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**AD HOC COMMITTEE FOR THE PROTECTION OF
NATIONAL MINORITIES**

(CAHMIN)

**PRELIMINARY DRAFT FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES**
prepared by the Chairman and Vice-Chairman of the CAHMIN
with the assistance of the Secretariat¹

¹ This text will be examined by the CAHMIN at its meeting on 6-10 June 1994. Delegations who wish to make proposals on substantive issues are invited to do so by fax to the Secretariat before 2 June 1994 (Fax: (33) 88 41 27 93).

The member States of the Council of Europe signatory hereto,

Considering that the aim of the Council of Europe is to achieve greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common European heritage;

Considering that one of the methods by which that aim is to be pursued is the maintenance and further realisation of human rights and fundamental freedoms;

Considering that the protection of the national minorities, in particular those which the upheavals of history have established in Europe, is essential to stability and democratic security in this Continent;

Considering that a pluralistic and genuinely democratic society should not only respect the ethnic, cultural, linguistic and religious identity of each person but also create the appropriate conditions to promote this identity;

Considering that the creation of a climate of tolerance and dialogue is necessary to allow this cultural diversity to be a source as well as a token, not of division, but of enrichment to each society;

Considering that the creation of a tolerant and prosperous Europe does not depend only on co-operation between States but also requires transfrontier co-operation between local and regional authorities, without prejudice to the constitution and territorial integrity of each State;

Having regard to the commitments concerning the protection of national minorities contained in the Copenhagen and other documents of the Conference on Security and Co-operation in Europe;

Being resolved to create legal obligations specifying the principles to be respected in order to assure the effective protection of national minorities and of the rights of persons belonging to those minorities in the member States and such other European States as may accede to the present instrument,

Have agreed as follows:

CHAPTER I: General principles²

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

Every person belonging to a national minority shall have the right to choose to be treated or not to be treated as such and no disadvantage shall arise from this choice or from the exercise of the rights which are connected to that choice.

CHAPTER II: Obligations

Article 4

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

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.

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

Article 5

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.

² The texts already approved by the CAHMIN are hereafter reproduced in bold. Some changes have been made on linguistic grounds; these are underlined.

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.

Article 6

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

Article 7

1. The Parties undertake to recognise that the right to freedom of expression of every person belonging to a national minority includes the freedom to hold opinions and to receive and impart information and ideas, in particular in the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure that persons belonging to a national minority shall not be discriminated against in their access to the media.

2. Paragraph 1 shall not prevent Parties from requiring the licensing, without discrimination and based on objective criteria, of sound radio and television broadcasting, or cinema enterprises.

3. In the framework of their legal systems, the Parties shall adopt special measures in order to facilitate access for persons belonging to national minorities to the media and in order to promote cultural pluralism.

4. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the framework of broadcasting, they shall ensure, as far as possible, and taking into account the provisions of paragraph 1, that persons belonging to national minorities are granted the possibility of creating and using their own media.

Article 8

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his/her minority language without interference, in private and in public, both orally and in writing.

2. In regions traditionally inhabited by national minorities or by substantial numbers of a national minority, if those minorities so request and where this request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions necessary for persons belonging to these national minorities to use their minority language with the administrative authorities and to receive answers and communications from the same authorities in that language. The Parties shall in particular endeavour to ensure those conditions at the local and regional level.

[3. The Parties undertake to guarantee, as far as possible, the right of every person belonging to a national minority to be informed promptly in his minority language but in any case in a language which he understands, of the reasons for his arrest, of any charge against him and of the nature and cause of any accusation against him, as well as to defend himself in this language, if necessary with the free assistance of an interpreter.]

Article 9

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his surname and first names in the minority language and the right to official recognition thereof.

2. The Parties undertake to recognise that every person belonging to a national minority has the right to display in his language signs, inscriptions and other information of a private nature visible to the public.

3. In regions traditionally inhabited by national minorities or by substantial numbers of a national minority, if those minorities so request and where this request corresponds to a real need, the Parties shall endeavour to display local names, street names and other topographical indications intended for the public also in the minority language.

[Article 10]

1. The Parties shall ensure that school teaching favours mutual understanding and a spirit of tolerance.

2. The Parties shall endeavour to include in school curricula the teaching, not only of the culture and history of the majority, but also of those of their national minorities.

3. For these purposes, the Parties shall promote the publication of the appropriate school textbooks, if possible also in the minority language, and adequate teacher training.]³

Article 11

1. Within the framework of their legal and educative systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own educational and training establishments.

³ This text is based on a proposal made by the CDCC.

2. The exercise of this right shall not imply any financial obligation for the Parties. However, in the regions where mandatory schooling is exclusively or essentially ensured by these private establishments, the Parties shall endeavour to finance them, as far as possible, in whole or in part.

Article 12

1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his minority language.

2. The exercise of this right shall not be restricted as concerns private educational and training establishments.

3. In regions traditionally inhabited by national minorities or by substantial numbers of a national minority, if those minorities so request and where this request corresponds to a real need, the Parties shall ensure that mandatory schooling for pupils belonging to those national minorities given by public schools shall include the study of their minority language.

Article 13

1. Where the schooling given by private educational and training establishments satisfies the requirements of their national legislation, the Parties undertake to recognise that every person belonging to a national minority shall have the right to be instructed in his minority language.

2. In regions traditionally inhabited by national minorities or by substantial numbers of a national minority, if those minorities so request and where this request corresponds to a real need, the Parties shall endeavour, in accordance with the means available to them, to put in place conditions allowing all or part of the schooling of pupils belonging to those national minorities to be given in their minority language.

