

**ADVISORY COMMITTEE ON THE  
FRAMEWORK CONVENTION FOR THE  
PROTECTION OF NATIONAL MINORITIES**



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**Fourth Opinion on the United Kingdom  
adopted on 25 May 2016**

**Summary**

The United Kingdom (UK) is traditionally a multi-ethnic society where efforts to guarantee and extend the protection of the rights of persons belonging to national and ethnic minorities have been carried out for decades. Across the country, equality, integration and race strategies are being implemented as a result of the Equality Act 2010 and related legislation. A new policy framework – Vision 2020, launched in 2015 – specifically targets Blacks and other disadvantaged and vulnerable groups with a view to increasing their presence by 20% in employment, higher education, vocational training and the police by 2020. However, while persons belonging to national and ethnic minorities are overall in a better place with regard to reducing educational gaps, many persons belonging to minority communities still experience disparities in employment, wages, health issues, access to care and political representation. Austerity measures have exacerbated the situation, and policies focusing on disadvantage have diverted attention away from protecting the rights of national and ethnic minorities.

The authorities continue to promote inter-ethnic tolerance and openness in society, partly by introducing policy frameworks aimed at tackling hate speech and hate crime. Tools to abate these violations are being put in place at the central and local levels across the country (third-party reporting, improving recording, helplines, dedicated websites and police training). Nevertheless, geopolitical and domestic events, as well as perceived high levels of immigration, contribute to the expression of intolerance and xenophobia, especially in the media and the political arena, by certain politicians and among society in general. Certain sections of the media and online sources of hate speech are responsible for spreading racially hostile narratives, often targeting Muslims and Gypsies, Travellers and Roma. While the UK authorities and officials do seek to counter this regularly, more should be done to ensure that debates are carried out in a responsible manner respecting all groups in society.

Sectarian politics in Northern Ireland combined with a static interpretation of the notion of 'good relations' prevents the Executive from revising equality legislation and appears to have stalled the adoption of an Irish Language Bill. While the number of other, numerically smaller minorities has increased over the last decade in Northern Ireland, the Executive has not been addressing the rights of these newcomers. The recognition of the Cornish minority in 2014 is an important step in acknowledging the unique identity, culture, language and traditions of the Cornish people. This should now be nurtured by the adequate policy and financial steps necessary to ensure that persons belonging to the Cornish minority have access to the rights protected by the Framework Convention.

Access to campsites by Gypsies and Travellers continues to be problematic, particularly in England and Northern Ireland. Local authorities appear to struggle with the task of providing adequate permanent and temporary sites for these groups. In England and Scotland, there is a lack of supervision by responsible authorities to ensure that the rights of these groups are met. There is only limited collection of disaggregated data as the basis for targeted policy-making for Gypsies, Travellers and Roma.

#### **Recommendations for immediate action**

- **Revert to previous legislation in England addressing specifically the provision of permanent and temporary site needs of the Gypsies and Travellers minority, and reinstate a duty for local authorities to provide these sites when the need has been identified in order to ensure adequate availability; reintroduce a compliance duty for local authorities as regards the provision of sites in Scotland; and set up a multi-agency taskforce on Traveller sites in Northern Ireland to cater to the needs of Irish Travellers;**
- **Counter the climate of inter-ethnic prejudices and hate speech by stepping up efforts and initiatives to promote tolerance and intercultural dialogue; continue to firmly condemn provocative language in public discourse; engage with mass media outlets to promote a more nuanced understanding and reporting of facts that risk fuelling intolerant and ethnically hostile behaviour and reduce the use of derogatory language; and endeavour to establish an independent press regulator responding to the criteria enunciated by the Leveson Report;**
- **Adopt appropriate legislation protecting and promoting the Irish language and take measures to ensure progress on language rights of persons belonging to the Irish minority; the UK Government should engage in a dialogue to create the political consensus needed for adopting legislation; the Northern Ireland Executive should endeavour to implement the 'good relations' duty as provided under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights of persons belonging to all national and ethnic minorities;**

**Take all necessary steps to ensure access to the linguistic and cultural rights provided by the Framework Convention to the Cornish minority, in particular by reconsidering the decision to cut all funding for the Cornish language in view of the disproportionate impact such a measure will have on the delicate process of revitalising a minority language when access to other public financial resources is limited.**

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## I. Key findings

### Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by the United Kingdom (UK) was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution (97)10 of the Committee of Ministers. The findings are based on information contained in the fourth [State Report](#), submitted by the authorities on 26 March 2015, and other written sources and information obtained by the Advisory Committee from governmental and non-governmental sources during its visit to Belfast, Edinburgh, Truro and London from 7 to 11 March 2016; information from the Welsh Executive was obtained via teleconference. The Advisory Committee would like to thank all interlocutors and the academics who provided information.

2. The Advisory Committee welcomes the authorities' overall constructive and co-operative approach to the monitoring process and the remarkable assistance provided by them before, during and after the fourth cycle visit. The third cycle Opinion was published on 30 June 2011. Although the fourth State Report was submitted with some delay, it contains comprehensive and valuable information. The Advisory Committee notes, nonetheless, that representatives of national minorities and civil society were not consulted during its preparation.

3. The Advisory Committee particularly regrets the fact that information on Northern Ireland continues to be missing in the report and no explanation was provided as to the reasons for this omission. While it understands from the Northern Ireland authorities that this is the consequence of the lack of agreement on minority and human-rights related issues between the two largest parties of the Executive, particularly on the issue of the Irish language, the Advisory Committee is concerned that civil society is, as a result, also prevented from participating in the monitoring process. The Advisory Committee recalls that the Framework Convention is monitored article by article, so it regrets this situation, urges the Northern Ireland authorities to at least provide information on non-controversial issues and calls upon the central government to help build consensus on the reporting process.

### General overview of the present situation

4. The UK continues to ensure and extend the protection of the rights of persons belonging to national minorities. Across the country, equality and integration of society – as well as specific strategies targeted at improving the educational attainment, employment and participation of national and ethnic minorities – are at the forefront of public efforts and there seems to be a genuine willingness to continue improving these equality measures. However, these measures do not always achieve the outcomes they are designed for, or show at times a disconnection between the policy makers and the targeted public, particularly in Scotland. Black and ethnic minority communities<sup>1</sup> predominantly live in the three main cities of London, Manchester and Birmingham. The Pakistani community is

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<sup>1</sup> Black and Minority Ethnic or Black, Asian and Minority Ethnic (BME/BAME) is the terminology normally used in the UK to describe people of non-White descent.

predominantly based in towns in the North and the Midlands, while over half of all the Black communities live in London. Several London boroughs have no 'White' majority population.<sup>2</sup> Ethnic minorities are also increasingly blending into the population as mixed or multiple ethnicities become more prevalent.<sup>3</sup> Overall, in the United Kingdom, persons belonging to national and ethnic minorities are in a better place with regard to reducing educational gaps; but they still experience disparities in employment, wages, health, access to care and political representation, in particular Black, but also Pakistani communities. Responsibilities for integration have been transferred to the local level, but in certain cases local authorities do not always appear able to exercise them fully, in particular with regard to ensuring equality and access to campsites/housing of Gypsies, Travellers and Roma,<sup>4</sup> which is the case in England.

5. National and ethnic minorities cohabit well in the UK, despite geopolitical events and perceived high levels of immigration contributing to foment episodes of intolerance and anti-immigrant/anti-minority rhetoric in the media, in the political arena, particularly by certain politicians, and in society at large. The atmosphere is exacerbated by "anti-other" rhetoric and the narrative of "who is in, who is out" as regards access to welfare services; both of these emerge at times in political discourse, and there is a risk of them spilling over from talk about migrants to discourse about settled minorities, thus creating new divides in society. Political discourse stirring intolerance and manifestations of racial discrimination are both regularly countered by senior UK public figures, reaffirming the importance of diversity and the contribution of ethnic minorities to society. Such debates should be carried on responsibly and respecting persons belonging to minority groups. Certain sections of the media share responsibility in spreading intolerance and racially hostile narratives fuelling hate speech. Online hate speech is on the rise, in particular towards Muslims, while vilifying comments against Gypsies, Travellers and Roma are seldom firmly rejected. Existing mechanisms appear too weak to tone down derogatory or provocative language without encroaching on media independence. Finally, the nexus between the "Brexit" debate and the potential repeal of the Human Rights Act, to be replaced with a British Human Rights Act, creates anxiety about the future protection of human rights in general and of persons belonging to national and ethnic minorities in particular. Potentially, this could put the Belfast Agreement in jeopardy.<sup>5</sup>

6. Recognition of the Cornish minority in 2014 is an important step in acknowledging the unique identity, culture, language and traditions of the Cornish people, which should now be nurtured by the adequate policy and financial steps necessary to ensure that persons belonging to the Cornish minority have access to the rights protected by the Framework Convention.

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<sup>2</sup> ONS, Ethnicity and National Identity in England and Wales: 2011, available at [www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11](http://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/ethnicity/articles/ethnicityandnationalidentityinenglandandwales/2012-12-11), accessed 17 September 2016.

<sup>3</sup> In 2011, 1.2 million people (2% of the population) identified themselves with a mixed or multiple ethnicity, up from 660 000 (1%) in 2001; see ONS, What does the 2011 Census tell us about inter-ethnic relationships?, available at [www.ons.gov.uk/ons/dcp171776\\_369571.pdf](http://www.ons.gov.uk/ons/dcp171776_369571.pdf), accessed 17 September 2016.

<sup>4</sup> For a detailed explanation of how the Advisory Committee understands the terms 'Gypsies', 'Travellers' and 'Roma', see paragraph 14.

<sup>5</sup> The Belfast Agreement is also known as the Good Friday Agreement, because it was reached on Good Friday, 10 April 1998.

7. The situation in Northern Ireland is characterised by political tensions in governing bodies, tensions that often prevent smooth governance, by lack of dialogue with stakeholders and by the continuing lack of an updated legal framework for equality implementing Section 75 of the 1998 Northern Ireland Act. Sectarian politics and a static interpretation of the notion of 'good relations' prevent reform of equality legislation and adoption of an Irish Language Bill. They also hamper efforts to put adequate focus on other smaller national and ethnic minorities, whose number has increased substantially in the last ten years owing to European Union (EU) enlargements.

8. The current UK Government has followed previous governments in promoting devolution to Scotland, Wales and Northern Ireland. During the reporting period, considerable steps were taken to accommodate demands for devolving additional powers to Scotland. The Scottish post-referendum period has opened the way for negotiations as promised by key politicians during the election campaign, and Scotland is in the process of receiving extended powers. Wales has initiated negotiations to receive extended powers, whereas Northern Ireland has not seen any further developments. Thus, asymmetry between the three devolved administrations is still an issue. Recognition of the Cornish people in 2014 has resulted in delegating some tasks to the Cornish Council in the context of decentralisation in England. The national referendum in June 2016 on membership of the EU has caused some uncertainties within the Executives and Assemblies and in the Cornish Council.

### **Assessment of measures taken to implement the recommendations for immediate action from the third cycle**

9. While there is widespread acknowledgement that the austerity budgetary cuts have had an impact across the board on central and local authorities, the UK Government does not consider them to have disproportionately affected persons belonging to national and ethnic minorities. This is partly due to the existing equality legal framework and the policy focus on disadvantage rather than racial or ethnic background. Similarly, the independent bodies that monitor implementation of equality policies (Equality and Human Rights Commissions and the Northern Ireland Human Rights Commission) view the budget cuts they have undergone as substantial, but not preventing them from exercising their statutory functions. This is due to the combination of cuts in personnel with the removal of certain responsibilities from the Commission. Nonetheless, the persisting budgetary cuts – combined with a pronounced trend of shifting duties onto local authorities (who are also subject to these cuts) and 'outsourcing' human rights protection to the private sector, may take a toll on the protection of certain rights of persons belonging to national and ethnic minorities (e.g. accommodation for Gypsies and Travellers, promotion of minority languages, funding of civil society to promote and maintain the identity of national minorities).

10. Access to campsites for Gypsies and Travellers continues to be problematic. The situation worsened after legislative changes (Localism Act 2011, 2012 Planning Policy for Traveller Sites) that entrusted local authorities with assessing the need for and the provision and adequacy of permanent and temporary sites for this minority. While local authorities appear to struggle with the task, either for objective reasons or because of counterproductive behaviour among local representatives and sections of the public, there is no longer any real supervision by the central government to ensure that needs are met

(e.g. in England and Scotland). The lack of effort (e.g. in Northern Ireland) or certain initiatives, particularly in England (e.g. inadequacy of sites, move into bricks-and-mortar housing, restrictive definition of who belongs to the minority, indispensable working licence for traditional activities), appear to have affect the main characteristics of Gypsies' and Travellers' lifestyle, thereby putting at risk its continuance. Finally, with the exception of the census, there is only limited collection of disaggregated data for Gypsies, Travellers and Roma and the resulting targeted policy making.

11. The apparent gridlock in the Irish power-sharing arrangement has prevented adoption of the Irish Language Bill. The lack of progress on language rights of persons belonging to a national minority is emblematic of a wider practice of sectarian-driven policy making that appears to dominate the political process, pushing the protection of the rights of other national and ethnic minorities to the fringes. Although the issue of language has become less sensitive in society, it continues to be perceived as an instrument with the potential to alter the balance between the two main communities, thereby becoming a hostage of a "good relations" policy which aims at avoiding tensions.

### **Assessment of measures taken to implement the further recommendations from the third cycle**

12. The Equality Act 2010 has been implemented by the Public Sector Equality Duty in April 2011 and (Specific Duties) Regulations in England, Scotland and Wales, which require public bodies to set equality objectives and provide for positive action. The legislative framework for equality has put in motion a thorough mechanism of setting objectives and focusing integration strategies on disadvantaged communities instead of race and ethnicity. In addition, except in England, race strategies have been adopted. Overall, persons belonging to national and ethnic minorities are in a better place in respect of reducing educational gaps, but challenges remain in relation to higher levels of unemployment, lower wages and underemployment. The new policy framework – Vision 2020, launched in 2015 – specifically targets Black and ethnic minorities with the aim of increasing their presence by 20% in employment, university, apprenticeship and the police by 2020. There was no progress on unified equality legislation or, alternatively, on a reform of the existing framework that would close the gaps in Northern Ireland legislation.

