States, these States should try to compose their differences in the spirit of the Statute of the Council of Europe, the European Convention on Human Rights and any other international legal undertakings contracted by them,

Recommends that the Committe of Ministers invite those Member Governments between whom disputes exist, or may in the future arise, concerning the status of national minorities, to seek a satisfactory settlement through bilateral negotiations with due respect for the supremacy of the law, or, should these negotiations fail, by the application of the procedure laid down in the European Convention for the Peaceful Settlement of Disputes.

B. Explanatory Memorandum

1. Introduction

1. In Resolution 136 (57) of 29th October 1957 the Consultative Assembly asked the Legal Committee for a report on " the laws and regulations in force, and existing situations in this regard " concerning national minorities in Member States of the Council of Europe. In accordance with this Resolution, the Report is required to state the extent to which progress could be made " to ensure satisfaction of the collective interests of the national minorities themselves, to the fullest extent compatible with safeguarding the essential interests to the States to which they belong ".

2. In order that the Legal Committee should be in a position to draw up the report, the Assembly, by its Resolution 136, invited the Governments of Member States of the Council of Europe which were concerned in such matters to forward to the Secretary-General all relevant information.

3. Resolution 136 was the result of work which goes back to the early days of the Assembly. A Report presented by M. Teitgen on 5th September 1949, for instance, on the conclusion of a European Convention of Human Rights(Doc. 77 of 1949), raised the question of defining the rights of national minorities.

4. Subsequent action taken by the Assembly in this field was mentioned in the Legal Committee's Report presented by M. Rolin in October 1957 (Doc. 731).

5. It is apparent from this Report that the Assembly and the Legal Committee were cautious in their approach to the national minority problem in Europe. Realising that it called for most careful consideration, both the Assembly and the Legal Committee were anxious not to propose or decide anything which might give offence or harm the spirit of collaboration or of good understanding between the Members of the Council of Europe. For instance, Mr. Dickson's proposal(Doc. 508) which first gave rise to the Committee's action and sought to set up a permanent Sub-committee to report annually to the Consultative Assembly on national minorities and groups was not adopted. The Legal Committee considered that the setting up of such a permanent Sub-committee would lead to a procedure similar to that applied in the League of Nations for the protection of minorities. As is generally admitted, the system created by the League of Nations tended to aggravate rather than alleviate difficulties. With this in mind, Resolution 136 was drafted by the Legal Committee and adopted by the Assembly.

6. The Committee of Ministers did not find it possible to furnish the information called for in Resolution 136. In reply to my written question on this subject, of December 1958 (Doc. 923), the Committee of Ministers stated on 29th January 1959 (Doc. 955) : " The Committee of Ministers has continued its careful consideration of the request for information put forward by the Assembly in its Resolution 136 (1957) concerning the situation of national minorities in Europe. The Committee of Ministers feels unable to accede to the Assembly's request for information contained in this Resolution. The view expressed in the Committee was that members of the Consultative Assembly would have no difficulty in obtaining through their national Parliaments the necessary information on national legislation relating to minorities in their territories, without the intermediary of the Committee of Ministers of the Council of Europe. It also emerged from the debate that there was a concern to avoid raising unnecessarily a very delicate question, the discussion of which in public is likely to cause more harm than good. "

7. As the necessary information was not forthcoming from the Member Governments, the Legal Committee was obliged to obtain it through the national Parliaments and through the Secretariat of the Council of Europe. The information which forms the substance of the present Report refers in general only to basic laws or Ministerial orders, leaving regulations and practice aside unless they are of special importance as regards the situation of the minorities concerned. Scope and content of the Report

8. In this Report I have tried to be as objective as possible. I have remained strictly within the Legal Committee's terms of reference, the instruction being to present a survey of the laws and administrative orders governing the status of national minorities in Europe. I have refrained from commenting on any but the legal aspect.

9. In accordance with the decision taken by the Legal Committee, the Report is thus confined to a study of the laws in force in Austria, Denmark, the Federal Republic of Germany and in Italy, relating to national minorities whose status is in part governed by an international agreement. Austria

10. There are in Austria two minority groups whose situation is at least in part governed by international agreement. One of these consists of Austrian nationals speaking Czech or Slovak, the other of Austrian nationals of Slovene or Croatian origin.

11. In a general way, persons belonging to these national minorities are protected from discrimination on grounds of nationality by the European Convention on Human Rights (Article 14; see Appendix I), which was ratified by Austria on 3rd September 1958. This safeguard is rendered the more effective in that Austria recognised on that date the right of individual application under Article 25 of the Convention as well as the compulsory jurisdiction of the European Court of Human Rights under Article 46. Articles 7 and 8 of the Austrian Constitution, (Appendix II) Article 19 of the 1867 law on procedure governing individual freedom, together with Articles 63 and 66 of the 1919 Treaty of Saint Germain-en-Laye (Appendix III), which, imported into the Austrian Constitution by Article 149, forms part of the constitutional law of the Austrian Republic— all these offer further safeguards against all discrimination within Austria. Furthermore, by Article 6 of the State Treaty of 15th May 1955 (Appendix IV), Austria undertook that no law in force would, either by its wording or its application, involve any discrimination whatsoever against members of national minorities.

12. As regards the respecting of the collective interests of national minorities in Austria it should be mentioned that in general all the groups of national minorities in Austria under Article 68 of the Treaty of St. Germain, enjoy a fair share in the allocation of grants from public funds for educational, religious or charitable purposes. Since 1921 the Czech—-and, furthermore, Slovak-speaking minorities have had available in Vienna primary education in their own language, by virtue of Article 20 of the Treaty concluded in 1920 between Austria and Czechoslovakia on questions of nationality and protection of minorities (Appendix V).

13. As for the Slovene and Croatian minority in Carinthia, Burgenland and Styria, their collective interests are protected by a set of provisions in Article 7 of the State Treaty of 15th May 1955. This Article provides that these national groups have special rights, particularly in matters of education. It states, for instance, that such persons have a right to primary education in Slovene or Croatian and to a proportionate number of secondary schools. Austria is pledged, moreover, to supervising school syllabuses and to arranging inspection in Slovene and Croatian schools.

14. In fulfilment of these commitments, a federal law concerning the education of minorrities in Carinthia (Appendix VI) has been in force since 14th April 1959. The authorities in Carinthia are under an obligation to give effect to this law within three years of its promulgation. It is interesting to note that the law covers only the organisation of primary and secondary education in Slovene for the Slovene minority in Carinthia, although the State Treaty requires, in addition, education in Croatian for members of the Croatian minority in Burgenland. According to the law any child of Slovene parents residing in one of the communes which, in 1958-1959 already had bilingual education, has a right to education in Slovene provided its parents expressly make this request. This condition is in keeping with Article 2 of the Protocol to the Convention on Human Rights. Primary education, in Slovene is given either in a school where Slovene is the sole language or in schools where two languages are used. A secondary school is to be specially established in Carinthia where the only language used will be Slovene. The law makes provision for trained teachers and school inspectors at both levels of education.

15. By Article 7 of the State Treaty of 15th May 1955 Austria is obliged to recognise Slovene and Croatian as official languages, besides German, in administrative or jurisdictional areas of Carinthia, Burgenland and Styria where there is a Slovene or Croatian population or a mixed population. Public notices and sign-posts, etc. must be in Slovene or Croatian as well as in German. On 19 th March 1959, the lower House (Nationalrat) passed a Bill concerning the official languages in magistrates' courts in districts of Carinthia having a mixed population (Appendix VII). In these courts Slovene is to be an official language. This law came into force on 14th April 1959.

16. Among other rights granted to the Slovene and Croatian minorities under the State Treaty is their equal eligibility with other Austrian nationals for educational, administrative and legal appointments in those areas, which means they can enter the civil service and the magistrature.

