October 18, 2010

Council of Europe
Secretariat of the European Charter for Regional or Minority Languages
Directorate General IV - Education, Culture and Heritage, Youth and Sport
F-67075 Strasbourg Cedex, France

Council of Europe
Secretariat of the Framework Convention for the Protection of National Minorities
Directorate General of Human Rights and Legal Affairs
F-67075 Strasbourg Cedex, France

European Parliament
Intergroup for Traditional Minorities, National Communities and Languages
Secretariat, Dr. Davyth Hicks
ASP 12E 154
B-1047 Rue Wiertz 60
Bruxelles/Brussel, Belgium

Dear Mr Kozhemyakov, Ms Akip, and Mr Hicks,

As representatives of several Frisian institutions, we would like to draw your attention to the points of concern below.

We are concerned about the attitude of the Dutch central government towards the implementation of the European Charter for Regional or Minority Languages (ECRML) and the Framework Convention Regarding the Protection of National Minorities (FCNM) in the Netherlands. We ask for your support in ensuring that the ECRML and the FCNM are implemented properly in the Netherlands.

In September 2010, the Netherlands should have submitted its fourth state report on the implementation of the ECRML to the Council of Europe. However, we are disappointed that the Dutch government, again, has not fulfilled this periodical duty in time. The last state report was delivered 15 months late (submitted on 04/09/2007). Moreover, it lacked any substantive response from ambassador Jacobus van der Velden to the content of this third report. Preparations for the fourth report have not even started yet. There was only a request to be allowed to submit the fourth state report after the due date. For that reason we address the Council of Europe, and the both secretariats, directly.

In all the reports of the Council of Europe on the implementation of both the ECRML and FCNM, recommendations are given to the Dutch government to improve the situation of the Frisian language. In the following paragraphs we present a number of examples on the actual situation and its practical implications regarding Frisian.
Report of the Committee of Experts

After the third report of the Committee of Experts of the ECRML came out (adopted on 27/11/2007), four institutions (Afûk, FYK, NHL and FFU) decided to express their concern to the Ministry of Interior Affairs of the Netherlands. The third report of the Committee of Experts often uses the term ‘strongly urges’ in relation to taking concrete policy measures for the Frisian language.

The Afûk, an organisation that has the promotion of the use of Frisian among its activities, stated in their letter: "We can only conclude that there is a high degree of discrepancy between the enthusiasm of local governments on the one hand and the central government on the other."

The Frisian international youth organisation (FYK) also expressed its concern about the use of Frisian in several domains. The youngsters would like to see more awareness-raising regarding bilingualism in general. The most important point that was raised was the indifference that exists to the Frisian language: "We often have to explain why we want to speak our language. There is a need for attention to be given on a national level to the second language of the Netherlands (Frisian) and the promotion of bilingualism in general."

The NHL (school for higher education) and FFU (association for Frisian in education) discussed the position of Frisian in education and agreed with the main conclusions of the Committee of Experts.

However, only one organisation did receive an answer to their letter. The Fryske Rie requested better implementation of the ECRML and the transfer of power to the province of Fryslân regarding language and cultural matters. The State Secretary of Education, Culture and Science notified the Fryske Rie that a temporary committee was going to be set up (see below: Hoekstra-committee) and that the State Secretary was going to investigate the use of the Frisian language within the government agencies present in the province of Fryslân.

Attempted devolution of education and media

The Netherlands is a very centralised country. Nevertheless, in May 2008 the Minister of the Interior established a commission to investigate the devolution of education and the media from central government to the province of Fryslân (Hoekstra-committee). This was a recommendation by the Lodders-committee in 2008 whose advice was to devolve the tasks in the area of Frisian language to the province of Fryslân.

As a result of our discussions with the members of the devolution-committee, and preliminary signals regarding the expected recommendations, two positive proposals can be mentioned: the province of Fryslân should be given the legal power to prescribe the attainment targets for Frisian in primary schools, and the provincial administration should also be authorised to give partial exemption of the attainment targets to schools. Despite these relatively positive steps, these two measures will not be sufficient to fulfil the relevant undertakings in part III of the ECRML.

We are of the opinion that if the above mentioned recommendations are put into practice, this should go hand in hand with the decentralisation of adequate financial measures. We especially regret the attitude of the Ministry of Education, which sees no need for decentralisation or implementing more measures for the Frisian language. This is despite the recommendations of the Committee of Experts of the ECRML and the Advisory Committee of the FCNM.
School inspectorate
The Dutch inspectorate of education has an important role to play. This is an educational inspectorate that is also supposed to monitor the teaching of the Frisian language. Once every four years the inspectorate investigates the quality of Frisian in education. Its most recent report is finished, but not yet public. This upcoming report will show that no serious progress has been made over the last ten years with regard to the time investment of Frisian lessons and with regard to the improvement of teachers qualification for Frisian. We might assume that the recently introduced quality-framework will prove to be a useful tool in this respect. However, the Ministry of Education is very reluctant in cooperation and supporting these developments. This leads to a situation where in theory the inspectorate is supposed to monitor the Frisian language, while in practice this does not happen.