13. Serious efforts have been made to promote inter-ethnic tolerance and openness in society, and to tackle hate speech and hate crime through policy frameworks and tools put in place at central and local levels across the UK. Third-party reporting, improved recording, helplines, dedicated websites and police training have all increased reporting and helped to improve trust in law enforcement. Stop-and-search powers have been reformed, but regular training is necessary at all ranks and levels to keep awareness high, in particular because of unconscious bias. Nonetheless, hate speech increased – particularly online – against Muslims and to a lesser extent against the Jewish community, as well as hate crimes in general. Rather than being simply the outcome of improved reporting and recording of hate crimes, this increase is believed to follow in part from specific, highly publicised trigger events, both international (such as the Israel–Gaza conflict) and domestic (including the murder of a UK soldier). Anti-Muslim and anti-Semitic rhetoric surfaced in the political discourse during the 2016 mayoral election campaign in London, where the first Muslim mayor was elected with the single highest popular vote for a UK politician.

## II. Article-by-article findings

### Article 3 of the Framework Convention

#### Personal scope of application

##### *Present situation*

14. The United Kingdom continues to apply a flexible and inclusive approach to the scope of application of the Framework Convention, which covers in practice a wide range of national and ethnic minority groups. Although the term ‘national minority’ is not legally defined within the United Kingdom, authorities refer to the broad ‘conventional’ definition of ‘racial group’ as set out in the Equality Act 2010.<sup>6</sup> In the case of certain national minorities, such recognition has been accepted by the courts on the basis of national origin (Scots, Irish, Welsh) or ethnic origin (Roma, Gypsies, Irish Travellers, Sikhs, Jews). The Advisory Committee welcomes the 2014 decision to recognise the Cornish as a national minority in England, by virtue of their unique identity, and to afford them the same status under the Framework Convention as the UK’s other Celtic peoples, that is the Scots, the Welsh and the Irish. This is an important political step,<sup>7</sup> building on the previous recognition of Cornish as a minority language<sup>8</sup> and paving the way to enhanced protection and access to rights for persons belonging to that minority. At the end of 2015 a Cornwall Devolution Deal was signed; the UK Government devolved to Cornwall a “range of powers and responsibilities”, which however are only loosely connected with recognition of the Cornish as a minority.<sup>9</sup>

15. Representatives of the Cornish minority believed that the steps taken so far at the level of central government and local authorities have not been sufficiently meaningful to substantiate recognition of the Cornish as a national minority. In particular, they expressed concern that local authorities would not show ownership of the recognition process but rather act in compliance with it, while the UK Government would not provide the means required to implement recognition. Local authorities emphasised the limited decision-making power due to the constitutional set-up<sup>10</sup> and the current territorial arrangement, whereby Cornwall is grouped together with Devon and other counties in the Southwest region, as elements preventing further progress (see also Article 16).

16. The Advisory Committee also notes that there is often a conflation between policies addressing Gypsies and Travellers, on one hand, and Roma, on the other hand. While the

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<sup>6</sup> Article 9(3), Chapter 1, Part 2 of the Equality Act 2010 reads: “A racial group is a group of persons defined by reference to race”, where ‘race’ according to Article 9(1) “includes: (a) colour, (b) nationality), and (c) ethnic or national origins”.

<sup>7</sup> The UK authorities indicated that the recognition of the Cornish people is without prejudice to the question whether the Cornish meet the definition of “racial group” under the Equality Act 2010, as only the courts can rule on that. The Advisory Committee is not aware of any such case pending at the time of writing.

<sup>8</sup> The Cornish language is the only language in England recognised under the Council of Europe’s Charter for Regional or Minority Languages in 2003.

<sup>9</sup> The 14 December 2015 Devolution Deal forms part of a broader UK Government move to strengthen governance in local areas and covers issues such as transport, apprenticeships, adult education, energy, health and social care, heritage, etc. Although originally included, language was dropped at the last moment.

<sup>10</sup> Cornwall is a county in England led by a unitary Cornwall County Council.



Committee acknowledges that this follows from the use of the notion of racial group to define minorities and from the link between Gypsies and Roma, such an approach does not always allow targeting of the specific needs of each group.<sup>11</sup> The Advisory Committee clarifies that the use, in this Opinion, of the term “Gypsies and Travellers”, instead of the more inclusive term “Roma”, is motivated by the specificity of the presence of these autochthonous groups in the UK, but it is not the terminology the Advisory Committee generally applies.

17. The Advisory Committee notes that self-identification along community lines is still predominant in Northern Ireland<sup>12</sup> and has a thorough impact on many aspects of daily life, such as education and housing, for both the two main communities and other ethnic minorities. In the past ten years, Northern Ireland’s population has changed substantially, with sharply increased immigration from other EU countries as a consequence of EU enlargement, the Polish being today the largest such group.

18. The Advisory Committee reiterates its view that, although the scope of application defined by the UK authorities is wide, continued over-reliance on the ‘racial group’ criterion may result in a priori exclusion from the scope of application of the Framework Convention of groups that have legitimate claims. Muslim communities, for instance, raised this point in relation to the fact that Jews and Sikhs have been given minority status on the basis of judicial decisions. Therefore, authorities should seek to engage in dialogue with persons identifying with groups currently not covered by the Framework Convention to evaluate their claims, bearing in mind the right to free self-identification guaranteed by Article 3.1 of the Framework Convention.

#### *Recommendations*

19. The Advisory Committee calls on the authorities to take all the legal, policy, and financial steps necessary to ensure access to the rights provided by the Framework Convention to persons belonging to the Cornish minority, irrespective of any constitutional set-up.

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<sup>11</sup> The terms ‘Gypsies’ and ‘Travellers’ refer to indigenous communities, including Romany Gypsies and Irish and Scottish Travellers, who have been living in the UK for centuries and speak English as their first language. While travelling is part of their identity, many of them today have a fixed residence (61% in England and Wales). Under the 2011 census, in England and Wales 58 000 people declared themselves to be Gypsies or Travellers (0.1% of the population), but estimates are higher, up to 300 000 (Friends Family and Travellers at [www.gypsy-traveller.org/resources/tackling-social-exclusion/national-census/](http://www.gypsy-traveller.org/resources/tackling-social-exclusion/national-census/)). ‘Roma’ refers to people of Roma origin who have migrated to the UK in the past two decades mainly in consequence of EU enlargement. See the UK Government response to the European Council in “Council Conclusion on an EU Framework Strategy for Roma Integration up to 2020: United Kingdom of Great Britain and Northern Ireland”, available at [http://ec.europa.eu/justice/discrimination/files/roma\\_uk\\_strategy\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_uk_strategy_en.pdf), accessed 17 September 2016.

<sup>12</sup> In the Northern Ireland 2011 census, the majority ethnic “White” group (98.2% of the population) identified itself on the basis of religious (45.1% Catholic, 48.3% Protestant, and 5.5% “no religion”) and national identities (39.8% as “British” only, 25.2% as “Irish” only, and 20.9% as “Northern Irish” only, the rest using a combination of these). Under the category of “White” were included Irish, Polish and other groups, but not Irish Travellers (0.07%). Approximately 32 414 people (1.8% of the population) identified as other than “White”, the two largest groups being Chinese (0.35%) and Indian (0.34%); see [www.nisra.gov.uk/Census/key\\_stats\\_bulletin\\_2011.pdf](http://www.nisra.gov.uk/Census/key_stats_bulletin_2011.pdf), accessed 17 September 2016

20. Authorities should also pay attention to the specificities of Gypsies, Travellers and Roma as distinct groups to reconfigure statistics and effectively tailor policy making to their needs and in consultation with their representatives.

21. The Advisory Committee encourages the authorities to give due consideration to the claims for recognition under the Framework Convention of groups expressing their interest, such as Muslims or other groups, and to engage in a dialogue with them.

## Census

### *Present situation*

22. The Advisory Committee acknowledges the thoroughness of data gathering on the basis of ethnicity in the United Kingdom and welcomes the fact that these data in the 2011 census were fine-tuned to facilitate the expression of multiple identity and language affiliations.<sup>13</sup> It notes that the presence of Poles has grown exponentially across the country and they are often the biggest minority group.<sup>14</sup> It also understands that the progressively improved data collection is widely analysed with a view to informing the ensuing policy-making process and targeting public services. In 2011, Gypsies and Travellers could indicate their identity for the first time in a tick-box, while Roma had only a 'write-in' option. This is particularly relevant if policies targeted at these groups are to be better informed. However, regarding access to health services, the Advisory Committee was informed that there is a discrepancy between data gathered by the National Health Service and the outcomes of the latest census for national and ethnic minorities, including Gypsies and Travellers, and the authorities are making efforts to match them together to ensure dedicated policy making.

23. The Advisory Committee also understands that, in 2011, data on Cornish identity were gathered for the first time, thanks to the write-in facility. In England and Wales, 83 000 people (0.1% of the population) identified as Cornish, on its own or combined with other identities, but in Cornwall 13.8% of the population declared themselves to be Cornish. Representatives of the Cornish minority believed that the introduction of a dedicated 'tick box' represented a more appropriate way to record persons belonging to a national minority.

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<sup>13</sup> The Advisory Committee's Third Opinion on the UK analysed the changes of census rules in detail. According to the 2011 census (available at [www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/sty-ethnicity-in-england-and-wales.html](http://www.ons.gov.uk/ons/rel/census/2011-census/key-statistics-for-local-authorities-in-england-and-wales/sty-ethnicity-in-england-and-wales.html), accessed 17 September 2016), the majority of the population in England and Wales was White (86.0%, 48.2 million people). Within this ethnic group, White British was the largest subgroup, with 45.1 million people (80.5%), followed by Any Other White (2.5 million people, 4.4%), then Indian (1.4 million people, 2.5%) and Pakistani (2.0%); Gypsy/Traveller/Irish Traveller and Other groups numbered only 58 000 (0.1%). Across the English regions and Wales, London and the West Midlands were the most ethnically diverse and Wales the least. In Scotland, 92% of the population identified themselves as White Scottish/British; of the remaining 8%, half were "other White" (mainly Polish or Irish, about 220 000) and half "non-White" (Asian, African/Caribbean Black and other mixed groups, about 211 000). Gypsies and Travellers numbered about 4 000 ("Analysis of equality results from the 2011 census", available at [www.gov.scot/Resource/0046/00460679.pdf](http://www.gov.scot/Resource/0046/00460679.pdf), accessed 17 September 2016). In Northern Ireland, non-UK and Ireland migrants were 3.8% of the population, of whom 1.8% were non-White (in all about 81 000 people), Irish Travellers representing 0.07% (see [www.nisra.gov.uk/Census/key\\_report\\_2011.pdf](http://www.nisra.gov.uk/Census/key_report_2011.pdf), accessed 17 September 2016).

<sup>14</sup> In England the most reported non-UK country of birth was India, 9% (682 000) of all those not born in the UK born. In Wales it was Poland (11%, 18 000), in Scotland it was also Poland (15%, 55 000) and in Northern Ireland it was the Republic of Ireland (32%, 38 000).

*Recommendation*

24. The Advisory Committee calls on the authorities to take the necessary measures to include the possibility to self-identify as Cornish, through a ‘tick-box’ in the next census, and to facilitate the expression of self-identification of any other group because data collection is relevant to the application of minority rights.

**Article 4 of the Framework Convention****Legal and institutional framework for the promotion of equality of persons belonging to national minorities***Present situation*

25. The Advisory Committee notes that language as a ground for discrimination under the notion of “race” is still missing from the Equality Act 2010, although the UK authorities consider it to be inherent to the notion of ethnic origin.<sup>15</sup> Discussion addressing whether caste should be introduced as an additional ground for equality under the definition of race in the Equality Act continues. It would appear that the UK Government is still evaluating whether to introduce a specific statutory prohibition because discrimination on caste has been already held to fall under the remit of race by courts.<sup>16</sup> Interlocutors from NGOs, however, underlined that the ruling does not provide the legal certainty required because every case must be decided on the individual circumstances, and there is no other case law yet.

26. The legal framework pertaining to human rights – especially equality and non-discrimination – made further progress between 2011 and 2015, in particular through the adoption of the Public Sector Equality Duty in April 2011 and (Specific Duties) Regulations 2011, which requires public bodies to set equality objectives and provides for positive discrimination. Specific regulations have been adopted for Scotland and Wales respectively in the context of devolved powers.<sup>17</sup>

27. The Advisory Committee acknowledges that the situation differs somewhat in Northern Ireland, where the Equality Act 2010 does not apply because the Northern Ireland Assembly has devolved powers in relation to anti-discrimination legislation. In the period under examination, the political focus had been on stabilising and reforming the Northern Ireland power-sharing institutions. The Advisory Committee notes that the political climate prevented progress on unified equality legislation or, alternatively, reform of the current framework to close the existing gaps.<sup>18</sup> The fact that the current race equality legislation in

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<sup>15</sup> See also on this topic, and for a thorough analysis of the Equality Act, the reports by K. Perren et al. (2013): Report 1, “Organisational approaches to equality”, Report 2: “Awareness and impact of the Equality Act” and Report 3, “Disputes and challenges”, Equality Office, London, all available at [www.gov.uk/government/publications/evaluation-of-the-implementation-of-the-equality-act-2010](http://www.gov.uk/government/publications/evaluation-of-the-implementation-of-the-equality-act-2010), accessed 18 September 2016. There is no case law on language yet.

<sup>16</sup> *Chandok & Anor v. Tirkey* [2014] UKEAT [Employment Appeal Tribunal] 0190\_14\_1912.

<sup>17</sup> For the legislation, see [www.gov.uk/guidance/equality-act-2010-guidance](http://www.gov.uk/guidance/equality-act-2010-guidance), accessed 18 September 2016.

<sup>18</sup> The current legal framework is still composed of individual acts or orders addressing distinct aspects of equality, among others the Race Relations (Northern Ireland) Order 1997, which prohibits discrimination and harassment on the grounds of race, colour, nationality or ethnic or national origins, and the Fair Employment and Treatment (Northern Ireland) Order 1998, which prohibits discrimination and harassment on the grounds of religious belief as well as political opinion.