17. Moreoever, the State Treaty expressly makes it illegal to engage in any activity aimed at depriving the Croatian and Slovene population of their national character and their minority rights. Denmark

18. The constitutional law of the kingdom of Denmark of 5th June 1953 gives the German minority in Denmark all basic human rights including equality before the law with other Danish nationals. The German minority in Denmark is thereby safeguarded against discrimination on grounds of language. On the international plane this safeguard is reinforced by the rights enumerated in Article 14 of the European Convention on Human Rights. Denmark has been bound by the Convention since 3rd September 1953 and has recognised the right of individual application in accordance with Article 25 thereof; consequently any Danish subject can have direct recourse to the European Commission of Human Rights concerning any alleged violation of such rights.

19. Danish subjects belonging to the German minority, and the minority as a whole, have certain special rights. These rights are recognised by the Danish Government not only in legal provisions and administrative orders but also by a " Declaration on the status of the German minority in Denmark made at the conclusion of negotiations with the German Government on 29th March 1955 ". This declaration, which is in the nature of an international instrument, was approved by the Danish parliament (Folheting) on 19th April 1955 (Annex VIII). In the educational field, paragraph 3 of Chapter II of this declaration recognises the collective right of the minority, " t o establish, in conformity with the law, institutions for general education and high schools (including technical colleges) as well as kindergartens ". The minority has also the right to maintain religious, cultural and professional relations with Germany and the right to profess openly its ties with German culture and the German community. Moreover, the Danish government is pledged to recommend the Danish broadcasting authority to grant the German minority appropriate facilities within the limits of current broadcasting regulations. Among the special rights accorded to individuals of the German minority, in conformity with the Bonn Declaration, is freedom to use the language of their choice. The use of the German language is also allowed in law courts and public offices. Federal Republic of Germany

20. The legal status of the Danish minority in Germany individually and collectively is similar to that of the German minority in Denmark.

21. The Basic Law of the Federal Republic of Germany dated 23rd May 1949 affords real safeguards in the matter of non-discrimination to the persons concerned.

22. The European Convention on Human Rights has been binding on the Federal Republic of Germany since 3rd September 1953. As the Federal Republic has acknowledged the right of individual application referred to in Article 25 of the Convention, all persons under its jurisdiction— including Danish-speaking German citizens— can invoke before a European authority the fundamental rights guaranteed by the Convention. These rights include a guarantee against discrimination on the ground of association with a national minority.

23. As an outcome of its negotiations with the Danish Government, the German Government by its Declaration of 29th March 1955 (Annex IX), has recognised the Danish minority in Germany, individually and collectively, as having a series of special rights. This declaration was ratified by the Parliament of the Federal Republic (Bundestag) on 6th July 1955. The rights granted under this Declaration are substantially the same as those granted by Denmark to its Germany minority. A difficulty arose, however, over the representation of the Danish minority in the Schleswig-Holstein Diet, since, as a general rule, an electoral list which does not secure 5 % of the votes cast at a general election may not be represented. By virtue of Article 3 of the Electoral Law of Schleswig-Holstein dated 19th June 1955, this clause is no longer applicable to political parties of the Danish minority. Consequently, it can now be represented in the Schleswig-Holstein Diet even if none of its parties obtains 5 % of the votes cast at the provincial general elections. Italy

24. In Italy equality before the law is guaranteed to every citizen by Article 3 of the Constitution. Moreover, all persons under Italian jurisdiction enjoy the fundamental rights set forth in the European Convention on Human Rights, which has been binding on Italy since 26th October 1955. However, Italy recognises neither the right of individual application mentioned in Article 25 of the Convention, nor the compulsory jurisdiction of the Court under Article 46.

25. There are two ethnic minorities in Italian territory which have special status by international agreement, namely the German-speaking inhabitants of the Bolzano Province and the Yugoslav ethnic group in the Zone of Trieste.

26. The German-speaking minority is covered by the so-called De Gasperi-Gruber Agreement signed on 5th September 1946 between the Italian and Austrian Governments. This Treaty, together with Annex IV, forms an integral part of the Peace Treaty with Italy of 10th February 1947 (Annex X) By this Agreement Italy undertakes in general to grant the German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province " complete equality of rights with Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element ". (Article 1 of the Agreement.) The Agreement makes provision in the above-mentioned regions for " the exercise of autonomous legislative and executive regional power. . The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements " (Article 2); An autonomous region of this kind was created by Constitutional Law No. 5 of 29th February 1948 on the special status of the Trentino-Alto Adige region (Annex XI), which includes the provinces of Trento and Bolzano. It exercises autonomous legislative and executive power in certain spheres such as expropriation, trade, mining, agriculture, medical services, the organisation of chambers of commerce, the control of co-operatives, etc. In addition, it has

power to legislate on social assistance, the organisation of regional credit institutions, etc. Within this semi-autonomous region, where the population is for the most part Italian-speaking, the two provinces of Bolzano and Trento have legislative power in certain matters, such as educational administration, low-rent housing, etc.

27. As regards access to public employment, Article 1 (d) of the De Gasperi-Gruber Agreement provides for " equality of rights ... with a view to reaching a more appropriate proportion of employment between the two ethnical groups ".

28. The Agreement also guarantees primary and secondary education in German as well as parity of the German with Italian language in public administration.

29. Since the signing of the 1946 Agreement, differences have arisen between the two Contracting Parties as regards its application. These arise, it seems, from differing interpretations of the text.

30. In a note transmitted to the Italian Government on 8th October 1956, the Austrian Government maintained that Article 2 of the Agreement providing for the exercise of autonomous legislative and executive regional power " for Bolzano province and the neighbouring bilingual townships of the Trento province had not been correctly applied by Italy, which, as is known, granted regional autonomy in 1948 to an area comprising not only the Bolzano province and the bilingual townships of the Trento province, but all the rest of the Trento province with its exclusively Italian-speaking population. In this region as a whole the German-speaking population thus represents a minority (approximately 30 %). The Austrian Government also maintained that the autonomy granted to the Bolzano province was incomplete, as it applied to only seventeen matters, and that even in these matters it was practically non-existent, since most legislative measures passed by the Bolzano authorities had subsequently been annulled either by the regional authorities of the Trentino-Alto Adige or by the central Government in Rome. The Austrian Government therefore considers that Italy has not yet granted the German-speaking population the autonomous legislative and executive regional power to which it is entitled under Article 2 of the above-mentioned Agreement. Italy, on the other hand, considers that Article 2 of the 1946 Austro-Italian Agreement is not to be interpreted as guaranteeing autonomous legislative and executive power to the German ethnic group as such. In a note sent to the Austrian Government on 9th February 1957, the Italian Government pointed out that the Article in question grants autonomous regional power to the population of the Bolzano province as a whole, irrespective of the ethnic origin of its inhabitants, and the Italian authorities maintain that the Bolzano province actually enjoys such regional power. The Italian Government admits that it has been necessary to annul certain legislative measures passed by the Bolzano regional authorities because the latter had exceeded the limits of their powers. On the other hand, the Italian Government points to the fact that, in a letter of 28th January 1948 to M. Perassi, Chairman of the Subcommission on the Status of Autonomous Regions, the representatives of the German population approved the status granted to the Trentino-Alto Adige.

31. In its abovementioned note, the Austrian Government also alleged that Italy was observing neither Article 1 (b) (parity for the German and Italian languages) nor Article 1 (d) (equality of access to public employment) of the 1946 Austro-Italian Agreement, since in the Bolzano province German was used by the public authorities only as a secondary language. As regards access to public employment, the Austrian Government considers that German-speaking persons do not have equality of opportunity with Italian-speaking persons since competitive examinations for entry to the civil service make no allowance for the peculiarities due to bilingualism in the Bolzano province. Hence, the overwhelming majority of civil servants belong to the Italian ethnic group. In its Note of 9th February 1957, the Italian Government replied that this situation was mainly attributable to the fact that the proportion of German-speaking candidates offering themselves as candidates in the examinations was too small in relation to the number of vacant posts.

