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

(CAHMIN)

**Proposals for linguistic changes to the draft framework
Convention for the protection of national minorities**

Document prepared by the Directorate of Human Rights

Introductory remark:

This document contains suggestions made by the translation service of the Council of Europe for improving the use of **English** in the draft-framework Convention.

The secretariat of CAHMIN has reviewed these suggestions bearing in mind the need to avoid altering the meaning of the text and the desirability of keeping in tact phrases derived from existing instruments.

The text of the draft-framework Convention as it was appended to the 5th Meeting Report (CAHMIN (94) 19, Appendix IV, pages 24-33) is reproduced in this document on the left-hand pages. The proposed text is reproduced on the opposite (right-hand) page where all changes have been marked. New words are marked in italics and by underlining, where words have been deleted this is marked by a blank space with underlining.

The member States of the Council of Europe and the other States, 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;

Wishing to give a follow-up to the Declaration of the Heads of State and of Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993;

Considering that the protection of national minorities is essential to stability, democratic security and peace 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 belonging to a national minority but also create appropriate conditions allowing them to express, preserve and develop this identity;

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

Considering that achieving 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 European Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe;

Having regard to the commitments concerning the protection of national minorities contained in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to assure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and the national sovereignty of states,

Have agreed as follows:

The member States of the Council of Europe and the other States _ signatory hereto,

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

Wishing to ____ follow-up ____ the Declaration of the Heads of State and ____ Government of the member States of the Council of Europe adopted in Vienna on 9 October 1993;

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Considering that the realization of a tolerant and prosperous Europe does not depend solely 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;

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Having regard to the commitments concerning the protection of national minorities _____ in United Nations conventions and declarations and in the documents of the Conference on Security and Co-operation in Europe, particularly the Copenhagen Document;

Being resolved to define the principles to be respected and the obligations which flow from them, in order to ensure, in the member States and such other States as may become Parties to the present instrument, the effective protection of national minorities and of the rights of persons belonging to those minorities, within the rule of law, respecting the territorial integrity and ____ national sovereignty of states,

Have agreed as follows:

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 framework 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

- 1. Every person belonging to a national minority shall have the right freely 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.**
- 2. Persons belonging to national minorities may exercise and enjoy the rights and freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.**

CHAPTER II: Obligations

Article 4

- 1. In the context of this framework Convention, 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. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in all areas of economic, social, political and cultural life, full and effective equality between these persons and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.**
- 3. The measures adopted in accordance with paragraph 2 shall not be considered as an act of discrimination.**

CHAPTER I: General principles

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1. Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such, and no disadvantage shall result from this choice or from the exercise of the rights ____ connected thereto.
2. Persons belonging to national minorities may exercise __ the rights and enjoy the freedoms flowing from the principles enshrined in the present framework Convention individually as well as in community with others.

CHAPTER II: Obligations

Article 4

1. In the context of this framework Convention, the Parties undertake to guarantee the right of every person belonging to a national minority to equality before the law and to equal protection of the law. Any discrimination based on belonging to a national minority shall be prohibited.
2. The Parties undertake to adopt, where necessary, adequate measures in order to promote, in every area of economic, social, political and cultural life, full and effective equality between these persons and those belonging to the majority. In this respect, they shall take due account of the specific conditions of the persons belonging to national minorities.
3. The measures adopted in accordance with paragraph 2 shall not be considered to be 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 cultural heritage.
2. Without prejudice to measures taken in pursuance of their general integration policy, 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

1. The Parties shall encourage a spirit of tolerance and interculturalism and take effective measures to promote mutual respect, understanding and co-operation among all persons living on its territory, irrespective of their ethnic, cultural, linguistic or religious identity, in particular in the fields of education, culture and the media.
2. The Parties undertake to take appropriate and proportionate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic and religious identity.

Article 7

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 8

The Parties undertake to recognise that every person belonging to a national minority alone or in community with others has the right to profess or practise his or her own religion as well as the right to establish his or her own religious institutions, organisations and associations.

Article 9

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 the minority language, without interference by public authorities and regardless of frontiers. The Parties shall ensure, within the framework of their legal systems, that persons belonging to a national minority shall not be discriminated against in their access to the media.

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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. The Parties shall not hinder the creation and the use of printed media by persons belonging to national minorities. In the legal framework of sound radio and television 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.
4. In the framework of their legal systems, the Parties shall adopt adequate measures in order to facilitate access for persons belonging to national minorities to the media and in order to promote tolerance and permit cultural pluralism.

Article 10

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use freely and without interference his or her minority language, in private and in public, orally and in writing.
2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if those persons so request and where such a request corresponds to a real need, the Parties shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities.
3. The Parties undertake to guarantee the right of every person belonging to a national minority to be informed promptly, in a language which he or she understands, of the reasons for his or her arrest, and of any accusation against him or her, and to defend him- or herself in this language, if necessary with the free assistance of an interpreter.

Article 11

1. The Parties undertake to recognise that every person belonging to a national minority has the right to use his or her surname (patronym) 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 or her minority language signs, inscriptions and other information of a private nature visible to the public.

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[Paragraph 3:

Variant i.