Northern Ireland provides for less protection against discrimination on grounds of colour and nationality than on grounds of race, ethnic or national origins may affect persons belonging to national minorities in particular.<sup>19</sup>

28. In the Race Equality Strategy, adopted on 10 December 2015,<sup>20</sup> the Northern Ireland Executive committed itself to reviewing the existing legislation during the sittings of the next Assembly following the May 2016 elections, rather than adopting a single, new piece of legislation as is the case in the rest of the UK. This message was reiterated to the Advisory Committee by the authorities. Independent bodies and civil society underlined the importance not only of amending the substance of the law but preferably doing so in a single act.<sup>21</sup>

29. In Northern Ireland, the statutory duty for employers to determine, even subjectively, employees' background in order to ensure fairness in employment continues to apply.<sup>22</sup> The Advisory Committee continues to consider that this practice impinges on the right to free self-identification of the persons concerned as guaranteed by Article 3(1) of the Framework Convention. In its previous opinion, it had called for careful monitoring of the mechanism, measuring it against progress made in achieving the original purpose of the legislation, which is, promoting and securing equality of opportunity and fair participation in employment for members of the Catholic and Protestant communities. The Advisory Committee also emphasised that monitoring should be extended to cover ethnic origin and nationality. Interlocutors of the Advisory Committee indicated that, although the situation in the workplace has much improved, the statutory requirement retains its value and relevance today.<sup>23</sup> They had also recommended the authorities to introduce monitoring of nationality and ethnic origin.

30. Several interlocutors of the Advisory Committee criticised the 2012 reform of legal aid (the Legal Aid, Sentencing and Punishment of Offenders Act 2012), which limited free legal aid for representation to the highest priority "discrimination-in-employment claims" before the Employment Appeals Tribunal. The introduction the following year of fees for claims made to employment tribunals or the Employment Appeals Tribunal, and in particular higher fees for discrimination claims, made these claims drop by approximately 80%; those for racial discrimination dropped 61%. These rules apply in England and Wales, whereas in Northern Ireland legal aid has generally been available for initial advice and assistance, but not for representation. Scotland continues to provide assistance by way of representation in discrimination cases before the Employment Tribunal. While the original aim was to make the claim system more sustainable, in view of the results the authorities indicated they were reviewing the current rules.

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<sup>19</sup> This applies with respect to indirect discrimination, harassment and reversal of the burden of proof.

<sup>20</sup> Office of the First Minister and Deputy First Minister, "Racial equality strategy 2015-2025", available at [www.ofmdfmi.gov.uk/sites/default/files/publications/ofmdfm/racial-equality-strategy-2015-2025.pdf](http://www.ofmdfmi.gov.uk/sites/default/files/publications/ofmdfm/racial-equality-strategy-2015-2025.pdf), accessed 18 September 2016.

<sup>21</sup> See reports mentioned in note 20, respectively paragraphs 43 onwards and 3.1 onwards.

<sup>22</sup> See the Fair Employment (Monitoring) Regulations (Northern Ireland) 1999.

<sup>23</sup> See in particular "Report from the Equality Commission for Northern Ireland to the Advisory Committee for the FCNM on the 4th report by the UK", January 2016, Section 2; and "Northern Ireland Human Rights Commission Parallel Report to the Advisory Committee on the 4th Monitoring Report of the UK", March 2016, paragraph 36 onwards.

31. The Advisory Committee learned with concern that budgetary cuts affecting the independent equality and human rights monitoring bodies have continued across the UK. The Equality Human Rights Commission (hereinafter EHRC), however, did not consider them to have affected its core mission or functions and not to be disproportionate when compared with the cuts to the rest of government.<sup>24</sup> The Scottish EHRC and the Equality Commission for Northern Ireland (ECNI) expressed similar positions. The Northern Ireland Human Rights Commission (NIHRC) was somewhat less affected, since it is directly funded by the central government.

#### *Recommendations*

32. The authorities should amend the statutes to include language and caste as grounds of discrimination under the definition of race.

33. In the absence of progress, the Northern Ireland Assembly should adopt robust and comprehensive single equality legislation or otherwise strengthen racial equality in Northern Ireland, and harmonise protection across the UK.

34. Bearing in mind that the employers' duty to determine the community background of the workforce impinges on the right to free self-identification, as protected by Article 3(1) of the Framework Convention, the Advisory Committee reiterates its call for careful monitoring of this duty measured against progress made to achieve fairness in the workplace, and its call to introduce monitoring of the nationality and ethnic origin of the workforce.

35. The Advisory Committee further calls on the authorities to review the rules applicable to legal aid and fees in employment discrimination cases to ensure effective access to justice for persons belonging to national minorities.

### **Measures to promote the full and effective equality of persons belonging to national minorities**

#### *Present situation*

36. The Advisory Committee acknowledges that in England, Scotland and Wales the equality legislative framework has put in motion a thorough process of setting objectives and focusing integration strategies on disadvantaged communities instead of race and ethnicity. In addition, except in England, race strategies have also been adopted. Equality legislation also applies to persons belonging to national minorities because they are covered by the notion of race as one of the protected characteristics. While not going into specific details for each nation, the Advisory Committee considers that the 2015 assessments on equality carried out by the respective executives,<sup>25</sup> as well as the EHRC report and civil

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<sup>24</sup> The Equality and Human Rights Commission staff has been halved in the past three years and its functions were reduced in 2012, in particular by stopping its helpline and the grants programme for civil society.

<sup>25</sup> Scottish Government, "Equality outcomes and mainstreaming report 2015", available at [www.gov.scot/Publications/2015/04/7781/0](http://www.gov.scot/Publications/2015/04/7781/0), accessed 18 September 2016. Wales Government, "Annual report on equality 2014-2015", which combines statutory reporting requirements for section 77 of the Government of Wales Act 2006 and regulation 16 of the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, as well as the "Strategic equality plan and objectives 2012-2016", available at <http://gov.wales/topics/people-and-communities/equality-diversity/?lang=en>, accessed 18 September 2016.

society sources,<sup>26</sup> allow a broad-brush picture of national and ethnic minorities' situation.<sup>27</sup> Overall, persons belonging to ethnic minorities are in a better place in reducing educational gaps, but challenges remain in relation to higher levels of unemployment, low wages, underemployment, worse health status and access to care, high levels of poverty,, low levels of English language knowledge and inadequate political representation. Moreover, these persons are often victims of hate crimes. Gypsies, Travellers and Roma continue to be the group suffering significantly more from discrimination in all these fields, including education, particularly in England.

37. Integration policies have shifted their emphasis from racial inequalities to socio-economic status and poverty, and have been targeted at disadvantaged communities instead of focusing on race and ethnicity as guiding criteria.<sup>28</sup> Another common trait of integration policies is the enhanced role of local authorities and individual citizens, who are encouraged to take ownership, while the central government gives the guidelines and financial support for local projects.<sup>29</sup> The Advisory Committee is aware that progress has been achieved through integration measures addressing disadvantaged people, for example, in educational achievement (see Article 12). Nevertheless, the Advisory Committee also notes that in 2015 the Prime Minister articulated a new approach, Vision 2020, specifically targeting integration and opportunities of "Black and minority ethnic" (BME) communities, seeking to increase by 20% their presence in employment, university, apprenticeship and police by 2020. While it is too early for an assessment of Vision 2020, this policy appears to go back to an approach singling out individual ethnic groups to maximise the effectiveness of measures and is apparently motivated by the persisting gaps faced by persons belonging to national and ethnic minorities.

38. In March 2016, the Scotland Executive adopted the Race Equality Framework for Scotland 2016-2030,<sup>30</sup> which addresses remaining disparities for persons belonging to minorities, such as community cohesion and safety; participation and representation; education and lifelong learning; employability, employment and income; and health and

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<sup>26</sup> EHRC, "Is Britain fairer? The state of equality and human rights, 2015". Separate versions have been published for England, Scotland and Wales, available at [www.equalityhumanrights.com/about-us/our-work/key-projects/britain-fairer-0](http://www.equalityhumanrights.com/about-us/our-work/key-projects/britain-fairer-0), accessed 18 September 2016. Also, an independent review on implementation of the Public Sector Equality Duty (PSED) and the specific duties in England and Wales reached a quite critical conclusion about the effectiveness of the PSED, which had not yet achieved the objectives it was introduced for; review available at [www.gov.uk/government/publications/the-independent-steering-groups-report-of-the-public-sector-equality-duty-psed-review-and-government-response](http://www.gov.uk/government/publications/the-independent-steering-groups-report-of-the-public-sector-equality-duty-psed-review-and-government-response), accessed 18 September 2016. For Scotland, also see Coalition for Racial Equality and Rights (CRER), "Report submission to the Advisory Committee of the FCNM" (2016).

<sup>27</sup> Details will be provided under the different articles of the Framework Convention.

<sup>28</sup> "2010 Equality strategy – Building a fairer Britain", available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/85301/equality-strategy-large-print.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/85301/equality-strategy-large-print.pdf), accessed 18 September 2016, and "2012 Creating the conditions for integration", available at [www.gov.uk/government/publications/creating-the-conditions-for-a-more-integrated-society](http://www.gov.uk/government/publications/creating-the-conditions-for-a-more-integrated-society), accessed 18 September 2016.

<sup>29</sup> For a list of the integration projects and activities supported by the Department of Communities and Local Government (DCLG) until 2014, see [www.gov.uk/government/speeches/integration-update](http://www.gov.uk/government/speeches/integration-update), accessed 18 September 2016. DCLG spent about £50 million on supporting integration projects in the period 2010-2015.

<sup>30</sup> The previous policy document, "Race and equality statement for 2008-11", addressed the pressing race equality issues at the time. "Race equality framework for Scotland, 2016-2030" is available at [www.gov.scot/Resource/0049/00497601.pdf](http://www.gov.scot/Resource/0049/00497601.pdf), accessed 18 September 2016.

home. While acknowledging the relevance of the strategy, interlocutors of the Advisory Committee highlighted the need for it to be completed by prioritising the most acute issues (hate crime, employment and education) with specific action plans and resource allocation. They also expressed concerns that, generally, a disconnection persists between policies, which head in the right direction, and those who deserve them the most, whom the policies somehow fail to reach.<sup>31</sup> The measures are also unevenly implemented by local authorities and there is scarcity of resources.<sup>32</sup>

39. In Wales, the Equality Objectives 2016-2020<sup>33</sup> build upon the 2014-2015 report on equality outcomes<sup>34</sup> and continue to address issues such as unemployment and pay gaps, low representation in political life and poverty, issues which affect ethnic minority people. The Executive has also established a Wales Race Forum, to engage and understand the key issues and barriers facing BME communities, and a Faith Communities Forum, bringing together representatives of different religious groups to discuss key interfaith issues.

40. The Advisory Committee is also aware that the Northern Ireland Executive recently adopted the Racial Equality Strategy 2015-2025.<sup>35</sup> Responding to stakeholders criticising the lack of an action plan detailing goals, actions and a timeline, the authorities expressed awareness and explained that this was the task of the Racial Equality Subgroup. Civil society interlocutors of the Advisory Committee reiterated that the Executive should go further than committing themselves and actually enact an action plan.

41. The Advisory Committee appreciates the various authorities' efforts to build up and renew strategies on the basis of data assessment, with the goal of achieving more equality for persons belonging to ethnic minorities. But it also shares the opinion of many stakeholders that strategies need effective implementation and allocation of resources. From this perspective, austerity measures may have an impact on implementation. While the picture of past budgetary cuts is mixed,<sup>36</sup> in a context of strained resources and increasing needs in fulfilling existing legal requirements or implementing new strategies, the government needs to strike a fair balance between budget cuts and provision of resources to ensure greater equality and compliance with the objectives it sets for itself.

### *Recommendation*

42. The Advisory Committee calls on the central and devolved authorities to ensure that policy documents such as integration and race strategies are complemented by appropriate action plans and adequate resources to ensure effective access to rights for persons

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<sup>31</sup> See CRER Report (n.26), "Report submission to the Advisory Committee of the FCNM" (2016) and EHRC oral views.

<sup>32</sup> For example, the participation rate of ethnic minorities in apprenticeship or discrimination experienced by Gypsies and Travellers.

<sup>33</sup> "Equality objectives 2016-2020: Working towards a fairer Wales", March 2016.

<sup>34</sup> The 2014-2015 report portrays achievement and persisting challenges. For example, the Minorities Are Wales Resources 2 (MAWR II) project aimed to improve the employment status and progression of minorities. Up to November 2014, it had engaged with 1 453 people across Wales, 1 326 of whom were BME; 478 BME participants had gained a qualification through the project. Annual Report on Equality 2014-2015, p. 17.

<sup>35</sup> See note 17.

<sup>36</sup> The impact on local authorities' work related to ethnic minorities would not have been disproportionate because of the requirement to carry out an equality impact assessment and the public service equality duty.

belonging to national and ethnic minorities, in particular as regards the Northern Ireland Racial Equality Strategy 2015-2025.

### **Gypsies, Travellers and Roma**

43. The Advisory Committee notes that, with the exception of England, several policy documents specifically addressing the situation of Gypsies, Travellers and Roma have been or are going to be adopted in the various parts of the UK and will be analysed in more detail under Article 5 and other relevant provisions. Unlike most other EU member states, the UK opted not to adopt a National Roma Integration Strategy, but a 2012 Progress Report<sup>37</sup> published by the government provided for 28 commitments covering various fields, such as education, health care, housing, hate crime and access to employment. Criticism was expressed by stakeholders that the commitments were cosmetic and reductive, in particular regarding the issue of availability of caravan pitches, which remains critical across the whole country, and that an overall policy framework was still missing.<sup>38</sup> In its monitoring process, the European Commission found, *inter alia*, that halting sites for Gypsies and Travellers and housing for Roma remained a challenge all over the UK and efforts needed to be scaled up and implemented as part of an integrated approach.<sup>39</sup>

44. Whereas Gypsies, Travellers and Roma in England are considered to be protected under the general equality framework (see above), the Scottish Government included a specific outcome in the Equality Outcomes and Mainstreaming Report (2013),<sup>40</sup> and it has been working through the Gypsies and Traveller Strategy Development Group to develop an overarching strategy and action plan for Gypsies/Travellers. Such an overall strategy, to be published after the 2016 elections, is expected to cover a range of issues including education, health and employment, but not accommodation.

