

Council of Europe
Conseil de l'Europe



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AD HOC COMMITTEE FOR THE PROTECTION
OF NATIONAL MINORITIES

(CAHMIN)

New Austrian proposal for a draft
additional protocol

Protocol no.

The member States of the Council of Europe signatory hereto,

Being resolved to take further steps to ensure the collective enforcement of certain rights by means of the Convention for the Protection of Human Rights and Fundamental Freedoms signed at Rome on 4 November 1950 (hereinafter referred to as "the Convention"),

Have agreed as follows:

Article 1

(1) No one shall be denied the right to have and to use his/her name in its traditional form by the State of which he/she is a national.

(2) No restrictions shall be placed on the exercise of this right other than such as are in accordance with law and are necessary in a democratic society in the interests of public safety, for the maintenance of ordre public, for the prevention of disorder or crime, for the protection of morals, or for the protection of the rights and freedoms of others; in case of a name's transliteration from one script into another, the public authority performing such a transliteration shall be guided by relevant accepted international standards which preserve the name's univocality in both languages and its reversibility into the original language.

Article 2

(1) No national shall be denied by his/her State within its State school system the right to have adequate opportunities for receiving an instruction of his/her language and, insofar appropriate, also an instruction in his/her language wherever in his/her State that language has been traditionally used.

(2) In such areas adequate opportunities shall be made available when a sufficiently strong demand for a particular instruction under paragraph 1 of this article can be fulfilled by the State at reasonable conditions.

Article 3

(1) Every national shall have the right to use, orally and in writing, his/her language in contacts with public authorities of his/her State and to receive from those authorities spoken and written communications in the same language wherever in his/her State that language has been traditionally used.

(2) The exercise of this right shall be granted without any financial charge, if necessary by the use of interpreters and translations, in case of a permanent demand for such a use of that language before those public authorities whose territorial districts include a sufficient number of nationals traditionally using such a language to justify its use before those authorities.

(3) Paragraphs (1) and (2) of this article shall also apply to public services provided by the public authorities or by other persons acting on their behalf.

Article 4

(1) Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval,

a) specify the language or languages having been traditionally used to which this Protocol shall apply and state the extent to which it undertakes that the provisions of this Protocol shall apply to such language or languages;

b) specify the territory or territories to which this Protocol shall apply and state the extent to which it undertakes that the provisions of this Protocol shall apply to such territory or territories.

(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 Protocol to any other language having been traditionally used or to any other territory specified in the declaration. In respect of such language or such territory, the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of receipt by the Secretary General of such declaration.

(3) Any declaration made under the two preceding paragraphs may, in respect of any language having been traditionally used or any territory specified in such a declaration, be withdrawn or modified by a notification addressed to the Secretary General. The withdrawal or modification shall become effective on the first day of the month following the expiration of a period of two months after the day of receipt of such notification by the Secretary General.

(4) A declaration made in accordance with this article shall be deemed to have been made in accordance with paragraph 1 of Article 63 of the Convention.

(5) The territory of any State to which this Protocol applies by virtue of ratification, acceptance or approval by that State, and each territory to which this Protocol is applied by virtue of a declaration by that State under this article, may be treated as separate territories for the purpose of the references in Articles 2 and 3 to the territory of a State.

Article 5

(1) As between the States Parties, the provisions of Articles 1 to 4 of this Protocol shall be regarded as additional articles to the Convention, and all the provisions of the Convention shall apply accordingly.

(2) Nevertheless, the right of individual recourse recognised by a declaration made under Article 25 of the Convention, or the acceptance of the compulsory jurisdiction of the Court by a declaration made under Article 46 of the Convention, shall not be effective in relation to this Protocol unless the State concerned has made a statement recognising such right, or accepting such jurisdiction in respect of Articles 1 to 3 of this Protocol.

Article 6

This Protocol shall be open for signature by member States of the Council of Europe which have signed the Convention. It is subject to ratification, acceptance or approval. A member State of the Council of Europe may not ratify, accept or approve this Protocol without previously or simultaneously ratifying the Convention. Instruments of ratification, acceptance or approval shall be deposited with the Secretary General of the Council of Europe.

Article 7

(1) This Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date on which [five] [seven] member States of the Council of Europe have expressed their consent to be bound by the Protocol in accordance with the provisions of Article 6.

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(2) In respect of any member State which subsequently expresses its consent to be bound by it, the Protocol shall enter into force on the first day of the month following the expiration of a period of two months after the date of the deposit of the instrument of ratification, acceptance or approval.

Article 8

The Secretary General of the Council of Europe shall notify all the member States of the Council of Europe of:

- (a) any signature;
- (b) the deposit of any instrument of ratification, acceptance or approval;
- (c) any date of entry into force of this Protocol in accordance with Articles 4 and 7;
- (d) any other act, notification or declaration relating to this Protocol.

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

Done at Strasbourg, this ... day of 199., 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.