32. The Yugoslav ethnic minority in the Zone of Trieste enjoys special treatment under the " Special Statute " which appears, together with Annex II, in the memorandum of 5th October 1954 concerning the Territory of Trieste (Annex XII). Under this Special Statute the Yugoslav ethnic group is granted as such a number of privileges, particularly with regard to teaching in the mother tongue. This teaching is given in kindergarten and in primary, secondary and technical schools " placed at the disposal " of the Yugoslav group. Moreover the Special Statute entitles the Yugoslav ethnic group to have its own press and its own educational, cultural, sports and social organisations. Members of the group are also guaranteed the right to use their mother tongue in dealings with the administrative and judicial authorities of the Zone of Trieste. The main feature of this Special Statute is that it provides for a mixed Italian-Yugoslav Commission " to assist and advise in all problems concerning the protection of the Yugoslav ethnic group in the zone under Italian administration and of the Italian ethnie group in the zone under Yugoslav administration"1. The Commission is also empowered to investigate " complaints lodged and questions raised by individual members of the two ethnic groups in connection with the implementation of the Statute "[2]

2. Conclusions

33. The position of the national minorities dealt with in the present report seems to be satisfactory, at any rate on the legislative plane. This is particularly true of the German minority in Denmark and the Danish minority in Germany. As regards Austria, however, the Legal Committee would draw the Assembly's attention to the fact that all the legislative measures on behalf of the Slovene and Croatian minority in Carinthia, Burgenland and Styria required by the State Treaty of 15th May 1955 have not yet been introduced by the Austrian authorities, although some legislation of this kind—a law concerning the teaching of Slovene and another concerning its use in Law Courts of Carinthia—is already in force. In Italy, the situation of the Yugoslav minority in the Trieste area calls for no comment, but it should be pointed out that the De Gasperi-Gruber Agreement of 1946, which determines the status of the German-speaking minority in the Bolzano region, has given rise to a dispute as to interpretation between the Contracting Parties, namely Austria and Italy, both Member States of the Council of Europe.

34. The Committee does not think it advisable at the present time to establish in the Council of Europe a system for the protection of national minorities, such as existed in the League of Nations. The main reason for this is that the Member States of the Council of Europe have already subscribed to a collective guarantee of Human Rights and Fundamental Freedoms in the Convention of 4th November 1950. Article 14, of this Convention stipulates that there shall be no discrimination in securing enjoyment of the rights covered by the Convention. This clause affords protection against all discrimination, including that against members of a national minority. The other argument against reverting to the procedure employed by the League of Nations is that the situation of national minorities in the Member States of the Council of Europe appears to be more satisfactory than it was before the last war. The last and most important point of all is that, in the view of the Committee, the results achieved by the League of Nations in the protection of minorities were not very convincing. It would seem more appropriate that the settlement of any dispute, now or in the future, between two Member States should first be sought by means of bilateral negotiations conducted in the spirit of the Statute of the Council of Europe, which lays down the principle of the rule of law. If, however, no settlement satisfactory to the two States concerned can be achieved by such negotiations, the procedure for in the European Convention for the peaceful settlement of disputes should be set in motion. This is the purpose of the draft Recommendation drawn up by the Committee.

35. The two following points illustrate the scope of the draft Recommendation. First, the Committee agrees that the procedure provided for in the Convention for the peaceful settlement of disputes may be followed by the States concerned, even if they are not yet Contracting Parties thereto. Indeed, there is nothing to prevent States from agreeing to employ this procedure at any time. It goes without saying that in such a case Article 27 of the said Convention, which makes it possible to exclude disputes that arose prior to ratification by the States concerned, should not be applied. The Committee also unanimously recognised that the procedure for the settlement of disputes suggested in the draft Recommendation should not be regarded as exhaustive. If, for example, it did not lead to a satisfactory settlement, the Consultative Assembly might be called upon to examine other methods.

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2. Original English translation.

Appendix 1 APPENDIX I

Convention for the protection of human Rights and fundamental Freedoms

Article 14

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

Appendix 2 APPENDIX II

Federal Constitution of the Republic of Austria (1929 text)

SECTION I General provisions

Article 7. (1) All citizens shall be equal before the law. There shall be no privilege on grounds of birth, sex, civil status (Stand), social class (Klasse), religion...

Article 8. Without prejudice to any rights granted to linguistic minorities under the laws of the Federation, the German language shall be the official language of the Republic.

SECTION VII Final provisions

Article 149. The following shall be deemed to be constitutional laws within the meaning of Article 44, paragraph 1, subject to any amendments implicit in the present law:

Section V of Part III of the Treaty of Saint-Germain dated 10th September 1919 (Staatsge-setzblatt, No. 303, 1920).

Appendix 3 APPENDIX III

Treaty betiveen the Allied and Associated Powers and Austria

signed at Saint-Germain-en-Laye on 10th September 1919

PART III
Political clauses
SECTION V

Protection of Minorities

Article 62. Austria undertakes that the stipulations contained in this section shall be recognised as fundamental laws, and that no law, regulation or official action shall conflict or interfere with these stipulations, nor shall any law, regulation or official action prevail over them.

Article 63. Austria undertakes to ensure full and complete protection of life and liberty to all inhabitants of Austria without distinction of birth, nationality, language, race or religion.

All inhabitants of Austria shall be entitled to the free exercise whether public or private, of any creed, religion or belief, whose practices are not inconsistent with public order or public morals.

Article 64. Austria admits and declares to be Austrian nationals ipso facto and without the requirement of any formality all persons possessing at the date of the coming into force of the present Treaty rights of citizenship (pertinenza) within Austrian territory who are not nationals of any other State.

Article 65. La nationalité autrichienne sera acquise de plein droit, par le seul fait de la naissance sur le territoire autrichien, à toute personne ne pouvant se prévaloir, par sa naissance, d'une autre nationalité.

Article 65. All persons born in Austrian territory who are not born nationals of another State shall ipso facto become Austrian nationals.

Article 66. All Austrian nationals shall be equal before the law and shall enjoy the same civil and political rights without distinction as to race, language or religion.

Differences of religion, creed or confession shall not prejudice any Austrian national in matters relating to the enjoyment of civil or political rights, as for instance, admission to public employments, functions and honours, or the exercise of professions and industries.

No restriction shall be imposed on the free use by any Austrian national of any language in private intercourse, in commerce, in religion, in the press or in publications of any kind, or at public meetings.

Notwithstanding any establishment by the Austrian Government of an official language, adequate facilities shall be given to Austrian nationals of non-German speech for the use of their language, either orally or in writing, before the courts.

Article 67. Austrian nationals who belong to racial, religious or linguistic minorities shall enjoy the same treatment and security in law and in fact as the other Austrian nationals. In particular they shall have an equal right to establish, manage and control at their own expense charitable, religious and social institutions, schools and other educational establishments, with the right to use their own language and to exercise their religion freely therein.

Article 68. Austria will provide in the public educational system in towns and districts in which a considerable proportion of Austrian nationals of other than German speech are resident adequate facilities for ensuring that in the primary schools the instruction shall be given to the children of such Austrian nationals through the medium of their own language. This provision shall not prevent the Austrian Government from making the teaching of the German language obligatory in the said schools.

In towns and districts where there is a considerable proportion of Austrian nationals belonging to racial, religious or linguistic minorities, these minorities shall be assured an equitable share in the enjoyment and application of the sums which may be provided out of public funds under the State, municipal or other budgets for educational, religious or charitable purposes.