Dutch Constitution
In 2008, a proposal was put to the central government to include the Dutch language in the Constitution. The reason for doing so was to ensure the use of the Dutch language and to protect it against the influence of English. Initially, there was no mention of Frisian. The Frisian language is a language that is under pressure from the more dominant Dutch language and it should therefore also be protected. Furthermore, in the province of Fryslân Dutch and Frisian should receive equal treatment.

In order to guarantee the equal position of Frisian alongside with Dutch, the regional parliament and several institutions and citizens took action. The result of this is that the current protection of the Frisian language will be safeguarded in the proposal which is still under consideration by the Dutch parliament (the Dutch cabinet has send the proposal to the Dutch House of Representatives on 3 September 2010). The current protection is not enough, however, to ensure that Frisian can be used everywhere in Fryslân, for example, in social and economic life. The aim should be for the constitution to safeguard the equal use of Frisian and Dutch in the province of Fryslân. In its current form the Dutch language is presented as the more dominant language in the province of Fryslân.

Mentioning Dutch in the constitution, would also allow the Dutch identity to be imposed too much. We agree with the comment of the Advisory Committee that the Dutch authorities “are addressing integration issues through the objective of Dutch national identity, rather than approaching it as a two-way process whereby both majority and minority populations learn from each other.” The focus on learning the Dutch language and culture is so strong that as a consequence the Frisian language suffers from it.

The Raad van State (Council of State) has advised negative, about the proposal to include Dutch and Frisian in the Constitution. The new government of the Netherlands has now proposed to adopt a ‘language law’ that will regulate the position of Dutch and Frisian in the province of Fryslân (more about this ‘language law’ below). We regard this as a positive and promising development.

Pre-school education
An example of this is the new Law on Pre-school Education (wet Ontwikkelingskansen door Kwaliteit en Educatie). The Dutch government created this new law in order to counter (Dutch) language deprivation and as such much of its focus is on improving the Dutch language. The intention of the initiative is positive, but it illustrates how monolingual the Dutch authorities think. Bilingualism is seen as a handicap and not as an enrichment. Besides, it seems that the legal position of the Frisian language in the province of Fryslân is simply forgotten.

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1 Regarding the school inspectorate the Netherlands agreed on ECRML article 8.1.i.
2 Regarding pre-school education the Netherlands agreed on ECRML 8.1.a(ii).
The law in its initial form allowed day care centres in Fryslân to offer bilingual programmes, but not to offer solely Frisian programmes. Naturally it is important for children to have an adequate knowledge of the Dutch language, but in Fryslân there is wide knowledge of raising children bilingually. Only after a great deal of political pressure in the Eerste Kamer der Staten-Generaal (Upper Chamber of Parliament) the response from the minister was also to allow purely Frisian day care centres.

The point is that the bilingual situation in Fryslân is not automatically taken into account and that the agreements in the third Covenant on the Frisian language and culture (2001; Bestuursafspraak Friese taal en cultuur) between the central government and the provincial government are not adhered. The language covenant says that any new laws that directly or indirectly affect the position of the Frisian language should be discussed with the province of Fryslân.

Language policy plans

Another example that Frisian suffers from too much focus on the Dutch language only, is the language policy plan that some companies, day care centres and hospitals have. There are contracts and policy plans in use, for example, that state that the official language to be used in the workplace is Dutch. Regarding this regulation, which is aimed at foreign languages, the Frisian language cannot be used between two Frisian colleagues in the workplace or with customers.

The Netherlands signed 13.1.c. of the European Charter which states the following: “to oppose practices designed to discourage the use of regional or minority languages in connection with economic or social activities.”

Tûmба, the agency for equal treatment in the Netherlands, contributed to the Advisory Committee hearing. Tûmба records and takes action, sometimes through the courts, against all kinds of discrimination, including language discrimination and, more specifically, discrimination against the Frisian language. When a person is prevented from speaking Frisian when communicating with government services Tûmба can take action to solve this problem, because the use of Frisian with government organisations is protected by law.

However, when the issue concerns the use of Frisian in the workplace we find that this is not protected by law. Discrimination against the Frisian language is not included in the Dutch laws on discrimination. Tûmба has raised the issue that on this point the scope of the law is not adequate. The Konsultatyf Orgaan (Consultative Body) wrote a letter about this ‘shortcoming’ in the law to the Ministry of Justice but received no response.

Use of Frisian in courts and towards administration

There are many more examples that show that in theory the situation of the Frisian language may look positive, but on a practical level and with regard to concrete measures there is still some way to go.

Another example of this is the use of Frisian in courts. Theoretically you are given the opportunity to use Frisian in courtrooms and if a judge is not able to understand you, you are entitled to ask for an interpreter. In practice this sometimes fails because there are no interpreters available or the recorder is not able to write Frisian.

