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**AD HOC COMMITTEE FOR THE PROTECTION OF
NATIONAL MINORITIES
(CAHMIN)**

INTERIM ACTIVITY REPORT

I. Terms of reference of the CAHMIN

1. At its meeting on 4 November 1993, the Committee of Ministers assigned the following terms of reference to the CAHMIN:

- "i. to draft with minimum delay a framework Convention specifying the principles which contracting States commit themselves to respect in order to assure the protection of national minorities. This instrument would also be open for signature by non-member States;
- ii. to begin work on drafting a protocol complementing the European Convention of Human Rights in the cultural field by provisions guaranteeing individual rights, in particular for persons belonging to national minorities."

The Committee of Ministers has requested that work on these two aspects be pursued in parallel and completed by the following dates: terms of reference i., 30 June 1994; terms of reference ii., 31 December 1994.

In addition, the plenary Committee was invited to present an interim report to the Committee of Ministers by 15 April 1994 at the latest.

2. In keeping with these terms of reference the CAHMIN is submitting this interim report to the Committee of Ministers by the prescribed deadline.

II. Organisation of the Committee's work

3. Since its terms of reference were adopted, the CAHMIN has held three meetings (25-28 January 1994, 14-18 March 1994 and 11-15 April 1994). A drafting group met from 21 to 23 February 1994. At its first meeting, the CAHMIN elected Mr Boillat (Switzerland) Chairman and Mr von Hebel (Netherlands) Vice-Chairman and Chairman of the Drafting Group. Representatives of the CDDH, CDCC, CDMM and of the Commission for Democracy through Law have participated actively in the work of the Committee, as have representatives of the CSCE High Commissioner on National Minorities and the Commission of the European Communities.

4. The following timetable has been agreed for forthcoming meetings in 1994:

CAHMIN	6-10 June 1994
CAHMIN	27 June-1 July 1994
CAHMIN	12-16 September 1994
CAHMIN	10-14 October 1994
CAHMIN/GR	7-10 November 1994
CAHMIN	5-9 December 1994.

5. The Committee of Ministers is asked to note that one drafting group meeting (6-9 June 1994) has been changed to a plenary Committee meeting (6-10 June 1994).

III. Preparation of legal instruments

6. Given the deadlines set by the Committee of Ministers, the Committee has agreed to give priority in its order of work to the preparation of a draft framework Convention on the protection of national minorities. It will endeavour, as far as possible, to draft some of the provisions for the protocol to the European Convention on Human Rights (ECHR) guaranteeing individual rights in the cultural field in parallel. In drawing up the draft framework Convention, the Committee took account of the fact that it would be open to non-member States of the Council of Europe. It would therefore be useful to include some principles which currently appear in the ECHR. The protocol would, however, be reserved for the member States of the Council of Europe and should contain only additional rights to the ECHR. In accordance with Appendix II of the Vienna Declaration the Committee has endeavoured to include into the draft framework Convention, to the largest possible extent, the commitments concerning the protection of national minorities contained in the Copenhagen and other documents of the CSCE. It also drew inspiration from other texts and international instruments, in particular from those appearing in Appendix I.

7. As to the question of the definition of the notion of "national minorities", the Committee has noted that such a definition was not needed for drawing up a draft protocol to the ECHR since this protocol would contain individual and universal rights. On the other hand, the issue could perhaps arise in the context of the preparation of the framework Convention. The Committee has nevertheless agreed to adopt a pragmatic approach, i.e. to start the preparatory work without embarking on a prior discussion on the definition. It intends to pursue its work along this approach.

1. Framework Convention

8. The Committee has adopted the following working method for preparing the draft framework Convention: agreement would first be reached on the general nature and legal scope of the substantive provisions, then on the undertakings which should be part of the convention, and then provisions would be drafted.

9. As for the nature and scope of the substantive provisions to be included in the draft framework Convention, the Committee agreed to put the emphasis in particular on programme-type provisions, in other words provisions defining certain objectives which States Parties would undertake to pursue. Such provisions - which will not, in principle, be directly applicable ("self-executing") - will leave a margin of appreciation to the States Parties, as concerns the implementation of the objectives which they will have undertaken to attain and will thus enable the States Parties to take their own particular circumstances into account.

10. To date, the Committee has formulated and provisionally retained the draft articles which appear in Appendix II.

11. The Committee has also at this stage considered the following topics without, however, having drafted the corresponding provisions:

- Information freedoms
- Freedom of movement
- Right to choose freely to belong to a minority/freely to exercise one's rights
- Linguistic freedoms:
 - use of the minority language
 - use of the minority language before public institutions
 - use of one's own name
 - display in public of signs, inscriptions and other private information in the minority language
 - place name signs in the minority language
- Right to education:
 - learning the minority language at school
 - teaching in the minority language
 - setting up of educational institutions
- Cultural freedoms:
 - development and expression of the minority culture, language and customs
 - soliciting of public or private financial assistance
- Transfrontier contacts
- International and transfrontier co-operation
- Participation in economic, cultural and social life
- Participation in public life
- Prohibition of ethnic cleansing

In addition, the Committee agreed to include a restriction clause which will apply to several substantive articles.