45. The Advisory Committee welcomes the fact that Wales was the first to adopt in September 2011 a policy document, “Travelling to a better future: a Gypsy and Traveller framework for action and delivery plan”, which was assessed in March 2016.<sup>41</sup> While progress has been achieved in a number of areas, such as housing, education, health and participation, the Executive acknowledges that challenges remain for the needs of Roma communities, in particular as regards education.

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<sup>37</sup> DCLG, “Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers” (2012), the outcome of a ministerial working group set up in 2010 for England, is available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6287/2124046.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6287/2124046.pdf), accessed 18 September 2016.

<sup>38</sup> European Roma and Travellers Forum, “Fact sheet on the situation of Roma/Gypsies/Travellers in the United Kingdom”, May 2015.

<sup>39</sup> EC, Report on the implementation of the EU framework for National Roma Integration Strategies, 2014, available at [http://ec.europa.eu/justice/discrimination/files/roma\\_implement\\_strategies2014\\_en.pdf](http://ec.europa.eu/justice/discrimination/files/roma_implement_strategies2014_en.pdf), accessed 18 September 2016.

<sup>40</sup> The outcome was described as “Gypsy/Travellers experience less discrimination and more positive attitudes towards their culture and way of life by 2017” n.25.

<sup>41</sup> See <http://gov.wales/docs/ds/jlg/publications/equality/160309-travelling-better-future-delivery-plan-end-term-update-en.pdf>, accessed 18 September 2016, for the 2016 update.



### Collection of equality data

46. The Advisory Committee welcomes the overall, broad collection of disaggregated data on national and ethnic minorities in the UK, which is regularly analysed and put to use to inform policy-making.<sup>42</sup> It notes nonetheless that in England there is no obligation to collect data specifically dealing with Gypsies, Travellers and Roma, apart from the 2011 census. This may prevent the adjustment of policies addressing the situation pertinent to this minority, preventing access to services. Moreover, in England there is a lack of monitoring on the basis of ethnicity with respect to the National Health System. Scottish authorities, on the other hand, improved data gathering and facilitated access to data to develop evidence-based policy,<sup>43</sup> and Wales collects data on Gypsies and Travellers.

47. It is of concern to the Advisory Committee that, unlike the rest of the UK, there is still no monitoring of ethnic data in Northern Ireland. When asked, the authorities replied that for a long time ethnic minorities were numerically small. Data collection is mainly done by ECNI within its thematic reporting work, but there was a general acknowledgment by stakeholders that disaggregated data are needed to establish baselines and inform the development of evidence-based policies. So far, only the Department of Health is developing proposals for ethnic monitoring. The Advisory Committee is concerned that the Racial Equality Strategy 2015-2025 still does not envisage ethnic data gathering as an objective; but it welcomes the Office of the First Minister and Deputy First Minister's acknowledgement that robust ethnic monitoring is needed and also welcomes that Office's intention to examine how it should be introduced.

48. The Advisory Committee considers that the regular gathering of reliable and disaggregated equality data related to the number and situation of persons belonging to national and ethnic minorities allows for a deeper understanding of the specific challenges faced by members of the various groups. Such data gathering, by means of a census, studies or other tools, also helps in the adoption and implementation of effective minority protection and equality promotion policies.

#### *Recommendations*

49. The authorities in England should start collecting disaggregated data on Gypsies, Travellers and Roma, and should devise policies targeting the specific needs of persons belonging to those groups.

50. The authorities should prioritise integrating the collection of disaggregated equality data on the situation of persons belonging to national and ethnic minorities into the practices of all relevant departments and agencies in Northern Ireland as a means to adopting and implementing effective minority protection and equality promotion policies.

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<sup>42</sup> See for example EHRC, "Is Britain fairer?" above at note 26.

<sup>43</sup> See for example "Overview of equality results from the 2011 census, release 2" (2014), available at [www.gov.scot/Publications/2014/03/7340](http://www.gov.scot/Publications/2014/03/7340), accessed 18 September 2016.

## **Article 5 of the Framework Convention**

### **Support for the preservation and development of national minority identities and cultures**

#### *Present situation*

51. Interlocutors indicated to the Advisory Committee that budgetary cuts have had an impact on government funding for activities meant to maintain and promote the culture and languages of national and ethnic minorities. Interlocutors in Northern Ireland emphasised that the Minority Ethnic Development Fund continues to function, but the rather limited funds (£1 million in 2016-2017) are disbursed for the two main communities rather than for smaller minorities across the board. The same attitude seems to prevail in local councils. Moreover, across the country there seems to be no specific mechanism to involve national and ethnic minorities' representatives in decisions about the allocation of public support for activities and projects. The Advisory Committee recalls that it considers it essential that persons belonging to national minorities have an effective opportunity to participate in the decision-making process surrounding the allocation of funds geared towards cultural initiatives. Such participation is considered essential for the preservation of minorities' cultural identity.

52. The Advisory Committee notes that efforts to ensure minority languages' protection and enhancement, which are dealt with in detail under articles 10 and 14, differ in various parts of the UK. Support for and progress on the Scots and Gaelic languages are visible in Scotland, mainly as regards education, culture and media. Serious efforts are also being made in Wales, to develop the use of Welsh in the administration and in schools, while gridlock appears to best describe the situation of the Irish and Ulster Scots languages in Northern Ireland.

#### *Recommendation*

53. The Advisory Committee calls on the authorities to ensure that support for cultural activities of all national and ethnic minorities is increased across the country and procedures improved, so that their representatives may participate in decision making on the allocation of grants.

#### ***Cornwall***

54. The Advisory Committee appreciates the efforts made so far by the central government, Cornwall Council and the Cornish people to ensure revival of Cornish language, culture and heritage. The status of the Cornish language and culture as officially recognised by the UK Government since 2014 is a step forward in UK obligations under the Framework Convention. The Advisory Committee considers it important that the government now implements relevant policies to improve access to these rights for persons belonging to the minority. The Cornish language is generally seen as central to the sense of Cornish identity as expressed by the newly conferred status (for language revitalisation, see Article 10).

55. The Advisory Committee notes that, so far, funding for the Cornish language has come from a combination of the UK Government (£150 000) and Cornwall Council (£30 000). One of the main problems facing those tasked with revitalisation of the language has been the annual basis of funding from the UK Government. Cornish representatives were vocal in stressing how this arrangement made it difficult to plan for the long-term

recovery and wider use of the Cornish language and how a regular stream of funding was necessary to ensure the viability of language activities. It also expressed the opinion that the central and local funding level for the promotion of Cornish was insufficient to ensure a realistic programme of revitalisation for the language.

56. The Advisory Committee was disconcerted to learn that the UK Government decided in April 2016 to cut all funding for the Cornish language with immediate effect.<sup>44</sup> The Committee strongly regrets a decision which is considered to have a major impact on the continued revitalisation of the language and the educational activities carried out so far with public funding. The Advisory Committee recalls that, as a signatory of the Framework Convention, the United Kingdom has undertaken to promote under Article 5 the conditions necessary for persons belonging to national and ethnic minorities to, *inter alia*, preserve the essential elements of their identity, including language. When access to other public financial resources is limited due to the constitutional set-up, public support remains necessary.

57. Cultural events and festivals, such as St Piran's Day on 5 March, are developing an increasingly high profile and give prominence to the Cornish language and culture throughout the year. However, subsidies for cultural projects are considered not to be enough and have recently been reduced in the Cornwall Council budget by 50%. The Advisory Committee also understands from its interlocutors that the way Cornish culture is currently approached by the English Heritage Trust fails to appreciate its distinctiveness and shifts between "culture in Cornwall" and "Cornish culture". Several small museums deal with Cornish history and culture, but they are scattered and there is no overall agreement yet with the English Heritage Trust on how to portray Cornish culture and heritage, though consultations are ongoing.<sup>45</sup> Similarly, it is felt that Cornish history is distorted, and worries are high that the UNESCO Cornish Mining World Heritage Site could lose its status owing to new building at the site.

#### *Recommendations*

58. The authorities should reconsider their decision to cut all funding for the Cornish language in view of the disproportionate impact such a measure can have on the delicate process of revitalisation of a minority language when access to other public financial resources is limited.

59. The Advisory Committee also calls on the authorities to engage in a dialogue with representatives of the Cornish minority to ensure that cultural policy is developed in a way respectful of the traditions and identity of the minority.

#### **Permanent and temporary sites for Gypsies and Travellers**

60. The Advisory Committee acknowledges that, during the period under examination, several legislative and policy measures have been taken across the country to address the issue of sites for Gypsies and Travellers in line with their traditional lifestyle. However, it

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<sup>44</sup> Cornwall Council press release, available at [www.cornwall.gov.uk/council-and-democracy/council-news-room/media-releases/news-from-2016/news-from-april-2016/council-condemns-government-decision-to-cut-funding-for-cornish-language/](http://www.cornwall.gov.uk/council-and-democracy/council-news-room/media-releases/news-from-2016/news-from-april-2016/council-condemns-government-decision-to-cut-funding-for-cornish-language/), accessed 18 September 2016.

<sup>45</sup> The controversy between English Heritage and Cornwall Council over the "Disneyfication" of Tintagel Castle is indicative of the climate.

observes that overall, despite the efforts, the insufficient supply of suitable permanent or temporary sites continues to be a very serious concern for persons belonging to the minority, which in turn affects access to education and health services.<sup>46</sup>

### **England**

61. The assessment of needs and the relative duty, which are now entrusted to local authorities, remain problematic, in particular in England. The 2011 census indicated that in England and Wales 24% of Gypsies and Travellers continued to live in caravans or other mobile structures. According to the latest bi-annual count of traveller caravans in July 2015, there were 21 084 such caravans, of which 85% were on authorised sites and 15% (about 3 000) on unauthorised sites due to a shortage of authorised sites nationwide.<sup>47</sup> Unauthorised sites include public land and privately-owned land, including land owned by Gypsies and Travellers but without planning permission (this is required even for a single caravan).

62. The Advisory Committee notes that, in England, the adoption of the Localism Act 2011, coupled with changes introduced in the 2012 Planning Policy for traveller sites, entrusted local authorities with the task of assessing need and providing sites for Gypsies and Travellers. According to data provided by the government, between 2011 and 2015 the Traveller Pitch Funding programme spent £42 million to deliver 499 new pitches and 332 refurbished pitches in England.<sup>48</sup> The application of the Mobile Homes Act 1983 to Gypsies and traveller sites in 2011 affords security of tenure in authorised camps and better protection from eviction. The Advisory Committee also understands that there are examples of good practice at certain sites which meet at the same time the demands of the nomadic lifestyle of Gypsies and Travellers and of the local population, as in Leeds.<sup>49</sup>

63. Gypsy and Traveller representatives, however, as well as the EHRC, expressed the opinion that the situation has strongly deteriorated following the legislative changes, with an increase in site overcrowding and roadside halts.<sup>50</sup> In their view, local councils are sometimes unwilling to provide new sites. Moreover, the persisting lack of pitches, a deficit estimated by the EHRC in 2011 to be around 5 800, forces many members of the community

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<sup>46</sup> See also Council of Europe Human Rights Commissioner, “Travellers – Time to counter deep-rooted hostility”, Human Rights Comment, 4 February 2016; and UN, “Report of the Special Rapporteur on adequate housing in the United Kingdom and Northern Ireland”, 30 December 2013, A/HRC/25/54/Add.2.

<sup>47</sup> DCLG, Count of traveller caravans, July 2015, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/477932/Travelling\\_Caravan\\_Count\\_July\\_2015\\_Statistical\\_Release.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/477932/Travelling_Caravan_Count_July_2015_Statistical_Release.pdf), accessed 18 September 2016.

<sup>48</sup> One site is made up of several pitches. Each pitch is equivalent to a family home and might accommodate one or more caravans.

<sup>49</sup> Under the Negotiated Stopping Places policy applied in Leeds, Gypsy and Traveller families select the location where they want to set up camp and sign an agreement not to stay for longer than three months. In return, the council agrees not to evict them and to supply facilities such as toilets and waste disposal services. The council can decline a request for a justifiable reason but must provide an alternative piece of land. As a result of the policy, relations between the council, the police, the public and Gypsies and Travellers have improved markedly and the council is saving £2 000 a week on eviction and clean-up costs.

<sup>50</sup> Oral testimonies collected by the Advisory Committee during its visit.

to resort to unauthorised roadside encampments. This results in repeated eviction procedures.<sup>51</sup>

64. While the transfer of competences in this matter to local authorities was part of a broader administrative reform (see above), the Advisory Committee understands that, with a few exceptions, local authorities struggle to comply with their duties in practice. Although the government organised a training programme to raise awareness among local councillors of their leadership role in relation to traveller site provision and site planning applications,<sup>52</sup> and introduced financial incentives (the New Home Bonus),<sup>53</sup> the reality on the ground is starker, with examples of local authorities acting in a rather counterproductive way, coupled with widespread opposition by residents to site development.<sup>54</sup> The Advisory Committee was informed by the government that local authorities are subject to supervision by independent inspectors, but that central authorities have no real enforcement power if local authorities do not comply with their duties.

65. The Advisory Committee notes that the situation is further complicated by the lower rate of grants of planning permission<sup>55</sup> and by further changes introduced by the 2015 Planning Policy for Traveller Sites in England with respect to the definition of Gypsy status. According to this policy, if Gypsies or Travellers stop travelling due to ill health or old age, they will no longer be considered within the planning definition of Gypsy or Traveller.<sup>56</sup> Hence, it is the fact of being 'mobile' which counts. This provision was vocally contested at the time of its adoption by Gypsies and Travellers' representatives, as well as by the EHRC, since it is considered to seriously affect their nomadic style of life. Finally, the Advisory Committee is concerned by the Housing and Planning Bill pending in the UK Parliament, which could, once again, worsen the process by removing all reference to Gypsies and Travellers, with only a reference to "consider the needs of the people" residing or resorting to the district for provision of sites. It is the opinion of some interlocutors and stakeholders that these changes, coupled with the challenges described above and the offer of

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<sup>51</sup> The cost of evictions has been estimated to be 300 times higher than what it would cost to provide sites, thereby making them expensive for the public authorities; see OCHCR Workshop on rights of Travellers/Gens du Voyage, Brussels 30 June 2015, CAHROM (2015)28.

<sup>52</sup> The State report indicates that £50 000 was allocated for this purpose to the Local Government Improvement and Development Agency.

