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CAHMIN (94) 21 rev.  
Addendum

## AD HOC COMMITTEE FOR THE PROTECTION OF NATIONAL MINORITIES

(CAHMIN)

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**Draft explanatory report  
on the draft framework Convention  
on the protection of national minorities**

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Document prepared by  
the Directorate of Human Rights

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Note:

This document complements CAHMIN (94) 21 rev. It includes changes to the draft explanatory report taking into account the decisions of the Committee of Ministers at their 517 bis meeting on 7 October 1994 (see CAHMIN (94) 31). Changes and additions are reproduced in italic. The text of the ideas developed in Appendix II of the decisions of the Committee of Ministers (CAHMIN (94) 31) which CAHMIN is invited to take into account when drafting the explanatory report, have been marked with an asterisk\*.

26. The *penultimate* paragraph in the preamble sets out the direct aim of the framework Convention: to ensure the effective protection of national minorities and of the rights of persons belonging to those minorities. It also indicates that the protection offered by the framework Convention respects the principles of the rule of law, the territorial integrity and the national sovereignty of states.

00. *The purpose of the last recital is to indicate that the provisions of this framework Convention are not self-executing. It is not concerned with the law and practice of the Parties in regard to the reception of international treaties in the internal legal order.\**

#### **Article 4**

##### **Paragraph 1 and 2**

00. *(to follow paragraph 37) Since the principle of non-discrimination also applies to freedom of movement, it was not considered necessary to include in the Convention a specific provision on this issue.\**

#### **Article 11**

##### **Paragraph 1**

65. In view of the practical implications of this obligation, the provision is worded in such a way as to enable Parties to apply it in the light of their own particular circumstances. For example, Parties may use the alphabet of their official language to write the surname of a person belonging to a national minority in its phonetic form. Persons who have been forced to give up their original name should be entitled to revert to it, subject of course to exceptions in the case of abuse of rights and changes of name for fraudulent purposes. *It is understood that the legal systems of the Parties will, in this respect, meet international principles concerning the protection of national minorities.\**

##### **Paragraph 3**

00. *In the field covered by this provision, it is understood that the Parties are under no obligation to conclude agreements with other States. Conversely, the possibility of concluding such agreements is not ruled out. It is also understood that the legally binding nature of existing agreements remains unaffected.\**

#### **(Article 16**

Because Article 16 has been deleted paragraphs 75 and 76 should also be deleted.)

### SECTION III

#### Articles 21-23

00. *To provide for overseeing the application of the framework Convention, the Committee of Ministers is entrusted with the task of monitoring the implementation by the Contracting Parties. The Committee of Ministers shall determine the modalities for the participation in the implementation mechanism by the Parties which are not members of the Council of Europe.*

00. *Each Party shall transmit to the Secretary General on a periodical basis and whenever the Committee of Ministers so requests information of relevance to the implementation of this Convention. The Secretary General shall transmit this information to the Committee of Ministers. However, the first report, the aim of which is to provide full information on legislative and other measures which the Party has taken to give effect to the undertakings set out in the Convention, must be submitted within one year of the entry into force of the Convention in respect of the party concerned. The purpose of the subsequent reports shall be to complement the information included in the first report.*

00. *In order to ensure the efficiency of the monitoring of the implementation of the Convention, it provides for the setting up of an advisory committee. The task of this advisory committee is to assist the Committee of Ministers when it evaluates the adequacy of the measures taken by a Party to give effect to the undertakings set out in the Convention.*

00. *It is up to the Committee of Ministers to determine, within one year of the entry into force of the Convention, the composition and the procedures of the advisory committee, the members of which shall have recognised expertise in the field of the protection of national minorities.*

00. *The monitoring of the implementation of this Convention shall, in so far as possible, be transparent. In this regard it would be advisable to envisage the publication of the reports and other texts resulting from such monitoring.\**