3 Regarding the use of the minority language in economic and social life the Netherlands agreed on ECRML 13.1.c.
4 Regarding the use of the minority language in judicial proceedings the Netherlands agreed on ECRML 9.1.a(ii), (iii), 9.1.b(iii), 9.1.c(ii), (iii), 9.2.b.
Regarding the use of the minority language in contact with the administrative authorities the Netherlands agreed on ECRML 10.1.a(v), 10.1.c, 10.2, 10.4.a, 10.4.c, 10.5.
The same can be said for the use of Frisian in communication with the administrative authorities in Fryslân. You have the right to use the Frisian language in oral or written form, but there is an absence of practical measures to implement this law. There are even examples of the administrative authorities writing back to people who have written in Frisian that they cannot answer the letter when it is not written in 'normal Dutch'. Again, no penalties are imposed for failure to act in accordance with the law.

**Central government**

There is evidence that in spite of the opinion of the Committee of Experts of the ECRML and the Advisory Committee of the FCNM, the Dutch national authorities do not see the need to implement more measures to protect and promote the Frisian language. The provincial authorities put a great deal of effort into improving the situation of Frisian, but the same cannot be said for the national authorities, who seem to have the impression that the current measures are sufficient.

**Our wishes to the Council of Europe**

We ask you to appeal to the Dutch authorities on the points we have mentioned above. Also, we would like you to support the conclusions and recommendations of the Hoekstra-committee investigating decentralisation as a positive step forward and also agree with the suggestion that the whole field of education (including pre-schools, and secondary, higher and special education) and other areas such as the media, economic, and social life be included in their recommendations.

We would furthermore ask you to support equal treatment for Dutch and Frisian under the constitution and to encourage the national government in its plans to pass a 'language law' for Fryslân. The Coalition Agreement of CDA-VVD (30 September 2010) states: "Legislation will be introduced to guarantee the equal rights of the Dutch and Frisian languages in the province of Friesland." The original Dutch text mentions a 'language law'.

The above mentioned Covenant on the Frisian language and culture hasn't shown sufficient implementation and enforcement. We hope a language law improves this. In addition to all the measures that the current language covenant already contains, this new language law should also provide for the prohibition of any form of discrimination against the Frisian language. It should also include a built-in evaluation mechanism. We ask your support for drafting this language law and implementation of this law in the Netherlands. If you have any studies on language laws, we would be very happy to receive those.

We ask for your support in ensuring that the ECRML and the FCNM are implemented properly in the Netherlands and that the national authorities openly support the Frisian language and in condemning the strong focus put on Dutch language and Dutch identity as foremost. We also ask you to support a Frisian language law.

Yours sincerely

[Signature]

Jelle Bangma, president of the Europeeske Buro foar Lytse Talen (EBLT)
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October 18, 2010

Dear Mr Kozhemyakov, Ms Akip, and Mr Hicks,

The following Frisian organisations (in alphabetic order) endorse the content of the attached “position paper”:

Afûk
(Foundation to promote the knowledge and use of the Frisian language)

Berie foar it Frysk
(Frisian Language Planning Board)

Cedin, Taalsintrum Frysk
(Educational services, Language centre Frisian)

Feriening Freonen fan Omrop Fryslân
(Association Friends of Omrop Fryslân)

Director drs. Koen J. Eekma

Board member drs. Jan S. Oudeboon

Head of the department Taalsintrum Frysk
Jelle Bangma

Chairman Douwe Hoekstra
Feriening Frysk Underwiis
(Association Frisian Education)

Secretary drs. Sytze T. Hiemstra

Folkshegeskoalle Schylgeralân
(Folkhighschool at the island Terschelling)

Representative Ina Kuipers-Kiel

Fryske Akademy
(Frisian Academy, research centre)

Director prof. dr. Reinier Salverda

Fryske Rie
(Frisian Council)

President dr. Roel C. Kaastra LLM

Jongereinferiening Frysk Ynternasjonaal Kontakt
(Youth association Frisian International Contact)

President Froukje Sijtsma
NHL Hogeschool
(NHL University of Applied Sciences)

Head of Department of Languages drs. Alex van der Stouwe

Omrop Fryslân
(Broadcasting Fryslân)

Editor-in-chief Rein Tolsma

Ried fan de Fryske Beweging
(Council of the Frisian Movement)

President dr. Jaap van der Bij

Sintrum Fryshtalige Berne-opfang
(Frisian Childcare-centre)

Chairman dr. Sikko de Jong

Stichting Ons Bildt
(Foundation Our Bildt)

Chairman Leendert Ferwerda
Tresoar
(Frisian Historical and Literary Centre)

Director drs. Bert Looper

Tryater
(Theatre company Tryater)

Company manager Siart Smit

Vereniging Levende Talen, seksje Frysk
(Association Living Languages, section Frisian)

Secretary dr. Reitze Jonkman