In regions inhabited by national minorities traditionally or in substantial numbers, if those minorities so request and where such a 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.

Variant ii.

In [administrative] areas [traditionally] inhabited by substantial numbers of persons belonging to a national minority, the Parties shall endeavour, in the framework of their legal systems, to display local names, street names and other topographical indications intended for the public also in the minority language, taking into account the request of persons belonging to such a minority and the special conditions of these areas.

Variant iii.

In areas traditionally inhabited by substantial numbers of persons belonging to a national minority, Parties shall endeavour to display traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications.]

Article 12

- 1. The Parties shall, where appropriate, take measures in the fields of education and research to encourage knowledge of the culture, history, language and religion of the majority, as well as of their national minorities.**
- 2. In this context the Parties shall inter alia provide adequate opportunities for teacher training, publication of textbooks, and facilitate contacts among students and teachers of different communities.**
- 3. The Parties undertake to promote equal access to education at all levels for persons belonging to national minorities.**

Article 13

- 1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.**
- 2. The exercise of this right shall not entail any financial obligation for the Parties.**

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1. Within the framework of their education systems, the Parties shall recognise that persons belonging to a national minority have the right to set up and to manage their own private educational and training establishments.
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Article 14

- 1. The Parties undertake to recognise that every person belonging to a national minority has the right to learn his or her minority language.**
- 2. In areas inhabited by persons belonging to national minorities traditionally or in substantial numbers, if there is a sufficient demand, the Parties shall endeavour to ensure, as far as possible, within the framework of their education systems, and while preserving the teaching of the official language, that persons belonging to those minorities have adequate opportunities for instruction of or in their minority language.**

Article 15

The Parties shall create the conditions necessary for the effective participation of persons belonging to national minorities in cultural, social and economic life and in public affairs, in particular those affecting them.

Article 16

The Parties shall ensure that every person belonging to a national minority has the right to liberty of movement and freedom to choose their residence within their territory. Such persons are entitled to leave and re-enter the country on the same basis as persons belonging to the majority.

Article 17

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 framework Convention.

Article 18

- 1. 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 persons lawfully residing in other States, in particular those with whom they share an ethnic, cultural, linguistic or religious identity, or a common cultural heritage.**
- 2. The Parties undertake not to interfere with the right of persons belonging to national minorities to participate in the activities of non-governmental organisations, both at the national and international levels.**

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Article 19

- 1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to assure the protection of persons belonging to the national minorities concerned.**
- 2. Where relevant, the Parties shall take measures to encourage transfrontier co-operation.**

Article 20

The Parties undertake to implement and respect the principles enshrined in the present framework Convention making, where necessary, only those limitations, restrictions or derogations which are provided for in international legal instruments, in particular the European Convention on Human Rights, in so far as they are relevant to the rights and freedoms flowing from the said principles.

[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 framework Convention, any person belonging to a national minority shall respect the national legislation and the rights of others, in particular those of persons belonging to the majority or to other minorities.

Article B

Nothing in the present framework 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 framework 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.

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1. The Parties shall endeavour to conclude, where necessary, bilateral and multilateral agreements with other States, in particular neighbouring States, in order to ensure the protection of persons belonging to the national minorities concerned.
2. Where appropriate, the Parties shall take measures to encourage transfrontier co-operation.

Article 20

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Article D

The rights and freedoms flowing from the principles enshrined in the present framework Convention which are the subject of a corresponding provision in the European Convention on Human Rights or in the Protocols thereto shall be understood in accordance with the European Convention on Human Rights or the Protocols thereto.

CHAPTER V - Final Provisions

Article E

This framework Convention shall be open for signature by the member States of the Council of Europe. Up until the date when the Convention enters into force, it shall also be open for signature by any other State so invited by the Committee of Ministers. 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 framework 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 ... States, including at least ... 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 framework 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 framework Convention, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article E has not yet done so, and any other non-member State.
2. In respect of any acceding State, the framework 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 D

The rights and freedoms flowing from the principles enshrined in the present framework Convention which are the subject of a corresponding provision in the European Convention on Human Rights or in the Protocols thereto shall be understood in accordance with the European Convention on Human Rights or the Protocols thereto.

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2. In respect of any member State which subsequently expresses its consent to be bound by it, the framework 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 framework Convention, the Committee of Ministers of the Council of Europe may invite to accede to the Convention, by a decision taken by the majority provided for in Article 20.d of the Statute of the Council of Europe, any non-member State of the Council of Europe which, invited to sign in accordance with the provisions of Article E has not yet done so, and any other non-member State.
2. In respect of any acceding State, the framework 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 framework 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 framework 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 framework Convention to any other territory specified in the declaration. In respect of such territory the framework 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 framework Convention.]

Article J

- 1. Any Party may at any time denounce this framework 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, other signatory States and any State which has acceded to this framework 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 framework Convention in accordance with Articles F, G and H;**

Article H

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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 framework Convention to any other territory specified in the declaration. In respect of such territory the framework 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.

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

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

In witness whereof the undersigned, being duly authorised thereto, have signed this framework 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 sign or accede to this framework Convention.

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