Article 14

The Parties shall favour the effective participation of persons belonging to national minorities in cultural, social and economic life as well as in public affairs, in particular those affecting them.

Article 15

1. The Parties shall ensure that every person belonging to a national minority lawfully within their territory has the right to liberty of movement and freedom to choose their residence within that territory. They shall not prevent these persons from freely leaving the country.

2. The Parties shall not deprive persons belonging to national minorities of their right to enter the territory of the State of which they are nationals and undertake not to expel these persons, by means either of an individual or of a collective measure, from that territory.

3. The Parties undertake not to expel collectively persons belonging to a national minority when these persons are not their nationals.

Article 16

The Parties shall refrain from measures which modify the proportions of the population in 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 17

The Parties shall refrain from any policy or practice aiming at or resulting in ethnic cleansing of the population living on its territory or in certain areas thereof and shall prevent any action having such an aim or result.

Article 18

The Parties undertake not to interfere with the right of persons belonging to national minorities to establish and maintain free and peaceful contacts across frontiers with citizens of other States, in particular those with whom this minority shares ethnic, religious or linguistic features, or a common cultural identity or heritage.

Article 19

1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States in order to settle questions concerning national minorities, in particular in the fields of information, environmental protection, economy, infrastructure, youth exchanges, culture and education.
2. If necessary, the Parties shall take measures in particular to encourage transfrontier co-operation in border areas where national minorities reside.

Article 20

1. Without prejudice to the provisions laid down in paragraphs 2, 3 and 4 and in Article B, the rights and freedoms flowing from the principles enshrined in Articles 6, 7, 9, paragraph 2, and in Articles 15, paragraph 1, and 18 of the present Convention shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of public order, health or morals, or for the protection of the rights and freedoms of others.

2. The rights to freedom of peaceful assembly and freedom of association flowing from the principles enshrined in Article 6 may, on the conditions provided in paragraph 1, also be subject to restrictions necessary in the interest of national security or for the prevention of crime. That Article shall not prevent the imposition of lawful restrictions on the exercise of these rights by members of the armed forces, of the police or of the administration of the State.

3. The right to freedom of expression flowing from the principles enshrined in Articles 6 and 7 may, on the conditions provided in paragraph 1, also be subject to formalities, conditions, restrictions or penalties necessary in the interest of national security, for the prevention of crime, for the protection of the reputation of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

4. The rights and freedoms flowing from the principles enshrined in Article 15, paragraph 1, may, on the conditions provided in paragraph 1, also be subject to restrictions necessary in the interest of national security, for the maintenance of ordre public or for the prevention of crime. In addition, the rights and freedoms flowing from the principles enshrined in the first sentence of Article 15, paragraph 1, may be subject, in particular areas, to restrictions imposed in accordance with law and justified by the public interest in a democratic society.

Article 21

The Parties undertake to recognise that every person belonging to a national minority whose rights flowing from the principles enshrined in the present Convention are violated, shall have an effective remedy before a national authority.

CHAPTER III: Control of the implementation of the undertakings

(...)

CHAPTER IV: Miscellaneous provisions

Article A

In the exercise of the rights and freedoms flowing from the principles enshrined in the present Convention, any person belonging to a national minority shall respect the national legislation, the rights of others, in particular those of the members of the majority and of other minorities.

Article B

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 C

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.

Article D

The rights and freedoms flowing from the principles enshrined in the present Convention which are the subject of a corresponding provision in the European Convention on Human Rights or in the Protocols thereto, as well as the restriction clauses contained in Article 20, shall be interpreted in accordance with the European Convention on Human Rights and the case-law of its organs.

CHAPTER V - Final Provisions

Article E

This Convention shall be open for signature by the member States of the Council of Europe. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article F

1. This Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date on which ... member States of the Council of Europe have expressed their consent to be bound by the Convention in accordance with the provisions of Article E.
2. In respect of any member State which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article G

1. After the entry into force of this Convention, the Committee of Ministers of the Council of Europe may invite any State not a member of the Council to accede to this Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe.
2. In respect of any acceding State, the Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date of the deposit of the instrument of accession with the Secretary General of the Council of Europe.

Article H

1. This Convention shall apply to the whole territory of the Parties. Any State may at the time of signature or when depositing its instrument of ratification, acceptance, approval or accession, specify the other territory or territories for whose international relations it is responsible to which this Convention shall apply.
2. Any State may at any later date, by a declaration addressed to the Secretary General of the Council of Europe, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of ... months after the date of receipt of such declaration by the Secretary General.
3. Any declaration made under the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to the Secretary General. The withdrawal shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of such notification by the Secretary General.

Article I

No reservation may be made in respect of this Convention.

Article J

1. Any Party may at any time denounce this Convention by means of a notification addressed to the Secretary General of the Council of Europe.
2. Such denunciation shall become effective on the first day of the month following the expiration of a period of ... months after the date of receipt of the notification by the Secretary General.

Article K

The Secretary General of the Council of Europe shall notify the member States of the Council and any State which has acceded to this Convention, of:

- a. any signature;
- b. the deposit of any instrument of ratification, acceptance, approval or accession;
- c. any date of entry into force of this Convention in accordance with Articles F, G and H;

- d. any other act, notification or communication relating to this Convention.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done at, the, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Council of Europe. The Secretary General of the Council of Europe shall transmit certified copies to each member State of the Council of Europe and to any State invited to accede to this Convention.