Appendix 4 APPENDIX IV

State Treaty for the re-establishment of an independent and democratic Austria of lSth May 1955

ARTICLE 6

Human Rights

1. Austria shall take all measures necessary to secure to all persons under Austrian jurisdiction, without distinction as to race, sex, language or religion, the enjoyment of human rights and of the fundamental freedoms, including freedom of expression, of press and publication, of religious worship, of political opinion and of public meeting.

2. Austria further undertakes that the laws in force in Austria shall not, either in their content or in their application, discriminate or entail any discrimination between persons of Austrian nationality on the ground of their race, sex, language, or religion, whether in reference to their persons, property, business, professional or financial interests, status, political or civil rights or any other matter.

ARTICLE

Rights of the Slovene and Croat Minorities

3. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria shall enjoy the same rights on equal terms as all other Austrian nationals, including the right to their own organisations, meetings and press in their own language.

4. They are entitled to elementary instruction in the Slovene or Croat language and to a proportional number of their own secondary schools; in this connection school curricula shall be reviewed and a section of the Inspectorate of Education shall be established for Slovene and Croat schools.

5. In the administrative and judicial districts of Carinthia, Burgenland and Styria, where there are Slovene, Croat or mixed populations, the Slovene or Croat language shall be accepted as an official language in addition to German. In such districts topographical terminology and inscriptions shall be in the Slovene or Croat language as well as in German.

6. Austrian nationals of the Slovene and Croat minorities in Carinthia, Burgenland and Styria, shall participate in the cultural, administrative and judicial systems in these territories on equal terms with other Austrian nationals.

7. The activity of organisations whose aim is to deprive the Croat or Slovene population of their minority character or rights shall be prohibited.

Appendix 5 APPENDIX V

Treaty bettveen the Austrian Republic and the Czechoslovak Republic with regard to citizenship and to the protection of Minorities, signed at Brno on June 7th, 1920

Article 20

1. The Austrian State guarantees that it will take such steps as may permit the establishment in Vienna, at the beginning of the school year 1920-1921, of public primary schools giving instruction in the Czecho/slovak language for the children of persons reporting themselves as Austrian nationals of Czecho/ slovak language on such a scale as to give on the average the same number of pupils per class as in the German schools with an average minimum of forty-two. Such schools will be established in suitable places and provided with teachers who are not only competent for language teaching but also fully qualified for teaching other subjects. The parents in question shall report themselves sufficiently early to ensure the carrying out of the necessary measures at the beginning of the school year 1920-1921. In order that the children presenting themselves for admission to these schools may be tested as to their knowledge of the Czech language committees shall be set up which shall include representatives of the Czecho/slovak parents.

2. Whereas in the Czechoslovak Republic children of German speaking foreign nationals are already and without exception admitted to the public and private German schools, and whereas the Czechoslovak Republic pledges itself to maintain this privilege, the Austrian Government for its part guarantees that children of Czech speaking Czechoslovak nationals shall be admitted to the Czechoslovak public and private elementary schools in Austria. These children shall not be included in calculations in connection with public primary schools, nor in considering the number of classes and schools which are to be established, nor in estimating the average number of pupils in a class.

Appendix 6 APPENDIX VI

Federal Act of 14th April 1939, determining the conditions in which the provisions of the Austrian State Treaty regarding minority schools shall be applied in the Federal Land of Carinthia (Carinthian) minority schools act

ARTICLE 1

Statutory clauses

(a) Competence

1. In matters of minority education in Carinthia (Article 7, para. 2, of the State Treaty of 15th May 1955) for the re-establishment of an independent and democratic Austria, BGB1 No. 152/1955), the competence of the Federal Government and of the Land of Carinthia to promulgate and enforce legislation shall, without prejudice to the terms of para. 6, be determined as follows :

2. The Federal Government shall be competent to promulgate and enforce legislation in respect of matters relating to the following :

a. primary and upper primary schools (Volks-und Hauptschulen) for the Slovene minority, apart from matters relating to the location of such schools ;

b. a special secondary school (Mittel-schule) for the Slovene minority;

c. supplementary training of teachers in the Slovene language;

d. optional instruction in Slovene in compulsory primary schools (Pflichtschulen) and secondary schools;

e. inspection of the schools mentioned in (a) and (b) and teaching supervision in the school mentioned in (c) and (d) above.

3. The Federal Government shall be competent to legislate as to principles while the Land shall legislate on their application and in particular shall determine the location of State primary and upper primary schools specially provided (Volhs- und Hauptschulen) for the Slovene minority.

4. (1) With regard to the matters referred to in para. 3, the provisions of Article 16, para. 1 of the Federal Constitution (1929 version) shall be applicable, with the further provision that the Land of Carinthia shall issue regulations for the implementation of the present Act within three years of its entry into force. Failing this, the Federal Government shall be entitled to issue the said regulations, which shall cease to apply when corresponding regulations have been issued by the Land. (2) Supreme administration and control by the Federal Government in all educational matters, in accordance with the first sentence of Article 102 (a), para. 1, of the Federal Constitution (1929 version), shall be exercised in the matters specified in para. 3 above by appropriate application of the provisions of Article 15, para. 8 and Article 16, para. 2 of the Federal Constitution (1929 version).

5. The terms of paragraph 42 of the provisional law of 1st October 1920, as published in 1925 (BGBl No. 368) and amended by the Constitutional Law of 7th December 1929 (BGBl. No. 393), shall cease to have effect in the matters specified in paras. 2 and 3 above.

6. (1) Article 1 of the present Act shall not prejudice the provisions of the Law relating to competence in matters of teachers' professional rights (BGBl. No. 88/1948) and school maintenance (BGBl. No. 162/1955) the clauses or the Constitution relating to competence in the matter of German-speaking schools. (2) The extent to which the Federal Government shall contribute to the additional staffing and equipment costs occasioned by the present Act in respect of public primary and upper primary schools for the Slovene minority shall be determined by a Federal Law. This law shall be enacted by 30th June 1960.

(b) General clauses

7. All pupils in the schools specified in the regulations for the implementation of this Act (c/. para. 3 in conjunction with para. 4 (1)) shall be entitled to use Slovene as the language of instruction or to learn it as a compulsory subject insofar as their legal guardians so desire. No pupil shall be obliged to use the Slovene language at school or shall be taught Slovene as a compulsory subject without the consent of his legal guardian.

8. Notwithstanding the use of Slovene as the language of instruction, German shall remain a compulsory subject in schools, as the official language of the Federal Republic of Austria (Article 8 of the Federal Constitutional Law, 1929 version).

ARTICLE II

Genera! principles

9. (1) The regulations referred to in para. 3 read in conjunction with para. 4 (1) above shall be based on the principles enumerated below. (2) (Statutory provision). The principles laid down in the present Article may be modified or suspended by the Nationalrat only by a two-thirds majority of the votes cast, at least half the members being present.

10. (1) The location of special primary and upper primary schools for the Slovene minority shall be based on data secured as a result of an official census of minorities. (2) Until such data is available, special primary and upper primary schools for the Slovene minority shall be situated in localities where bilingual instruction was provided in such schools at the beginning of the school year 1958/59.

11. Care shall be taken to ensure that all pupils of primary and upper primary schools in the localities of Carinthia to which the terms of para. 10 apply may, at the request of their legal guardians receive instruction in one of the special schools for the Slovene minority referred to in para. 12 below. In the case of the schools mentioned in para. 12 (a), these measures shall take account of the general administrative regulations governing the minimum number of pupils; in the case of the schools (classes, divisions) mentioned in para. 12 (b) and (c) they shall apply unconditionally.