<sup>53</sup> The New Homes Bonus is paid by central government to local authorities for increasing the number of homes (including new traveller pitches) and their use.

<sup>54</sup> In Cheshire the local council announced its plan to build two plots for Gypsy and Traveller households to live on a site, but in October 2011 residents set up the Crewe Campaign Against Traveller Sites, which raised enough money to hire a lawyer and a 5 400-strong petition. The group received widespread public support and, in the face of this pressure, the local council withdrew the application for a site in April 2012.

<sup>55</sup> DCLG data for 2013 indicate a discrepancy between successful applications for new sites by Gypsies and Travellers (69% for major applications) and residential applications (82% for major applications) in England. In 2015, as a result, successful applications for major traveller caravan sites decreased by 59% in comparison to 2014; see Planning Statistical Release 2013 and 2015. The European Court of Human Rights also reported that about half of the successful applications were granted only on appeal and half were temporary (3-year duration). Interestingly, after the *Moore v. SSCLG* [2013] EWCA Civ 1194 case, which found that then Secretary of State Pickles had engaged in discriminatory conduct by singling out all Gypsy/Traveller applications for planning permissions to be dealt with by him personally, there has been no real redress for the 100 cases concerned, which were sent back to inspectors.

<sup>56</sup> OCHCR Workshop on rights of Travellers/Gens du Voyage, Brussels, 30 June 2015, CAHROM (2015)28.

alternative brick-and-mortar housing by local authorities, would be part and parcel of an alleged move to eradicate the living style of the Gypsy and Traveller communities.<sup>57</sup>

### ***Scotland, Wales and Northern Ireland***

66. In Scotland, local authorities have a legal responsibility to identify the accommodation needs of those in their area, including Gypsies and Travellers, and to consider in their Local Housing Strategies how best to meet those needs. During the period under examination, the Scottish Government acknowledged Gypsies and Travellers to be one of the most discriminated against and disenfranchised communities in Scotland.<sup>58</sup> It established the Gypsy/Traveller Site Working Group, bringing together representatives of the police, local authorities and those with close links to the Gypsy and Traveller community, to address that community's needs, and published a series of relevant guidance notes to this purpose.<sup>59</sup> However, the Advisory Committee notes that the decision on whether or not to provide a Gypsy/Traveller site remains with the relevant local authorities and there is no requirement for them to act. The Scottish Government also issued guidelines on managing unauthorised sites, which are taken care of by local authorities as regards access to health, education and other services. Prosecutions for trespassing are seldom carried out.

67. The Advisory Committee welcomes the positive steps taken by the Welsh Government to ensure the provision of sites for Gypsies and Travellers. The new statutory duty of the Housing (Wales) Act 2014 and the policy document "Travelling to a better future" require local authorities to undertake assessment and include a duty to provide sites when the need is identified. Further the Welsh Government has the power to compel local authorities to meet the needs identified. The Welsh Government has increased funding to local authorities for refurbishment and creation of new sites from 75% to 100% and improved the security of tenure in authorised sites through the Mobile Homes (Wales) Act 2013. The funding for new site development addresses the shortfall in available pitches and should help over time to reduce unauthorised encampments across Wales.

68. The Advisory Committee is concerned by reports that Irish Travellers remain broadly discriminated against in Northern Ireland with respect to sites lacking adequate conditions and basic amenities.<sup>60</sup> The Northern Ireland Housing Executive carried out the Traveller

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<sup>57</sup> Report to the Advisory Committee by the NGO Article 12.

<sup>58</sup> Scottish Government, "Equality outcomes and mainstreaming report 2015", p.69, available at [www.gov.scot/Publications/2015/04/7781/0](http://www.gov.scot/Publications/2015/04/7781/0), accessed 18 September 2016. According to the 2011 census, there are 4 000 Gypsies and Travellers in Scotland, 14% of whom lived in caravans, while the rest lived in houses or flats; see "Overview of equality results from the 2011 census, release 2", p.41, available at [www.gov.scot/Publications/2014/03/7340](http://www.gov.scot/Publications/2014/03/7340), accessed 18 September 2016.

<sup>59</sup> The guidance "Improving Gypsy/Traveller sites" sets out minimum standards for Gypsy/Traveller sites and the core rights and responsibilities of site tenants, which include security of tenure. The revised guidance for Housing Need and Demand Assessments and for Local Housing Strategies ensures that accommodation needs of Gypsies/Travellers are fully taken into account by councils as they plan accommodation provision.

<sup>60</sup> See "Report from the Equality Commission for Northern Ireland to the Advisory Committee for the FCNM on the 4th report by the UK", January 2016, Section 4.11; and "Northern Ireland Human Rights Commission Parallel Report to the Advisory Committee on the 4th Monitoring Report of the UK", March 2016, para. 95; also Northern Ireland Council for Ethnic Minorities (NICEM), "The annual human rights and racial equality benchmarking report 2013/2014", p. 96, available at <http://nicem.org.uk/e-library/annual-human-rights-racial-equality-benchmarking-report-201314>.

Accommodation Needs Assessment in 2014, but no real progress appears to have occurred in practice, although authorities consider that it is rather a problem of matching the wishes of families than a shortage of sites. Cumbersome planning permissions considerably delay access to sites; and existing far-reaching legislation on eviction from unauthorised camps, although seldom used, contributes to a climate of insecurity.<sup>61</sup> Interlocutors of the Advisory Committee highlighted the need for a multi-agency Taskforce on Traveller sites to direct and co-ordinate the various authorities involved in the development and maintenance of sites if conditions were to improve.<sup>62</sup> The Advisory Committee also notes that there is a commitment in the Racial Equality Strategy to develop specific programmes to address the vulnerabilities of Irish Travellers, but no distinct strategy is envisaged at this stage.

### *Recommendations*

69. The authorities in England should revert to previous legislation addressing specifically the provision of permanent and temporary sites for the Gypsies and Travellers minority, and reinstate a duty on local authorities to provide these sites when the need has been identified in order to ensure an adequate supply; and expand good practices such as the negotiated stopping policy in Leeds.

70. It also calls on the Scottish authorities to reintroduce a compliance duty for local authorities in respect of the provision of sites, and set-up a multi-agency Taskforce on Traveller accommodation in Northern Ireland to cater for the needs of Irish Travellers.

## **Article 6 of the Framework Convention**

### **Tolerance and intercultural dialogue**

#### *Present situation*

71. The Advisory Committee welcomes the UK Government's integration strategies and other sets of measures taken by the authorities at central and local levels, such as awareness campaigns, helplines, interfaith dialogue, all-party parliamentary committees and support for civil society activities that promote inter-ethnic tolerance and openness in society (see also Article 4).<sup>63</sup> It notes that integration strategies opt to focus on disadvantage instead of race and ethnicity to avoid further separating people along community lines and to empower every citizen to actively participate in the process of fostering equality in society, regardless of their background.

72. Although national and ethnic minorities generally cohabit well in the UK, there has been some evidence and some reports suggesting an increase in hate-motivated incidents against ethnic minorities, which is in part due to specific, highly publicised trigger events rather than simply a result of improved reporting and recording of these crimes in recent years.<sup>64</sup> Not only were anti-Semitic acts more frequent in 2014, in part triggered by political

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<sup>61</sup> UN, CESCR, Concluding Observations on the UK, 12 June 2012, E/C.12/GBR/CO/5.

<sup>62</sup> ECNI Report (as in n.60), section 4.30.

<sup>63</sup> See note 29 (above) on DCLG support to civil society.

<sup>64</sup> Home Office, "Crime outcomes in England and Wales 2014/15, statistical bulletin 01/15". True Vision, a police-funded website, recorded 4 764 hate crime/incident reports in 2015/16, 14% more than the previous year; see [www.report-it.org.uk/files/reports\\_made\\_to\\_true\\_vision\\_201516.pdf](http://www.report-it.org.uk/files/reports_made_to_true_vision_201516.pdf), accessed 18 September 2016.

events in Israel (Israel–Gaza conflict),<sup>65</sup> but anti-Muslim hate speech seemed to increase, particularly online,<sup>66</sup> not the least fuelled by the current international context and domestic events.<sup>67</sup> The Advisory Committee is also seriously concerned that, across the UK, Gypsies, Travellers and Roma are regularly subject to hostility, hate speech, physical attacks and hideous forms of prejudice and discrimination in political discourse, in the press, online and in society at large.<sup>68</sup> There is seldom a public reaction to these vilifying comments in the press. It is common opinion among national and ethnic minorities' representatives that Gypsies and Travellers are often portrayed as perpetrators and a "criminal" group rather than as victims, and they are still not monitored by the police as a minority group. Finally, the European and domestic debate on migration has helped to foment episodes of intolerance against minorities as well as anti-immigrant rhetoric in social media, in the political arena, particularly by certain politicians,<sup>69</sup> and in society at large.

73. In the view of the Advisory Committee, tolerance and intercultural dialogue are strained, and the protection of persons belonging to national and ethnic minorities is put at risk, when hate speech increases. The Advisory Committee acknowledges that political discourse that stirs intolerance and manifestations of racial discrimination is regularly countered by senior UK public figures, and the importance of diversity and the contribution of ethnic minorities to society is emphasised.<sup>70</sup> However, it also recalls the importance of ensuring that these debates are conducted responsibly, respecting those belonging to minority groups, and that a clear message is sent to the public that these hate-speech

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<sup>65</sup> Community Security Trust (CST), which runs an incident hotline, recorded 1 179 anti-Semitic incidents in 2014, the most ever recorded, compared to 535 in 2013 and 924 in 2015, and 233 involved Internet-based social media. The lack of triggers is considered to be the reason behind the 22% fall in the number of anti-Semitic incidents in 2015, of which only 159 involved the Internet; see CST, *Anti-Semitic incidents, Report 2015*.

<sup>66</sup> Tell MAMA's 2014-15 data showed that, of the 548 Islamophobic incidents verified out of 729 reported, 402 took place online; see "Tell MAMA Reporting 2014/2015, Annual monitoring, cumulative extremism, and policy implications", available at <http://tellmamauk.org/tell-mama-20142015-findings-on-anti-muslim-hate/>, accessed 18 September 2016.

<sup>67</sup> Triggers included the ongoing conflict with ISIS/Daesh and global acts of terror, as well as domestic events such as the murder of Drummer Lee Rigby and the Rotherham scandal (widespread organised child sexual abuse perpetrated by a group of Pakistani men between 1997 and 2013).

<sup>68</sup> For example, in 2013 a Conservative member of Thurrock Council referred to a Travellers' planning application as "my big fat Gypsy cesspit" and these words were included in the Thurrock Conservatives press release (see [www.bbc.com/news/uk-england-essex-23718016](http://www.bbc.com/news/uk-england-essex-23718016), accessed 18 September 2016). Invective such as "Keep calm and kill a Gypsy" is diffused on social media.

<sup>69</sup> For instance, UKIP's leader, Nigel Farage, warned that "there is rising public concern about immigration partly because people believe there are some Muslims who want to form a fifth column and kill us", *The Guardian*, 12 March 2015, "British Muslim 'fifth column' fuels fear of immigration", available at [www.theguardian.com/politics/2015/mar/12/nigel-farage-british-muslim-fifth-column-fuels-immigration-fear-ukip](http://www.theguardian.com/politics/2015/mar/12/nigel-farage-british-muslim-fifth-column-fuels-immigration-fear-ukip), accessed 18 September 2016.

<sup>70</sup> In July 2015, Prime Minister Cameron emphasised that Britain is a multiracial, multifaith democracy and openly acknowledged the contribution from Muslim communities; see [www.gov.uk/government/news/passive-tolerance-of-separate-communities-must-end-says-pm](http://www.gov.uk/government/news/passive-tolerance-of-separate-communities-must-end-says-pm), accessed 18 September 2016. On the occasion of Black History Month, the leader of the Labour Party and the Parliamentary Under-Secretary of State for Communities and Local Government celebrated the contribution of African, Caribbean and Asian communities to the UK; see [www.blackhistorymonth.org.uk/article/section/bhm-intros/the-leader-of-the-labour-party-jeremy-corbyn-mp/](http://www.blackhistorymonth.org.uk/article/section/bhm-intros/the-leader-of-the-labour-party-jeremy-corbyn-mp/) and [www.publications.parliament.uk/pa/cm201516/cmhansrd/cm151021/halltext/151021h0002.htm](http://www.publications.parliament.uk/pa/cm201516/cmhansrd/cm151021/halltext/151021h0002.htm), both accessed 18 September 2016.



attitudes are not acceptable.<sup>71</sup> The Advisory Committee is also seriously concerned that sections of the media share responsibility in spreading intolerant and racially hostile narratives and behaviours to society at large by the way they sometimes portray incidents and events.<sup>72</sup> Social media have become the preferred vehicle for the expression of anti-immigrant and anti-minority sentiments. While media should be promoting intercultural dialogue among different groups in society, the Advisory Committee's opinion is that this is not always the case in some sections of it. Existing mechanisms appear to be too weak to tone down derogatory and provocative language without encroaching on media independence, and little is being done to empower these mechanisms (see also Article 9).

74. Finally, the Advisory Committee points out that the work on integration appears to be jeopardised by certain aspects of counter-terrorism policy and anti-extremism/anti-radicalisation programmes, such as Prevent and Channel,<sup>73</sup> that risk fomenting fear and resentment among persons belonging to national and ethnic minorities, in particular in the Muslim community. In July 2015, a statutory duty was placed on schools, prisons, local authorities and hospitals to take measures to prevent non-violent extremism in England and Wales. According to government guidance, the day-to-day responsibilities of teachers, even at nursery-school level, now include identifying children at risk of radicalisation and referring them to the government's anti-radicalisation programme, Channel, run by counter-terrorist police officers. Between 2007 and 2013, 2 653 people were referred (547 from the education sector), about one third of them under 18, with the youngest being 3 years old. Of all those referred to the police for de-radicalisation since April 2012, 57.4% were Muslims.<sup>74</sup> The Advisory Committee observes that under these programmes liability has been shifted to local authorities and in particular to teachers, to detect early radicalisation. In the opinion of some of its interlocutors, this has occurred without automatically providing teachers and lecturers with the necessary competence, and putting them at risk of over-reacting for fear of breaking the law. These measures are perceived by interlocutors as a general regression in the protection of individual rights, which may disproportionately affect children belonging to national and ethnic minorities.