12. In order to be able to meet the 30 June 1994 deadline set by the Committee of Ministers, the Committee instructed the Chairman and the Vice-Chairman to prepare, with the assistance of the Secretariat, and on the basis of discussions at its meeting from 11 to 15 April 1994, a preliminary draft of the remaining provisions the framework Convention might contain in time for its next meeting (6-10 June 1994).

13. Depending on the time available, the Committee will look at the question of the implementation of the undertakings contained in the draft framework Convention. If necessary the Committee will invite the Committee of Ministers to give it further instructions on this subject.

2. Draft protocol to the ECHR in the cultural field

14. The Committee has held a short preliminary exchange of views on the concept and possible contents of such a protocol. It was noted that the terms of reference speak of "individual rights" "in the cultural field". It was also pointed out that the protocol should "complement" the ECHR and therefore guarantee justiciable rights. Finally, the phrase "in particular for persons belonging to national minorities" indicates that, although the Protocol should include individual rights of a universal character, it should in particular take into account the protection of persons belonging to national minorities.

15. In addition to the main documents already used by the CAHMIN in preparing the framework Convention (see CAHMIN (94) 5, paragraph 22), the Committee referred to the European Cultural Convention, the European Charter for Regional or Minority Languages and the report of the "Think Tank" meeting on cultural rights as working documents from which it might draw inspiration for the elaboration of the draft protocol. It was, however, agreed that no limits should be imposed on the choice of working documents. The Austrian expert informed the Committee that he will soon submit a draft text for an additional Protocol.

APPENDIX I

INSTRUMENTS AND OTHER TEXTS RELEVANT TO THE CAHMIN'S WORK

UNITED NATIONS:

- International Covenant on Civil and Political Rights.
- Convention on the Prevention and Punishment of the Crime of Genocide.
- Convention on the Elimination of All Forms of Discrimination Against Women.
- International Convention on the Elimination of All Forms of Racial Discrimination.
- Resolution 47/135 adopted by the General Assembly in Dec.1992 "on persons belonging to national or ethnic minorities, religious and linguistic".
- Convention Against Discrimination in Education.

CSCE:

- Helsinki Final Act.
- Concluding Document of the Vienna Meeting.
- Charter of Paris for a New Europe.
- Report of the CSCE meeting of experts on national minorities.
- Document of the Moscow Meeting.
- Document of the Copenhagen Meeting on the Human Dimension.
- Document of the Helsinki Meeting.

COUNCIL OF EUROPE:

- European Convention for the Protection of Human Rights and Fundamental Freedoms.
- Recommendation 1134 (1990) on the Rights of Minorities adopted by the Parliamentary Assembly.
- Proposal for a European Convention for the Protection of Minorities, elaborated by the "European Commission for Democracy through law".
- Draft Proposal for a Protocol to the ECHR submitted by Austria to the Council of Europe.
- Recommendation 1201 (1993) on a Protocol to the ECHR on the Rights of Minorities, adopted by the Parliamentary Assembly.

Federal Union of European Nationalities:

- Convention draft on the fundamental rights of ethnic groups in Europe (additional Protocol to the ECHR).

APPENDIX II

CHAPTER I: General principles

Article 1

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

Article 2

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

Article 3

Paragraph 1

The Parties undertake to promote the conditions necessary for persons belonging to national minorities to maintain and develop their culture, as well as to preserve the essential elements of their identity, namely their religion, language, traditions and customs.

Paragraph 2

Without prejudice to measures taken in pursuance of their general integration policy, [and in accordance with the requirements of a democratic society,] the Parties shall refrain from policies or practices aimed at assimilation of persons belonging to national minorities against their will and shall protect these persons against any action aimed at such assimilation.

Paragraph 3

The Parties shall refrain from measures which modify the proportions of the population in [geographical] areas inhabited by persons belonging to national minorities, and are aimed at restricting the rights and freedoms which flow from the principles enshrined in the present Convention.

Article A

Nothing in the present Convention shall be interpreted as implying any right to engage in any activity or perform any act contrary to the fundamental principles of international law and in particular of the sovereign equality, territorial integrity and political independence of States.

Article B

Nothing in the present Convention shall be construed as limiting or derogating from any of the human rights and fundamental freedoms which may be ensured under the laws of any Contracting Party or under any other agreement to which it is a Party.

CHAPTER II

Article 1

Paragraph 1

The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. Any discrimination based on belonging to a national minority shall be prohibited.

Paragraph 2

Taking due account of the specific conditions of the persons belonging to national minorities, the Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, cultural and political life, full and effective equality between these persons and those belonging to the majority.

Paragraph 3

The measures adopted in accordance with paragraph 2 shall not be considered as an act of discrimination.

Article 2

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