ARTICLE III

Primary and upper primary schools

12. Besides the normal German-speaking primary and upper primary schools, the Land of Carinthia may provide special primary and upper primary schools, or special classes or sections in such schools for the Slovene minority, as follows :

a. primary and upper primary schools with Slovene as the language of instruction;

b. bilingual primary schools, with instruction in both German and Slovene. For purposes of the present Federal Act, this category shall also be understood to include classes in German-speaking primary schools where instruction is provided in German and Slovene (bilingual primary school classes) and divisions in German-speaking primary school classes where instruction is provided in German and Slovene (bilingual primary school divisions).

c. Slovene-speaking divisions of German- speaking upper primary schools.

13. (1) Admission to one of the schools, classes or divisions referred to in para. 12 above shall require the express authorisation of the pupil's legal guardian at the time of enrolment or at the beginning of any subsequent school year. This authorisation shall continue until the pupil leaves the primary or upper primary school, unless it is withdrawn at the end of a school year. (2) The authorisation or withdrawal thereof referred to under (1) above shall be conveyed to the Headmaster verbally or in writing and shall be subject to no Federal tax or charge.

14. (1) With regard to administration and the planning of courses in the schools (classes, divisions) referred to in para. 12 above; the normal regulations governing such matters in Austrian primary and upper primary schools shall apply, subject to the modifications introduced by this Article. (2) Compulsory school attendance regulations for pupils at the above-mentioned schools shall be the same as for Austrian schools in general.

15. Slovene shall be the language of instruction throughout Slovene-speaking primary and upper primary schools. German shall, however, be taught as a compulsory subject for 6 hours per week.

16. ((1) In bilingual primary schools (classes and divisions), instruction in the first three forms shall be divided as equally as possible between German and Slovene; from the fourth form onwards, without prejudice to the terms of subpara. (2), instruction shall be in German, the Slovene language being retained as a compulsory subject for four hours per week. In primary schools with bilingual and German-speaking divisions pupils at corresponding stages shall as far as possible receive instruction in German together. (2) Religious instruction in bilingual primary schools (classes or divisions) shall at all stages be provided in both Slovene

and German for all pupils enrolled in accordance with the terms of para. 13 above. (3) In Slovene-speaking divisions of German-speaking upper primary schools, the Slovene language shall be taught as a compulsory subject in all forms for four hours per week.

17. In German-speaking primary and upper primary schools the Land educational authorities may introduce the Slovene language as an optional subject. This instruction may be combined where feasible with that provided in the school's bilingual primary classes or divisions, or in the Slovene-speaking divisions in the case of upper primary schools.

18. (1) Where a pupil is transferred from one primary or upper primary school to another with a different language of instruction, special care should be taken by the new school to ensure that his studies are continued in the principal or secondary language as the case may be. (2) When pupils are promoted to the stage or class above or transferred from a primary to an upper primary school, the normal regulations governing such cases shall be scrupulously observed.

19. Curricula for the schools (Classes and sections) referred to in paras. 15 and 16 (1) above, as well as for the instruction in Slovene mentioned in paras. 16 (3) and 17 shall be laid down by the Federal Ministry of Education, after consultation with the Carinthian education authorities, in the light of normal curricula in Austrian primary and upper primary schools and in accordance with the provisions of the present Article.

20. The qualifications required for teaching in the schools, (classes and divisions) mentioned in paras. 15 and 16 (1) above, and for the instruction in Slovene referred to in paras. 16 (3) and 17 shall be as stipulated in Article IV of the present Act.

ARTICLE IV

Supplementary training for teachers

21. (1) Additional instruction in the Slovene language of a scope to be specified in the general curriculum shall be provided by the Teachers' Training College in Klagenfurt for teachers in Slovene-speaking or bilingual primary schools. (2) Students already possessing a suitable knowledge of Slovene and who volunteer to do so, may study Slovene in place of the compulsory foreign language.

22. (1) Graduates of the Klagenfurt Teachers' Training College who have successfully completed the supplementary course in Slovene may either immediately, or at a later stage, take a further examination to qualify as teachers in Slovene-speaking or bilingual primary schools. (2) Similarly, teachers having qualified for appointment to primary schools may take a supplementary examination entiling them to teach in Slovene-speaking or bilingual primary schools. Likewise, those already qualified to teach in upper primary schools may take a further examination entitling them to teach in Slovene-speaking upper primary schools or to teach Slovene in other upper primary schools in Carinthia.

23. The syllabus (para. 21) for the supplementary course and the particulars of the supplementary examination in Slovene (para. 22) shall be settled by the Federal Ministry of Education after consultation with the Carin-thian education authorities, bearing in mind the requirements concerning the provision of bilingual or Slovene teaching or instruction in the Slovene language.

ARTICLE V

Secondary establishments

24. (1) A Slovene-speaking Federal secondary school shall be set up in Carinthia for the benefit of the Slovene minority. The curriculum shall be based generally on that of the Realgymnasium (modern studies) and where necessary on that of the Gymnasium (classical studies). (2) This school may be set up progressively, at the rate of one class per year.

25. With the above modifications, the normal regulations applicable to Austrian secondary schools shall hold good for the above-mentioned Slovene-speaking school.

26. (1) Slovene shall be the language of instruction in all forms of the Slovene-speaking Federal secondary school. (2) German shall be a compulsory subject in all forms and shall be taught for a number of hours per week to be specified in the curriculum. It shall also be a compulsory subject in the passing-out examination.

27. The Slovene-speaking secondary school shall be open solely to Austrian citizens able to demonstrate at the entrance examination or otherwise that they have an adequate knowledge of Slovene to enable them to pursue their studies in that language.

28. The leaving certificate of the Slovene-speaking Federal secondary school shall carry the same rights, particularly as regards entrance to higher educational institutions, as the leaving certificate of similar German-speaking secondary schools in Austria.

29. The curriculum and the passing-out examination regulations for the Slovene-speaking Federal secondary school shall be laid down by the Federal Ministry of Education, after consultation with the Carinthian education authorities, in the light of normal curricula in Austrian secondary schools and in accordance with the provisions of the present Article.

30. German-speaking secondary schools and other German-speaking secondary establishments in Carinthia may introduce the Slovene language as an optional subject in accordance with the normal regulations governing optional subjects in Austrian secondary schools.

ARTICLE VI

Inspection of schools

31. The Carinthian Board of Education (Landesschulrat) shall set up a special department to deal with the following :

a. Slovene-speaking primary and upper primary schools;

b. instruction in Slovene in bilingual primary schools (primary classes or divisions) and in Slovene-speaking divisions of upper primary schools;

c. the Slovene-speaking Federal secondary school.

32. (1) A district inspector qualified to teach in German and Slovene in primary and upper primary schools shall be appointed to inspect the schools mentioned in para. 31 (a) and to supervise the instruction mentioned in para. 31 (b). He shall also be responsible for inspection of the teaching of Slovene as an optional subject in other primary and upper primary schools in Carinthia. (2) An inspector qualified to teach in secondary schools and specialising in the Slovene language shall be appointed to inspect the school mentioned in para. 31 (c). He shall also be responsible for inspecting the supplementary courses in Slovene at the Klagenfurt Teachers' Training Institute and the teaching of Slovene as an optional subject in other secondary establishments in Carinthia. (3) An inspector possessing all the qualifications mentioned under (1) and (2) above may be appointed to carry out all the duties specified in those sub-paragraphs.

33. In all other respects, inspection of the schools referred to in paras. 31 (a) and (c) and of the instruction mentioned in paras. 31 (b) and 32 shall be subject to the normal regulations applicable to school inspection.