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<sup>71</sup> On several occasions, thoroughly reported in the press, even political leaders provided comments which were considered by the minorities' representatives as being counterproductive and contributing to stereotyping, for instance, Muslim communities; see *The Guardian*, 18 January 2016, "Cameron's government and British Muslims: a difficult relationship", available at [www.theguardian.com/politics/2016/jan/18/david-cameron-conservatives-british-muslims-difficult-relationship](http://www.theguardian.com/politics/2016/jan/18/david-cameron-conservatives-british-muslims-difficult-relationship), accessed 18 September 2016. On other occasions, however, there was firm condemnation, as when the acting Labour leader reacted to Prime Minister Cameron's 2015 comment on swarms of migrant by saying that "he should remember he is talking about people and not insects".

<sup>72</sup> See for instance the article in the *Sun* headlined "1 in 5 Brit Muslims' sympathy for jihadis", published in print and online on 23 November 2015. It resulted in 3 000 complaints to the Independent Press Standards Organisation, which upheld the complaints and found the newspaper in breach of the Editors' Code of Practice.

<sup>73</sup> Prevent aims to stop people becoming terrorists or supporting terrorism. It is one of the four elements of CONTEST (alongside Pursue, Prepare and Protect), the government's counter-terrorism strategy. It was established in 2007, updated in 2011 and has been part of CONTEST since 2015.

<sup>74</sup> Data from the Association of Chief Police Officers following a Freedom of Information request in 2014, available at [www.npcc.police.uk/documents/FoI%20publication/Disclosure%20Logs/Uniformed%20Operations%20FOI/2013/117%202013%20ACPO%20Response%20-%20Channel%20Project%20Referrals.pdf](http://www.npcc.police.uk/documents/FoI%20publication/Disclosure%20Logs/Uniformed%20Operations%20FOI/2013/117%202013%20ACPO%20Response%20-%20Channel%20Project%20Referrals.pdf).

75. The Advisory Committee observes that prejudice and ethnicity continue also to be at the origin of bullying of children and adolescents, in particular at school. It welcomes the information from the authorities that, in England, a reformed legal framework gives teachers and schools greater scope to tackle bullying, a clear remit for the Office of Standards in Education (Ofsted) to hold schools to account and funds for targeted initiatives. The engagement of authorities is similar across the country. However, the Advisory Committee understood from interlocutors that in Scotland, although some local authorities had excellent policies, there was large variation across local authorities in terms of prevention, action, monitoring, assessment, evaluation, staff training and enforcement.<sup>75</sup> In Northern Ireland, ethnic minority students have admitted being bullied (called names or commented about their race or colour).<sup>76</sup> It is reported that the most negative experiences in the education sector were encountered by Irish Traveller children. One barrier to addressing bullying in schools is that schools generally tend to lack knowledge of how to effectively confront the issue of racist bullying and may in some cases have difficulty acknowledging that a problem exists.

#### *Recommendations*

76. The authorities should intensify their efforts to counter the increasing climate of inter-ethnic prejudice and hate speech by stepping up efforts and initiatives to promote tolerance and intercultural dialogue, firmly condemning derogatory and racially hostile language in public discourse and calling on all political parties to refrain from using it. The Advisory Committee also calls on the authorities to engage with media outlets to promote a more nuanced understanding and reporting of facts to avoid fuelling intolerant and ethnically hostile behaviour while promoting the use of less derogatory language.

77. The Advisory Committee calls on the authorities to ensure that measures taken to prevent radicalisation do not have disproportionate consequences for persons belonging to ethnic minorities, in particular children.

### **Protection against hate crime**

#### *Present situation*

78. The Advisory Committee notes an overall increase in hate crime across the country, except in Northern Ireland, where sectarian-based crime is still the most prevalent. In 2014-15 there were 52 528 hate-motivated criminal offences (hate speech and violence) recorded by the police; 42 930 (82%) of them belonged to the category of “race” hate crime.<sup>77</sup> This was an overall increase of 18% compared with 2013-14. However, the annual Crime Survey for England and Wales, which is a face-to-face victimisation survey, revealed that there are an estimated 222 000 hate-motivated criminal offences on average per year, of which 106 000 relate to race. The discrepancy (only one in four hate-motivated offences is recorded by the police) may be explained by under-reporting and shortcomings in the recording system.

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<sup>75</sup> See CRER Report (n.26). According to official sources, there were a reported 1 274 racist incidents in Scottish schools between 2011 and 2012 – 730 in primary schools and 544 in secondary schools; Racist Incidents recorded by the Police in Scotland, 2013-2014, available at <http://news.scotland.gov.uk/News/Racist-Incidents-Recorded-by-the-Police-in-Scotland-2013-14-1f96.aspx>.

<sup>76</sup> 14% of Year 6 (aged 9-10) and 7.6% of Year 9 (aged 12-13) pupils admitted being bullied.

<sup>77</sup> Home Office, “Crime outcomes in England and Wales 2014/15”, Statistical Bulletin 01/15.

79. The Advisory Committee welcomes the various policy measures adopted by the government and the police in the period under examination, in particular the hate-crime action plan, Challenge it, Report it, Stop it, aiming at preventing hate crime, increasing the reporting of hate crime and improving the criminal justice response to it. In 2014, the police developed their own National Policing Hate Crime Strategy and the College of Police's Hate Crime Operational Guidance aimed at improving prevention, understanding, investigation and recording of such crimes. Several steps have been taken to address the serious problem of under-reporting, such as third-party reporting and data sharing between the police and organisations such as Tell MAMA and the Community Security Trust for incidents involving anti-Muslim and anti-Semitic hate. Other initiatives included the True Vision website,<sup>78</sup> a joint initiative between the police and the government to publish hate crime data and to enable victims and third party organisations to report hate crime online directly to the relevant police agency. In Wales the strategy "Tackling hate crimes and incidents: a framework for action" and the development of a National Hate Crime Reporting Centre through Victim Support marked other positive steps to tackle hate crime.

80. Legal provisions for racial hatred and racially aggravated offences with enhanced sentencing and remedies are available across the UK. However, the Advisory Committee understands from its interlocutors that the low level of prosecutions and judicial outcomes for incitement to racial hatred is a result of the high threshold for evidence and the fact that motivation or demonstration of intent is difficult to prove.<sup>79</sup> Where aggravated offences are alleged, the prosecution often drops the element of racial motivation because it is difficult to prove. Several initiatives are being planned or implemented to improve understanding and trust in the judicial system, including communication with victims to make them aware of what can be prosecuted and to follow up the outcome of the case, and the introduction of an obligation for judges to indicate whether enhanced sentencing follows from hate crimes. In particular in Northern Ireland, the discrepancy between public perceptions of what is a hate crime and what is achieved in court as a final result is often at the origin of under-reporting and distrust of the police and judicial system by persons belonging to national and ethnic minorities. Regarding Gypsies, Travellers and Roma, heightened distrust of the police, high levels of under-reporting and the lack of evidence of crimes against these minorities, which are not monitored by the police as such, coupled with a loss of ability among the police to recognise prejudice, make their situation particularly worrisome.

81. Finally, the Advisory Committee appreciates that the 2013 reform measures for stop-and-search powers in England and Wales have improved the situation. These reforms were prompted by an ECHR investigation into the disproportionate use of these powers by five police forces, which had resulted in certain ethnic minorities being stopped and searched seven times more often than "White" people. The Advisory Committee understands, nonetheless, from the ECHR that training must be carried out regularly and for all police ranks because its impact is quickly "phased out" by time, officers' unconscious bias and rank. In Scotland, a substantial increase in non-statutory stop-and-search of young people in

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<sup>78</sup> See True Vision, [www.report-it.org.uk/your\\_police\\_force](http://www.report-it.org.uk/your_police_force), accessed 19 September 2016.

<sup>79</sup> In 2013-14 the only successful prosecution for hate crime resulted in a 12-month custodial sentence; Crown Prosecution Service 2013-2014. In Northern Ireland, statistical data released by the police under Freedom of Information indicates there have been a small number of arrests and charges under Part III of the Public Order (Northern Ireland) Order 1987 since its inception and it is believed that there has been only one conviction.

2013-14<sup>80</sup> prompted thorough public scrutiny of the procedure and put in motion a reforming process which led to improvements.<sup>81</sup> In Northern Ireland, the Advisory Committee notes that the 2013 Code of Practice for use of the stop-and-search powers provided by the Justice and Security (Northern Ireland) Act 2007 still does not include binding ethnic monitoring requirements, although it appears that there is no legal obstacle to do so.<sup>82</sup> It also notes that the London Metropolitan Police continues to be under scrutiny for the allegations of ‘institutional racism’ following the 1999 Macpherson Report on the Lawrence case and that specific measures to address misconduct and improve standards of professional behaviour have been put in place.<sup>83</sup>

### *Recommendations*

82. The authorities should intensify their efforts to raise public trust in the effectiveness of the legal remedies available against hate crime by increasing communication on cases, and recording and publicising the application of enhanced sentencing, where imposed.

83. The Advisory Committee also calls on them to further improve training of law enforcement to detect, investigate and bring to justice all hate speech and hate-motivated offences, and to monitor more closely hate crime against Gypsies, Travellers and Roma.

### ***Community relations in Northern Ireland***

84. In 2013, the Office of the First Minister and Deputy First Minister adopted the “Together building a united community” (TBUC) strategy, which reflects the Executive’s ongoing commitment to improve ‘good relations’, equality of opportunity and reconciliation between communities in Northern Ireland. As with the previous strategy,<sup>84</sup> TBUC represents the framework for government actions to tackle sectarianism, racism and other forms of intolerance, thereby continuing to differentiate sectarianism from racism – which is dealt with by a separate strategy (see Article 4). The Advisory Committee understands from some of its interlocutors that, during the period under examination, the duty to promote ‘good relations’ principally between the two main communities, Catholics and Protestants, appeared on several occasions to take priority over wider equality and minority rights initiatives, which were blocked on grounds that they would lead to ‘community tensions’.<sup>85</sup>

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<sup>80</sup> The Scottish Police Authority’s scrutiny review of stop-and-search policy and practices, available at [www.spa.police.uk/assets/126884/230479/scrutinytaskgroupreport](http://www.spa.police.uk/assets/126884/230479/scrutinytaskgroupreport), accessed 19 September 2016, found that Police Scotland had adopted a proactive approach to stop-and-search, particularly non-statutory stop-and-search, which is not allowed elsewhere in the UK. Those aged 15-19 were most likely to be stopped and searched; data did not indicate that minority ethnic groups were disproportionately targeted (2.6% of searches on the 4% of the population which is minority ethnic).

<sup>81</sup> Police Scotland’s “Update report on stop and search” (March 2015) outlined 18 recommendations. A second update in December 2015 reported on progress: “Stop and Search Improvement Progress Report for the cabinet Secretary of Justice”, available at [www.gov.scot/Resource/0049/00492699.pdf](http://www.gov.scot/Resource/0049/00492699.pdf), accessed 19 September 2016.

<sup>82</sup> See Committee on the Administration of Justice (CAJ) Report, submitted to the Advisory Committee.

<sup>83</sup> Home Secretary Teresa May, Speech to the House of Commons on the Ellison Report, March 2014, available at [www.gov.uk/government/speeches/the-ellison-review](http://www.gov.uk/government/speeches/the-ellison-review), accessed 19 September 2016.

<sup>84</sup> Northern Ireland Government (2010), “Programme for Cohesion, Sharing and Integration” (CSI).

<sup>85</sup> The duty of “good relations” – across the grounds of religious belief, political opinion and racial group – was introduced by the Northern Ireland Act 1998, comparable to the duty of equality (Section 75). See NICEM report (as in n.61) and the examples relating to Irish language legislation, bilingual signage and housing policy

85. This would be due to the fact that, unlike the rest of the country,<sup>86</sup> Northern Ireland does not interpret the ‘good relations’ duty as including a duty to tackle racism, including sectarianism. Instead, the lack of proper definition allows this notion to be used rather as a ‘tool’ to set aside politically contentious issues, such as legislating on the Irish language, and to justify a “do-nothing” attitude, eventually based on ‘perceptions’ rather than objective criteria.<sup>87</sup> The Advisory Committee reiterates its opinion that the concept of ‘good relations’ apparently continues to be substituted for the concept of intercultural dialogue and integration of society, which would include other national and ethnic minorities present in the region, and regrets that this is used to prevent access to rights by persons belonging to these minorities.

86. In its previous opinion, the Advisory Committee also drew the attention of the authorities to the fact that to treat sectarianism as a distinct issue rather than a form of racism is problematic, as it allows it to fall outside the scope of accepted anti-discrimination and human rights protection standards.<sup>88</sup> The fact that there is no legal definition of sectarianism and that it is taken rather to indicate discriminatory attitudes and opposition between the two main political/religious communities has insulated the terms from the broader equality framework. However, during its visit the Advisory Committee was informed by the authorities that no progress on the definition of sectarianism is expected in the short term.

87. Interlocutors expressed serious concerns to the Advisory Committee about the “institutionalisation” of sectarianism and its entanglement with the notion of ‘good relations’, which are causing gridlock in the political debate. Sectarian-motivated crimes predominate among hate crimes, but there is no aggravated sentencing;<sup>89</sup> and, though sectarian crimes may be prosecuted through the notion of race, the high threshold for evidence generally prevents this happening. The authorities also indicated that sectarian crime is highly unreported and that communities have started to pay less attention to the issue.

88. The Advisory Committee notes with regret that the effects of the prevalence of sectarianism in Northern Ireland society are also visible in many other issues, with a direct impact on other national and ethnic minorities, whose needs remain unmet. The process, launched by TUBC, of tearing down the peace walls by 2023 has started, but progress is slow, even hampered by the construction of new walls, and it relies heavily on communities’

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described in the CAJ report (see n.83) and other sources. ECNI investigated the housing policy of the Dept of Social Development and found that it constituted a breach of the department’s Equality Scheme, as it had not been subjected to equality screening. The department had intentionally set out to obtain “parity” between mainly unionist and mainly nationalist areas, and had sought to justify this approach by citing not only “good relations” but also “equality”. See Equality Commission for Northern Ireland, “Investigation report under Schedule 9 of the Northern Ireland Act 1998, Department for Social Development: Housing policy proposals” (November 2015).

<sup>86</sup> The 2010 Equality Act does not apply to Northern Ireland.