ARTICLE VII

Final clauses

34. (1) (Statutory provision). The present Federal Act shall come into force, except as stipulated in (2) below, on the day following the date of its publication., (2) The provisions of Article III shall come into force when the legislation required under para. 3 shall have been enacted in accordance with the provisions of para. 4 (1). (3) Regulations for the implementation of the present Act may be issued as from the day following its publication; they may not come into force, however, until the day on which the clauses of the Act to which they relate themselves become operative.

35. (Statutory provision). The Decree of the Provisional Government of Carinthia of 3rd October 1945 as amended by the decision of 31st October 1945 concerning the reform of bilingual primary schools in Southern Carinthia (Official Journal for Education in Carinthia No. 1, 1946) taken in conjunction with the Carinthian Board of Education instructions of 22nd September 1958, Mem. 4337, 27th October 1958, Mem. 4964 and 11th November 1958, Mem. 5468, shall cease to have effect on the day following the publication of the present Act insofar as they are contrary to such provisions of the present Act as come into force on that date, and shall become entirely null and void on the date on which Article III of the present Act comes into force.

36. (1) (Statutory provision). The Federal Government shall be responsible for the implementation of Article I and paragraph 34 (1) of the present Act. (2) The Federal Ministry of Education shall be responsible for the implementation of the remaining provisions of the Act.

Appendix 7 APPENDIX VII

Federal Law of 14th April 1959 for the implementation of the provisions of Article 7, paragraph 3 of the State Treaty relating to the languages authorised in the courts

The Nationalrat decides as follows :

Field of application

1. The Courts in which the Slovene language is authorised in the Federal Land of Carinthia by virtue of the State Treaty of 15th May 1955 (BGB1. No. 152) on the Re-establishment of an Independent and Democratic Austria shall be determined by a general census of minorities to be ordered by a Federal Law. Until that time the provisions of the present Federal Law shall apply to Courts in the districts of Eisenkappel, Bleiburg and Ferlach.

Applications

2. (1) Unless otherwise stipulated in the present law, applications may be drawn up in the Slovene language. The Court must immediately translate or arrange for the translation of all applications and annexes thereto drawn up in the Slovene language. If such petitions are transmitted, a copy of the German translation shall be attached. (2) The provisions of sub-paragraph (1) shall also apply to entries in court records.

Proceedings

3. (1) During hearings, proceedings and interrogations, the parties and any persons questioned may use the Slovene language. Authorised agents and defendants, however, shall be entitled to do so only if duly authorised in writing to that effect by the persons they represent. (2) If, during the case, a party or person interrogated uses the Slovene language, the judge shall, at the request of one of the parties concerned, conduct the proceedings in both German and Slovene. (3) Should the judge be unfamiliar with the Slovene language, an interpreter shall be called upon in the cases referred to in sub-paragraphs (1) and (2) above.

4. When the Slovene language is used during the proceedings (paragraph 3), the records shall be prepared in German and Slovene. Should the Clerk of the Court be unfamiliar with the Slovene language, the Court shall immediately translate, or arrange for translation of the records into that language.

Verdicts

5. In announcing its verdict, the Court must employ the German language. If the Slovene language has also been used during the proceedings (paragraph 3), the verdict shall immediately be translated.

6. Judgments and orders to be transmitted in writing must be drawn up in the German language. If such judgments or orders concern the settlement of a petition drawn up in the Slovene language (paragraph 2), a translation thereof into that language shall be attached. The same shall apply when the Slovene language has been used during the proceedings (paragraph 3).

Remedies

7. All applications and submissions addressed to a district court but subject to the jurisdiction of the Court of Justice shall be drafted in German.

Public registers

8. (1) The public registers shall be kept in the German language. (2) Material to be recorded in the land register and drafted in the Slovene language shall be accepted in that form only if the property or right to be recorded and the nature of the entry requested are described in German. If these particulars are lacking, the German translation alone (sub-paragraph (2) shall be registered. (3) If the document on which an entry is based is drafted in the Slovene language, the Court shall immediately translate it or arrange for its translation, and paragraph 89, GBG 1955, shall not be applicable. (4) Copies and extracts from the land register and official certificates shall, on request, be issued in the Slovene language. i (5) Sub-paragraphs (1) to (4) above < shall apply mutatis mutandis to the registration I of documents.

Juridical functions of notaries

9. In performing their juridical functions, notaries shall mutatis mutaiidis apply the provisions of sub-paragraphs (1) to (4) above.

Fees and costs

10. Costs, court fees and stamp duties relating to translations made or ordered by the Court in accordance with the present Federal Law shall not be borne by the parties.

Language for official business

11. Les juges et autres auxiliaires de justice ainsi que le procureur doivent utiliser la langue allemande dans leurs rapports de service.

Final provisions

12. The Federal Ministry of Justice shall be responsible for the execution of the present Federal Law, in agreement with the Federal Chancellory as regards paragraph 1 and in agreement with the Federal Ministry of Finance as regards paragraph 10.

Resolution of the Nationalrat 19th March 1959

13. The Federal Government is requested to submit to the Nationalrat by 30th June 1960 at the latest a Federal Bill for a general census of minorities.

14. By virtue of Article 7, paragraph 3, of the Austrian State Treaty of 15th May 1955 (BGB1 No. 152), on the Re-establishment of an Independent and Democratic Austria, the Slovene language is authorised as an official language, in addition to German, in the administrative districts of Carinthia, with a Slovene or mixed population.

With a view to the internal implementation of Article 7 of the above-mentioned State Treaty, the Federal Government has so far submitted to the Nationalrat a Bill containing regulations for the implementation of the minority school clauses of the State Treaty in the Federal Land of Carinthia (Minority School Law for Carinthia) and a Bill for the implementation of the provisions of Article 7, paragraph 3, of the State Treaty concerning the languages authorised in the Courts.

The Federal Government is also requested to submit to the Nationalrat as soon as possible a Bill, whereby, in the light of the principles of the Federal Bill for the implementation of the provisions relating to the languages authorised in the Courts, corresponding regulations shall be applied to the administrative authorities in the relevant political districts of Carinthia as regards the use of the Slovene language as an additional official language.

Appendix 8 APPENDIX VIII

Declaration by the Government of Denmark regarding the status of the German minority in Denmark, made at the issue of negotiations with the German Government on March 29th, 19SS

Desiring to promote peaceful living together among the population on either side of the Danish-German frontier and thereby also to promote the general development of friendly relations between the Kingdom of Denmark and the Federal Republic of Germany; and referring to Article 14 of the European Convention on Human Rights according to which all rights and freedoms set forth in the Convention shall be secured to everybody without discrimination on the ground of association with a national minority, the Royal Danish Government, in confirmation of the legal principles already applying to the German Minority in North Slesvig—as also expressed in the declaration made by the then Danish Prime Minister, Hans Hedtoft, on 27 October 1949 to representatives of that minority (the so-called Copenhagen Note) declares as follows :

I

Under Danish law—the Constitution of the Kingdom of Denmark of 5th June 1953, and supplementary legislation—every citizen, and consequently everybody belonging to the German minority, irrespective of his language, enjoys the following rights and freedoms :

1. Inviolability of personal liberty,
2. Equality before the law,
3. Freedom of creed and conscience,
4. Freedom of expression and of the press,
5. Freedom of assembly and association,
6. The right freely to choose occupation and place of work,
7. Inviolability of the dwelling,
8. The right freely to form political parties,
9. Equal access for everybody to public employment according to merit, suitability and professional qualifications, which implies that in matters relating to civil servants, employees, and workers in public service no distinction must be made between persons belonging to the German minority and other citizens,
10. General, direct, equal, free and secret franchise, applying also in municipal elections,
11. The right of anybody who believes that his rights have been violated by the authorities to invoke the protection of the courts of law,
12. The right to equal treatment, which means that nobody may suffer prejudice or be favoured because of his descent, language, origin or political opinion.

II

In consequence of these principles of law, it is hereby established as follows :

1. Persons belonging to the German minority and their organisations may not be prevented from using, orally or in writing, the language which they prefer. Use of the German language before the tribunals and administrative authorities is subject to the legislative provisions on the matter.
2. In virtue of the principle of freedom of education which applies in Denmark, schools for general education, folk high-schools (including vocational) and kindergartens may be established by the German minority pursuant to law.
3. Since the legislation on local government makes the method of proportional representation applicable to the appointment of committees of municipal councils, representatives of the German minority take part in the work of committees in proportion to their numbers.
4. The Danish Government recommends that, within the framework of the rules which may at any time apply to the use of the State broadcasting system, reasonable regard shall be paid to the German minority.

5. With respect to subventions and other grants from public funds which are allocated at discretion, no distinction will be made between persons belonging to the German minority and other citizens.

6. When public notices are made, reasonable regard shall be had to the daily press of the German minority.

7. The special interest of the German minority in cultivating their religious, cultural and professional relations with Germany is recognised.

Bonn, 29th March 1955.

Appendix 9 APPENDIX IX

Declaration by the Government of the Federal Republic of Germany regarding the status of the Danish minority in Germany made at the issue of negotiations ivith the Government of Denmark on March 29th, 19SS

Desirous of promoting the peaceful co-existence of the population on both sides of the German-Danish border and thereby developing friendly relations in general between the Federal Republic of Germany and the Kingdom of Denmark, and mindful of the obligation under international law undertaken by the Federal Republic as a signatory to the European Convention on Human Rights not to discriminate against national minorities (Article 14), the Government of the Federal Republic of Germany, in conformity with the said Convention and also with the principles laid clown in the Basic Law of the Federal Republic of Germany, referred to by the Land Government of Schleswig-Holstein in its declaration of 26th September 1949, declares as follows :

I

Persons belonging to the minority shall enjoy the rights guaranteed in the Basic Law of the Federal Republic of Germany, dated 23rd May 1949, equally with all other citizens. In particular the Basic Law confers the following rights upon them :

1. Inviolability of personal liberty,
2. Equality before the law,
3. Freedom of creed and conscience,
4. Freedom of speech and of the press,
5. Freedom of assembly and association,
6. Free choice of occupation and place of work,
7. Inviolability of the home,
8. Freedom to found political parties,
9. Equal access to public employment according to merit, suitability, and professional qualifications; no difference shall be made in the case of civil servants between members of the Danish minority and other citizens,
10. Universal, direct, free, equal and secret franchise, applicable to all elections including those for the Land and communal administrations,
11. The right to appeal to the courts in cases where rights are infringed by the public authorities,
12. Equal treatment, there being no discrimination or privilege in respect of any person on account of his descent, language, origin or political views.

II

In implementation of the foregoing legal principles it is hereby stated as follows :

1. Profession of Danish nationality and Danish culture is free and may not be challenged or examined by the authorities.
2. Persons belonging to the Danish minority and their organisations shall not be prevented from using the language of their choice, either in speech or in writing. The use of the Danish language in the courts and administrative authorities shall be governed by the relevant legal provisions.
3. In respect of financial and other assistance from public funds, which is allocated at the discretion of the authorities, no distinction shall be made between members of the Danish minority and other citizens.
4. The special interest of the Danish minority in cultivating their religious, cultural and professional links with Denmark is recognised.

III

The Federal Government hereby gives notification that the Land Government of Schleswig-Holstein has stated as follows :

1. Since the appointment of local government Committees is based on the principle of proportional representation, representatives of the Danish minority shall be included in such Committees in proportion to their numbers.

2. The Land Government recommends that suitable facilities be granted to the Danish minority in the use of broadcasting services, in accordance with current regulations.

3. Public announcements shall also be printed in the newspapers of the Danish minority.

4. In Land Schleswig-Holstein, schools and people's high schools (including technical colleges), as well as nursery schools, may be established by the Danish minority within the limits prescribed by law. In schools where the language of instruction is Danish, adequate instruction in the German language shall be given. Parents and guardians may freely decide whether their children shall attend schools where Danish is the language of instruction. Bonn, 29th March 1955.

Appendix 10 APPENDIX X

Provisions agreed upon by the Austrian and Italian Governments on September 5th, 1946 (De Gasperi-Gruber Agreement) (Annex IV to the Treaty of Peace with Italy dated 10th February 1947)

1. German-speaking inhabitants of the Bolzano Province and of the neighbouring bilingual townships of the Trento Province will be assured complete equality of rights with the Italian-speaking inhabitants, within the framework of special provisions to safeguard the ethnical character and the cultural and economic development of the German-speaking element. In accordance with legislation already enacted or awaiting enactment the said German-speaking citizens will be granted in particular :

a. elementary and secondary teaching in the mother-tongue;

b. parity for the German and Italian languages in public offices and official documents, as well as in bilingual topographic naming;

c. the right to re-establish German family names which were Italianised in recent years ;

d. equality of rights as regards the entering upon public offices, with a view to reaching a more appropriate proportion of employment between the two ethnical groups.

2. The populations of the above-mentioned zones will be granted the exercise of autonomous legislative and executive regional power. The frame within which the said provisions of autonomy will apply, will be drafted in consultation also with local representative German-speaking elements.

3. The Italian Government, with the aim of establishing good neighbourhood relations between Austria and Italy, pledges itself, in consultation with the Austrian Government and within one year from the signing of the present Treaty :

a. to revise in a spirit of equity and broadmindedness the question of the options for citizenship resulting from the 1939 Hitler-Mussolini agreements;

b. to find' an agreement for the mutual recognition of the validity of certain degrees and University diplomas;

c. to draw up a convention for the free passengers and goods transit between northern and eastern Tyrol both by rail and, to the greatest possible extent, by road;

d. to reach special agreements aimed at facilitating enlarged frontier traffic and local exchanges of certain quantities of characteristic products and goods between Austria and Italy.

Appendix 11 APPENDIX XI

Special Statute for the Trentino-Alto Adige (Constitutional Law No. S of 29th February 1948)[3]

Article 24. ...During the first two years of the Regional Council's term of office the President shall be elected from among the councillors of the Italian language group and the Vice-President from among the councillors belonging to the German language group; for the second two years the President shall be elected from among the members of the latter group and the Vice-President froom among the members of the former group. In the event of the death or resignation of the President of the Regional Council, the Council shall arrange for the election of a new President, who shall be selected from the linguistic group of which the former President was a member..,

Article 30. ...In the Regional Board the linguistic groups shall be represented in proportion to their numbers in the Regional Council. Alternate assessors appointed to deputise for the substantive assessors in their respective functions shall be chosen with due regard to the linguistic groups of which the substantive assessors arc members.

Article 43. ...During the first two years of the term of office of the Provincial Council of Bolzano, the President shall be elected from among the councillors belonging to the German language group and the Vice-President from among those belonging to the Italian language group. During the next two years the President shall be elected from among the councillors belonging to the Italian language group and the Vice-President from among those belonging to the German language group.

Article 44. ...In the Provincial Board of Bolzano the linguistic groups shall be represented in proportion to their numbers in the Provincial Council. Alternate assessors of the Provincial Board of Bolzano appointed to deputise for the substantive assessors in their respective functions shall be chosen with due regard to the linguistic groups of which the substantive assessors are members.

Article 82. Appeals against the regional or provincial laws on grounds of violation of the Constitution or of the present State or of the principal of parity between the linguistic groups may be lodged with the Constitutional Court.

Article 84. While Italian remains the official language in the Region, the use of the German language in public life shall be guaranteed in accordance with the provisions of the present Statute and the special laws of the Republic.