<sup>87</sup> See examples quoted by the CAJ report (n.83), and the Pobal report, submitted to the Advisory Committee.

<sup>88</sup> NIHRC reiterated this point in “Advice to the Committee for the Office of the First Minister and Deputy First Minister’s inquiry on Building a United Community”, paragraph 63, available at <http://www.nihrc.org//Publication/detail/advice-to-ofmdfm-committee-on-together-building-and-united-community>.

<sup>89</sup> PSNI reported 1 517 sectarian incidents and 1 043 sectarian crimes in 2014/15, of which 169 resulted in prosecution.

willingness to overcome fear. Housing segregation along sectarian lines is still very common and it impacts on housing solutions for other ethnic minorities, who are easy victims of harassment on the basis of the perceived reception of their presence in the community.<sup>90</sup> Schools follow the same fate, with education still highly segregated along religious lines and only 6% of schools being integrated (see also Article 14).

### *Recommendations*

89. The authorities should begin to implement the ‘good relations’ duty as provided for under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights by persons belonging to all national and ethnic minorities.

90. It also calls on the authorities to introduce definitions of ‘good relations’ and ‘sectarianism’ in legislation, drawing on international standards relating to racism and human rights in general; and to ensure that sectarian crimes are dealt with in the criminal justice system in a way equivalent to other forms of hate crime.

## **Article 9 of the Framework Convention**

### **Access to and presence in the media**

#### *Present situation*

91. The Advisory Committee notes that broadcasting is not a devolved matter and that the national broadcaster BBC provides support for broadcasting in minorities’ languages. Across the country, media addressing persons belonging to minorities either in English or in minority languages is available. Out of 206 community radio stations, 29 belong to ethnic minorities.<sup>91</sup> Several of the radio stations are London-based and address Asian and Black communities; there is also a multi-ethnic radio station. MG Alba is funded predominantly by the Scottish Government and sponsored by the BBC, creating the television channel commonly known as BBC Alba. They provide services to Gaelic speakers by producing dramas, documentaries, news and other television programmes entirely in Gaelic. The channel currently has an average 700 000 viewers per week. In Wales, S4C is the Welsh language public broadcaster, which commissions independent producers from across Wales to make the majority of its programmes for over 115 hours each week. Although the BBC became S4C’s majority funder in 2013, an operating agreement in place between S4C and the BBC Trust protects the editorial, managerial and operational independence of S4C.

92. The Irish Language Broadcast Fund (ILBF), established after the Belfast Agreement, is financed by the UK Government and has increased the amount of Irish language programming available for broadcast (primarily on TG4 but occasionally on the BBC). However, interlocutors of the Advisory Committee indicated that Irish language broadcasting has less statutory protection and funding under the Communications Act 2003

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<sup>90</sup> See NICEM report in n.61.

<sup>91</sup> Ofcom Communications Market Report 2015, available at <http://stakeholders.ofcom.org.uk/market-data-research/market-data/communications-market-reports/cmr15/>, accessed 19 September 2016.

and the BBC's Charter than Welsh and Scottish Gaelic.<sup>92</sup> The Advisory Committee also noted that there is no longer an Irish language newspaper in Northern Ireland.

93. The Advisory Committee regrets the minimal profile of Cornish on mainstream media. The 5 minutes a week of Cornish programmes broadcast by the BBC on Radio Cornwall was criticised by interlocutors as being totally insufficient – in terms of style, content and length. Independent Internet e-broadcasting and local community radio stations provide a platform for a further one hour a week of Cornish. The ongoing revision of the BBC Charter is perceived by the minority's representatives as the occasion to improve the situation, since so far the BBC has tended to group Cornwall as part of South West England and in an arbitrary manner blending out Cornish issues. Finally, there is no Cornish language newspaper in Cornwall due to lack of funding.

94. The Advisory Committee regrets that certain media outlets continue stereotyping and counterproductive messaging on national and ethnic minorities (see Article 6). Although it acknowledges the delicate balance to be struck by the authorities between freedom of expression and hate speech, the Advisory Committee emphasises the relevance of enhancing ethical journalism without encroaching on media independence. To this purpose it is important that training is regularly carried out and that access to and presence in the media of persons belonging to minorities, including in supervisory organs of (public) broadcasters, is ensured.

95. The Advisory Committee notes the new self-regulator for the newspaper and magazine industry, the Independent Press Standards Organisation (IPSO), which represents the press self-regulatory answer to the 2012 Leveson Report.<sup>93</sup> IPSO is tasked with monitoring and maintaining the standards set out in the Editors' Code of Practice and providing support and redress for individuals seeking to complain about breaches of the Code. The Editors' Code of Practice sets out the rules that the voluntarily subscribing newspaper and magazine industry members have pledged to accept (90% of the national newspapers are covered). IPSO has a wider remit than its predecessor, the Press Complaints Commission; it deals with complaints on grounds, *inter alia*, of accuracy and discrimination (in terms of prejudicial or pejorative reference to an individual's race, colour, religion, gender, sexual orientation, etc.)<sup>94</sup> and imposes fines or removal of material. However, the Advisory Committee also observes that certain characteristics, such as its size, the fact that it checks complaints against the Code of Editors prepared by the industry itself, and that it is financed by the press outlets (and several of its board members come from the industry), cast doubt on whether it is a proper follow-up to the Leveson Report, which called for a new

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<sup>92</sup> See Pobal Report (n.88). In 2011-12, £119.3 million was spent on Welsh language broadcast funding; in Scotland, £19.8 million was spent on Gaelic broadcasting; and £3.53 million was spent on the Irish Language Broadcast Fund. Per person, £19 was spent on Irish and £213 on Scots Gaelic, though 10.65% of the population in Northern Ireland have some knowledge of Irish as compared to 1.1% of Scottish people who speak Gaelic. Funding has been cut for radio and print press across Northern Ireland.

<sup>93</sup> The Leveson Report, published in November 2012, was the outcome of a judicial public inquiry set up by the Prime Minister into the culture, practices and ethics of the press. It pointed out that "certain parts of the press ride roughshod over others, both individuals and the public at large, without any justifiable public interest", and that a significant number of news stories fail to meet standards of integrity and propriety, and reflect a culture of "recklessness in prioritising sensational stories, almost irrespective of the harm these may cause and the rights of those who would be affected". It also noted a "significant and reckless disregard for accuracy".

<sup>94</sup> See the Editor's Code of Practice, at <https://www.ipso.co.uk/editors-code-of-practice/>.

independent, self-regulatory body to be established by statute.<sup>95</sup> Moreover, the complaint procedure is not widely known; it is cumbersome and easy to obstruct, its mandate is limited to individual (and not group) complaints; and Article 12 does not cover incitement to racial hatred. Finally, the Advisory Committee understands that a new press regulator, IMPRESS, has applied for recognition via the Press Recognition Panel, the organisation set up to assess press self-regulation following the Leveson Inquiry.

### *Recommendations*

96. The authorities should take resolute action to ensure that revision of the BBC Charter improves access to the media for persons belonging to national and ethnic minorities, increases funding, ensures a variety of programmes in minority languages, in particular the Irish language, involves minorities in their production and introduces BBC support for the Cornish language.

97. The Advisory Committee also calls on the authorities to establish an independent press regulator, responding to the criteria enunciated by the Leveson Report, and to ensure that training is regularly carried out and there is access to and presence in the media of persons belonging to minorities, including in supervisory organs.

## **Article 10 of the Framework Convention**

### **Use of languages at local level**

#### *Present situation*

#### ***Gaelic and Scots languages in Scotland and Welsh language in Wales***

98. The Advisory Committee notes the Scottish Government's commitment to secure the presence of Gaelic in Scotland. According to the 2011 census, there are currently over 90 000 people in Scotland with some competence in Gaelic and almost 60 000 who speak it currently. In the last ten years the rate of decline has begun to slow down and, in particular, the number of young Gaelic speakers has risen. The Gaelic Language (Scotland) Act 2005, passed by the Scottish Parliament, seeks to secure the status of Gaelic as an official language of Scotland. The Bòrd na Gàidhlig, as the public body responsible for promoting, developing and supporting the Gaelic language, adopted the National Gaelic Language Plan 2012-2017,<sup>96</sup> which sets out the main aims and actions under the key domains: home; education and learning; community; workplace; arts, media, heritage and tourism. A number of councils, public agencies and universities have adopted their own plan in line with the requirements.<sup>97</sup>

99. The Advisory Committee also notes the Scottish Government's ambition for the Scots language to be recognised, valued and used in Scottish public and community life. The 2011 census showed that there are over 1.5 million people living in Scotland who are able to

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<sup>95</sup> In 2013, the Government proposed a Royal Charter, which was approved by Parliament, incorporating all 47 of Lord Justice Leveson's recommendations relating to press self-regulation.

<sup>96</sup> National Gaelic Action Plan 2012-2017, available at [www.gaidhlig.org.uk/bord/wp-content/uploads/sites/2/National-Gaelic-Langauge-Plan-2012-2017.pdf](http://www.gaidhlig.org.uk/bord/wp-content/uploads/sites/2/National-Gaelic-Langauge-Plan-2012-2017.pdf), accessed 19 September 2016.

<sup>97</sup> See for example the Argyll and Bute Council Action Plan 2014-2018, available at [www.argyll-bute.gov.uk/sites/default/files/gaelic\\_language\\_plan\\_-\\_english\\_version.pdf](http://www.argyll-bute.gov.uk/sites/default/files/gaelic_language_plan_-_english_version.pdf), accessed 19 September 2016.



speak the Scots language, or some form of dialect. A further 400 000 identified themselves as having knowledge or abilities relating to Scots. Recent, positive developments since 2010 relating to the promotion of the Scots language include: the publication of recommendations by the Scots Language Ministerial Working Group in 2011; the production in 2015 of a Scots language policy by Creative Scotland which identifies why Scots is important to Scotland’s cultural heritage and contains practical steps to preserve and promote the Scots language; and steps to develop its use in education (see Article 14).

100. The Advisory Committee notes the Welsh Language (Wales) Measure 2011 which confirmed the official status of the Welsh language in Wales and created a new legislative framework for the revival of the Welsh language. According to the 2011 census, 19% of the population in Wales were able to speak Welsh (around 562 000 people).<sup>98</sup> The goal of policy documents, such as the Welsh Language Strategy 2012-17 and the 2014 First Minister policy statement, “Moving Forward”, is to strengthen the use of the Welsh language in everyday life: at home, at school through Welsh-medium education, at work and when receiving services.<sup>99</sup>

101. The 2011 language legislation also established the Welsh Language Commissioner, whose main aim is to promote and facilitate the use of the Welsh language.<sup>100</sup> The Commissioner is currently surveying compliance with standards that have been imposed on the first 26 organisations, which include local authorities in Wales, national park authorities and the Welsh Government, in order to facilitate their implementation. Authorities indicated to the Advisory Committee that they were working with all departments across the Welsh Government to ensure compliance, but that progress was slow, in particular in the field. While the adoption of the 2011 legislation opened a conversation, which was long needed on the language, it is now a question of a cultural change in people’s behaviour to embrace the language, in particular through education (see Article 14).

#### *Recommendation*

102. The authorities should enhance their efforts to implement fully the Gaelic, Scots and Welsh language strategies and other policy documents, to earmark sufficient resources for this purpose and to monitor outcomes so as to ensure that persons belonging to national minorities maintain and develop their cultural identity and that the active use of minority languages is maintained in the public sphere.

#### ***Irish and Ulster Scots languages in Northern Ireland***

103. The Advisory Committee regrets that there has been little progress on the Irish Language Bill or a strategy for the development and enhancement of the Irish language. Notwithstanding public support,<sup>101</sup> the Northern Ireland Executive rejected the competent

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<sup>98</sup> The authorities indicated that the slight overall decrease was due to an increase in the population of Wales.

<sup>99</sup> See [www.wales.gov.uk/topics/welshlanguage/publications/wlstrategy2012/?lang=en](http://www.wales.gov.uk/topics/welshlanguage/publications/wlstrategy2012/?lang=en), accessed 19 September 2016.

<sup>100</sup> The first Commissioner, Mery Huws, was appointed in 2012; for the description of the Commissioner’s functions, see [www.comisiynyddygydraeg.cymru/english/Pages/Home.aspx](http://www.comisiynyddygydraeg.cymru/english/Pages/Home.aspx), accessed 19 September 2016.

<sup>101</sup> Of the (nearly 13 000) respondents to a consultation launched by the Minister for Culture, Art and Leisure (DCAL) in 2015, 94.7% expressed support for the legislation; NISRA, “Knowledge and use of Irish in Northern Ireland”, February 2015.

minister's proposal for the Irish Language Bill and strategy.<sup>102</sup> The Advisory Committee understands that the main reason not to introduce the draft documents in the Assembly is the lack of political consensus, in particular among Unionist politicians who openly indicated that they would oppose the proposals.<sup>103</sup> The implementation costs of the Bill and a strategy have been regularly mentioned by politicians as prohibitive in the current difficult financial climate.<sup>104</sup> A separate strategy for 2015-2035 to enhance and develop Ulster-Scots language, heritage and culture appears to have followed the same fate.<sup>105</sup> The financial constraints argument has been also applied to repeal of the 1737 Administration of Justice (Language) (Ireland) Act. This Act prohibits the use of any language other than English in the courts of Northern Ireland.

104. Interlocutors from civil society were vocal in stressing the high level of politicisation of the question of the use of languages in Northern Ireland and their view that the non-adoption of a Language Bill was a failure of the peace process on the part of the UK Government and the devolved institutions.<sup>106</sup> Opposition from the Unionist party could in their view be bypassed if the UK Government used its parallel legislative competence in the matter.<sup>107</sup> They also observed that, even if the issue of language has become less sensitive in the communities than previously, it continues to be perceived as an instrument with the potential to alter the balance between the two main communities, thereby becoming a hostage of sectarianism. The Advisory Committee recalls the benefits of multiculturalism and multilingualism in promoting tolerance and respect for diversity in society.

### *Recommendation*

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<sup>102</sup> Sinn Féin press statement by Carál Ní Chuilín, "Failure to support Acht na Gaeilge a missed opportunity – Ní Chuilín", 10 March 2016, available at [www.sinnfein.ie/contents/38990](http://www.sinnfein.ie/contents/38990), accessed 19 September 2016. The "Strategy to enhance and protect the development of the Irish language, 2014-2034", published in 2015, is hence not an NI Assembly strategy.