Article 85. German-speaking citizens of the Province of Bolzano may use their language in their dealings with public organs and authorities situated in the province or having regional competence. In meetings of regional or provincial collective organs or of local bodies the German language may be used. The organs and authorities referred to above shall use the language of the person concerned in correspondence and oral reports. Where correspondence is initiated by the official authorities it shall be drafted in the presumptive language of the person to whom it is addressed.

Article 86. In the Province of Bolzano public authorities must, in their dealings with German-speaking citizens, give equal currency to the German place-names, provided their existence has been established and their form approved under the provincial law.

Article 87. In the localities where the Latin language is spoken its teaching in the elementary schools shall be guaranteed.

3. 1948 Yearbook on Human Rights, pp. 122 and 123.

Appendix 12 APPENDIX XII

Memorandum of Understanding[4]between the Governments of Italy, the United Kingdom of Great Britain and Northern Ireland, the United States of America and Yugoslavia regarding the Free Territory of Trieste signed at London, on 5th October 1954

4. Came into force on 5th October 1954 by signature.

Appendix 13 ANNEX 2

Special statute

Whereas it is the common intention of the Italian and Yugoslav Governments to ensure human rights and fundamental freedoms without discrimination of race, sex, language and religion in the areas coming under their administration under the terms of the present Memorandum of Understanding, it is agreed :

1. In the administration of their respective areas the Italian and Yugoslav authorities shall act in accordance with the principles of the Universal Declaration of Human Rights adopted by the General Assembly of the United Nations on the 10th of December 1948 [5], so that all inhabitants of the two areas without discrimination may fully enjoy the fundamental rights and freedoms laid down in the aforesaid Declaration.

2. The members of the Yugoslav ethnic group in the area administered by Italy and the members of the Italian ethnic group in the area administered by Yugoslavia shall enjoy equality of rights and treatment with the other inhabitants of the two areas. This equality implies that they shall enjoy :

   a. equality with other citizens regarding political and civil rights as well as other human rights and fundamental freedoms guaranteed by Article 1 :

   b. equal rights in acquiring or performing any public services, functions, professions and honours;

   c. equality of access to public and administrative office; in this regard the Italian and Yugoslav administrations will be guided by the principle of facilitating for the Yugoslav ethnic group and for the Italian ethnic group, respectively, under their administration a fair representation in administrative positions, and especially in those fields, such as the inspectorate of schools, where the interests of such inhabitants are particularly involved;

   d. equality of treatment in following their trade or profession in agriculture, commerce, industry or any other field, and in organising and operating economic associations and organisations for this purpose. Such equality of treatment shall concern also taxation. In this regard persons now engaged in a trade or profession who do not possess the requisite diploma or certificate for carrying on such activities, shall have four years from the date of initialling of the present Memorandum of Understanding within which to acquire the necessary diploma or certificate. They will not be prevented from exercising their trade or profession because of failure to have the requisite documents unless they have failed to acquire them within the aforementioned four year period;

   e. equality of treatment in the use of languages as defined in Article 5 below;

   f. equality with other citizens in the general field of social assistance and pensions (sickness benefits, old age and disability pensions including disabilities resulting from war, and pensions to the dependents of those killed in war).

3. Incitement to national and racial hatred in the two areas is forbidden and any such act shall be punished.

4. The ethnic character and the unhampered cultural development of the Yugoslav ethnic group in the Italian-administered area and of the Italian ethnic group in the Yugoslav-administered area shall be safeguarded. (a) They shall enjoy the right to their own press in their mother tongue; (b) the educational, cultural, social and sports organisations of both groups shall be free to function in accordance with the existing laws. Such organisations shall be granted the same treatment as those accorded to other corresponding organisations in their respective areas, especially as regards the use of public buildings and radio and assistance from public financial means; and the Italian and Yugoslav authorities will endeavour to ensure to such organisations the continued use of the facilities they now enjoy, or of comparable facilities; (c) kindergarten, primary, secondary and professional school teaching in the mother tongue shall be accorded to both groups. Such schools shall be maintained in all localities in the Italian-administered area where there are children members of the Yugoslav ethnic group, and in all localities in the Yugoslav-administered area where there are children members of the Italian ethnic group. The Italian and Yugoslav Governments agree to maintain the existing schools as set out in the list attached hereto for the ethnic groups in the area under their administration and will consult in the Mixed Committee provided for the final Article of this Statute before closing any of these schools. Such schools shall enjoy equality of treatment with other schools of the same type in the area administered,

5. United Nations, Official Records of the General Assembly, Third Session, Part I, Resolutions, p. 71.

respectively, by Italy and Yugoslavia as regards provision of textbooks, buildings and other material means, the number and position of teachers and the recognition of diplomas. The Italian and Yugoslav authorities shall endeavour to ensure that the teaching in such schools will be performed by teachers of the same mother tongue as the pupils. The Italian and Yugoslav authorities will promptly introduce whatever legal prescriptions may be necessary so that the permanent organisation of such schools will be regulated in accordance with the foregoing provisions. Italian speaking teachers, who on the date of the initialling of the present " Memorandum of Understanding " are employed as teachers in the educational system of the YugoslaAr administered area and Slovene-speaking teachers who on the said date are employed as teachers in the educational system of the Italian administered area shall not be dismissed from their positions for the reason that they do not possess the requisite teaching diploma. This extraordinary provision shall not be used as a precedent or be claimed to apply to any cases other than the categories specified above. Within the framework of their existing laws the Yugoslav and Italian authorities will take all reasonable measures to give the aforementioned teachers an opportunity, as provided in Article 2 (d) above, to qualify for the same status as regular members of the teaching staff. The educational programmes of such schools must not be directed as interfering with the national character of the pupils.

5. Members of the Yugoslav ethnic group in the area administered by Italy and members of the Italian ethnic group in the area administered by Yugoslavia shall be free to use their language in their personal and official relations with the administrative and judicial authorities of the two areas. They shall have the right to receive from the authorities a reply in the same language; in verbal replies, either directly or through an interpreter; in correspondence, a translation of the replies at least is to be provided by the authorities. Public documents concerning members of these ethnic groups including court sentences shall be accompanied by a translation in the appropriate language. The same shall apply to official announcements, public proclamations and publications. In the area under Italian administration inscriptions on public institutions and the names of localities and streets shall be in the language of the Yugoslav ethnic group as well as in the language of the administering authority in those electoral districts of the Commune of Trieste and in those other communes where the members of that ethnic group constitute a significant element (at least one quarter) of the population; in those communes in the area under Yugoslav administration where the members of the Italian ethnic group are a significant element (at least one quarter) of the population such inscriptions and names shall be in Italian as well as in the language of the administering authority.

6. The economic development of the Yugoslav ethnic population in the Italian-administered area and of the Italian ethnic population in the Yugoslav-administered area shall be secured without discrimination and with a fair distribution of the available financial means.

7. No change should be made in the boundaries of the basic administrative units in the areas which come under the civilian administration of Italy or Yugoslavia with a view to prejudicing the ethnic composition of the units concerned.

8. A special Mixed Yugoslav-Italian Committee shall be established for the purpose of assistance and consultation concerning problems relating to the protection of the Yugoslav ethnic group in the area under Italian administration and of the Italian ethnic group in the area under Yugoslav administration. The Committee shall also examine complaints and questions raised by individuals belonging to the respective ethnic groups concerning the implementation of this Statute. The Yugoslav and Italian Governments shall facilitate visits by the Committee to the area under their administration and grant it every facility for carrying out its responsibilities. The two Governments undertake to negotiate forthwith detailed regulations governing the functioning of the Committee. London, 5th October 1954. M. BROSIO Vladimir VELEBIT