<sup>103</sup> DUP "Language Act proposals going nowhere: Campbell" (10 February 2015). See also TUV, "Sinn Fein's Irish wish list must be rejected", statement by TUV Leader Jim Allister (10 February 2015) and UUP, "Proposals for an Irish Language Act are an act of bad faith by Sinn Fein" (14 January 2015).

<sup>104</sup> See Pobal Report (n.88) for examples. Pobal is the Irish umbrella organisation for the Irish community. In effect, since interpreting is provided by users of ethnic minority languages on a regular basis, this effectively represents a restriction on the use of Irish. The continued operation of the 1737 Act has been called "an unjustifiable restriction" on the use of Irish, likely to undermine its development by other Council of Europe bodies (COMEX April 2010, p. 19, paras. 117-21). Legislation of similar intent to the 1737 Act was repealed over previous centuries in England, Wales and Scotland with no apparent deluge of unjustifiable linguistic demands.

<sup>105</sup> About 10.6% of the population of Northern Ireland have some ability in Irish; 8.1% of the population have some ability in Ulster Scots. See [www.nisra.gov.uk/Census/key\\_report\\_2011.pdf](http://www.nisra.gov.uk/Census/key_report_2011.pdf), accessed 19 September 2016. The elaboration of two different instruments seems to justify criticism expressed by the Irish community of a conscious equating of Irish with Ulster Scots, which has led to instances where the authorities have refused Irish language provision or funding on the basis that identical provision cannot be provided for Ulster Scots; see "Strategy to enhance and develop the Ulster-Scots language, heritage and culture 2015-2035", available at [www.communities-ni.gov.uk/articles/ulster-scots-language-heritage-and-culture-strategy](http://www.communities-ni.gov.uk/articles/ulster-scots-language-heritage-and-culture-strategy), accessed 19 September 2016.

<sup>106</sup> See also Conradh na Gaeilge Report, submitted to the Advisory Committee.

<sup>107</sup> Pobal (n.88), and CAJ (n.83) reports. See in this sense also Council of Europe, Report of the Committee of Experts on the Charter (UK Third Monitoring Report), ECRML 2010(4), para. 15; UN Committee on Social, Economic, and Cultural rights, Concluding observations on the UK, para. 3712/6/2009, E/C.12/GBR/CO/5.

105. The Advisory Committee sees appropriate legislation by the Northern Ireland Assembly as a necessity to protect and promote the Irish language and calls on the UK Government to help create the political consensus needed for such adoption.

### ***The Cornish language***

106. The Advisory Committee welcomes the revitalisation of the Cornish language and the way it has yielded encouraging results as Cornish appears to be increasingly visible in cultural events, on social media, on bilingual street signs and in marketing material throughout Cornwall. It started with the publication in 2004 of the “Strategy for the Cornish language 2004-2014” by the Cornish Language Partnership, composed of Cornwall Council, the UK Government and various voluntary groups. Several policy documents cover further development, such as the 2013 Cornish language policy and the Cornish language partnership plan 2014-2017; the 2004-2014 Strategy is still under evaluation, which has delayed adoption of a new 2015-2025 Strategy.

107. Cornwall Council has adopted the “Cornish language plan 2016-2018”. The Plan sets out the way in which the Council will promote and incorporate the use of Cornish in its own policies, practices and services, and encourage other public bodies and government departments and partners to consider using it. The Advisory Committee welcomes the Plan, as well as what it understands to be an increased ceremonial use of Cornish by Cornwall’s public bodies and institutions. At the same time it emphasises how the use of the language is still limited and recalls that the promotion of different languages in public places, such as in local administration bodies, enhances their visibility and recognition in society at large.

108. The Cornish minority’s representatives and other interlocutors indicated to the Advisory Committee during its visit that the efforts to revitalise Cornish have always greatly depended on the voluntary efforts of committed individuals and key voluntary organisations. Despite the most welcome support of Cornwall Council and the UK Government’s Department of Communities and Local Government until this year, it was their opinion that further development will continue to rest, to a great extent, on the voluntary efforts of the Cornish people themselves and that a Cornish Language Act is necessary to strengthen the process. In the view of the Advisory Committee, the recent decision by the UK Government to cease funding will shift the burden onto voluntary efforts even more, with a risk of jeopardising what has been achieved so far (see Article 5).

### ***Recommendation***

109. The Advisory Committee calls on the authorities to take measures to improve the use and visibility of Cornish in public life, and it calls on the UK Government to reinstate immediately the previous level of funding and to consider the possibility of adopting a Cornish Language Act.

## Article 11 of the Framework Convention

### Use of topographical signage

#### *Present situation*

110. In Wales all road signs are bilingual, while bilingual street names depend on local authorities. However, there is no additional cost for local authorities to set them up. In Cornwall, the visibility of Cornish on place-name signs, street and housing estate signs and Cornwall Council buildings was highlighted by all interlocutors as one of the most significant developments for Cornish in recent years. Although bilingual signs currently represent only 16% of the total, there is a policy to replace old and worn signs with bilingual signs where appropriate. Finally, the Advisory Committee appreciates that part of the London borough of Tower Hamlets shows bilingual signage in English and Bengali.

111. In Northern Ireland, the Local Government (Miscellaneous) Order 1995 permits the erection of bilingual street signs, but implementation is patchy and often subject to legal controversy. No legal framework exists for bilingual signage for roads and other place names, and it is a criminal offence to put up an unofficial Irish language sign. The Advisory Committee understands that some councils decided to erect signage other than street names under their 'general power of competence',<sup>108</sup> while other councils have proposed very restrictive policies, making it virtually impossible to reach a decision on its merits.<sup>109</sup> Interlocutors of the Advisory Committee explained that the language of signage can cause tensions at local level, depending on the composition of the local population and of the local council itself. Signage thus appears to have assumed a 'territorial marker' connotation, which continues to lead to an official policy of not posting such signs for fear that they may cause controversy or put at risk public authorities' duty to promote 'good relations'.<sup>110</sup> The Advisory Committee is very concerned by the politicisation of signage; it is contrary to what should be the goal of such measures, as protected by Article 11(3), that is, to appropriately take due account of the symbolic importance of minority languages on topographical and other signposts. The Advisory Committee considers that the use of bilingualism on signage and other public displays should be promoted where possible as a positive tool of integration to convey the message that a given territory is shared in harmony by various population groups.

#### *Recommendation*

112. The Advisory Committee calls for a closer dialogue on signage among the government and local authorities in Northern Ireland to identify pragmatic and flexible solutions that accommodate the demands of the population in line with the principles contained in Article 11 of the Framework Convention.

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<sup>108</sup> As provided by the Local Government (Northern Ireland Act) 2014, sections 79-80.

<sup>109</sup> See the example of Mid and East Antrim Council, reported in the Committee on the Administration of Justice (CAJ) report (n.83).

<sup>110</sup> NIHRC Report (n.88).

## Article 12 of the Framework Convention

### Equal access to education

#### *Present situation*

113. The Advisory Committee is pleased to note that, according to the data provided by the authorities, in the period under examination there has been a progressive reduction in the achievement gaps of children belonging to national and ethnic minorities in England,<sup>111</sup> with the exception of still notable shortcomings for Black Caribbean and Pakistani children.<sup>112</sup> Pupils of Gypsy, Roma and Travellers of Irish Heritage are the lowest performing ethnic groups.<sup>113</sup> Overall, permanent or fixed exclusion from school of pupils belonging to minorities reduced. The Special Education Needs programme was overhauled to target support to disadvantaged pupils through financial incentives such as the Pupil Premium and Early Years Pupil Premium, which channelled additional funding to schools to improve pupils' attainment.<sup>114</sup> Although not ethnically adjusted, in line with the overall integration policy, the authorities assess these programmes as benefiting disproportionately pupils from Black and minority communities.<sup>115</sup> Ofsted monitors how the funds are used, and it concluded that the effectiveness of programmes improved, although it is too early for a thorough impact assessment. The Advisory Committee is, however, aware of the scepticism expressed by its interlocutors that the funding ultimately is used by schools to specifically support pupils belonging to minorities.

114. The Advisory Committee observes similar patterns in Scotland and Wales,<sup>116</sup> where certain ethnic groups achieve high rates of attainment (e.g. Chinese in Wales attain an average of 77.8% at age 16 compared with a national average of 51.7% in 2011-13), and some ethnic minority groups do under-perform. Gypsy and Traveller children and youth continue to experience barriers to learning and therefore currently underperform quite significantly compared to other groups.<sup>117</sup> Specific programmes targeting national and ethnic minorities (such as the Scottish Attainment Challenge, the Traveller Education Programme in Scotland and the Travelling Together online curriculum in Wales) aim to

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<sup>111</sup> In 2014, at the end of primary school, Chinese (88%), Indian (86%), Irish (84%) and Bangladeshi (81%) pupil groups performed above the national average (79%) in reading, writing and mathematics. At Key Stage 4 (the two years leading up to the General Certificate of Secondary Education (when pupils are aged between 14 and 16), Chinese (74.4%), Indian (72.9%), Irish (65.9%), Bangladeshi (61.3%) and Black African (56.8%) pupil groups attained above the national average for all pupils of 56.6%.

<sup>112</sup> In 2014, 73% of Black Caribbean pupils and 75% of Pakistani pupils attained or exceeded the expected level for reading, writing and mathematics, compared to the national average of 79%.

<sup>113</sup> Gypsies/Roma make up 0.4% of primary schoolchildren and 0.2% of the secondary school population. Irish Travellers at primary school were 0.1% of the school population. In 2014, 29% of Gypsy/Roma pupils and 38% of Traveller of Irish Heritage pupils reached or exceeded the expected level in reading, writing and mathematics, compared to the national average of 79%.

<sup>114</sup> In 2015-16, the annual premium is £1 320 per primary school child and £935 per secondary school child.

<sup>115</sup> In 2012-13 at the end of key stage 4, 78.8% of Traveller of Irish Heritage pupils, 65.2% of Gypsy/Roma pupils, 45% of Black Caribbean pupils, 44.4% of Pakistani pupils and 23.4% of White British pupils were eligible for the pupil premium. In 2015-16, overall 29% of children aged 4-16 come from a disadvantaged background, which is defined by the criterion of being eligible for free meals.

<sup>116</sup> In Wales, 8.4% of pupils were recorded as other than "White British" in 2013, compared to 6.7% in 2009. The number of Gypsy, Traveller and Roma pupils enrolled in school has increased to 2 447.

<sup>117</sup> In Wales in 2011-13 only 12.3% of these pupils reached the required level at age 16, and in Scotland 50% of those aged 16+ have no qualification.

improve the educational attainment of these groups. The Attainment Scotland Fund and the Ethnic Minority Achievement Grant in Wales provide funds to tackle ethnicity-related underachievement, including language learning.

### *Recommendation*

115. The Advisory Committee calls on the authorities to effectively monitor the measures adopted to guarantee equal access to, and enhance achievements of, pupils belonging to national and ethnic minorities, with particular attention to Gypsies, Travellers and Roma children to ensure they are not left behind.

### ***Northern Ireland***

116. The Advisory Committee is concerned that education in Northern Ireland continues to be divided along religious lines, whereby most children attend predominantly Protestant or Catholic schools. It further notes that the number of pupils attending integrated schools remains very limited (6% in 2014/15), while more progress has been accomplished through the Shared Education approach launched in 2011. The Sharing in Education programme, which is part of the broader “Together Building A United Community” strategy, aims to build bridges between schools from different communities and provide opportunities for children and young people from different communities to learn together and to encourage collaborative work across educational providers. It also notes a Shared Education Bill pending in the Assembly, aimed at providing a legislative definition of shared education and entrusting the Department of Education (DENI) with facilitating it. Interlocutors of the Advisory Committee emphasised that sharing in education has the potential to improve educational access and attainment for pupils from a diverse range of religious and racial backgrounds and has an important role to play in advancing cohesion and integration. According to the same interlocutors, it should cover all groups protected under Section 75 of the 1998 Northern Ireland Act, and it should be made a duty on the Executive to facilitate sharing education. This should be reflected in the curriculum.<sup>118</sup>

117. The Advisory Committee notes that, since disaggregated data are not available in Northern Ireland, it is not possible to discern which minority ethnic and/or newcomer groups are more successful. However, it was a shared opinion of its interlocutors that Traveller and Roma children were the lowest performers, with very low achievement and higher drop-out rates.<sup>119</sup> To redress the situation, DENI published the “Traveller Child in education action framework” in 2013 and created the Traveller Education Support Service, whose delivery plan for 2015/16 has set targets for key priority areas: attendance, attainment and parental engagement. The Advisory Committee understands, however, from interlocutors that the outcomes of these measures are modest, and Travellers’ access and achievement rates in education remain highly problematic and not monitored. A general policy of “Supporting newcomer pupils” seeks to assist children, in particular from national and ethnic minorities, who need support in settling into a new school, community and culture, especially where there are language barriers. Although there has been little formal

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<sup>118</sup> See ECNI Report, and NIHRC Report (n.89).

<sup>119</sup> See ECNI Report; also ECNI, “Key inequalities in education”, draft statement, October 2015, p. 12, available at [www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Education-KeyInequalities\\_DraftStatement.pdf](http://www.equalityni.org/ECNI/media/ECNI/Publications/Delivering%20Equality/Education-KeyInequalities_DraftStatement.pdf), accessed 19 September 2016.

research on the experience of Roma pupils, anecdotal evidence suggests exceptionally high levels of educational disadvantage, exacerbated by low levels of English language proficiency, social exclusion and poverty. Roma children benefit from double funding as both Travellers and Newcomers, but doubts were again expressed about how effectively these funds reach their objective since they are part of the overall school budget and do not specifically follow the target recipients.

118. Finally, the Advisory Committee heard of concerns by minorities' representatives in Northern Ireland that English learning for EAL (English as an Additional Language) in schools is mainly carried out by full immersion and that there are no targeted measures for pupils integrating into school at secondary level. ESOL programmes – English for Speakers of Other Languages – targeting adults belonging to minorities and migrants are available free of charge to all those who meet the residence requirements in Northern Ireland, including ethnic minorities. Minorities' representatives expressed, however, serious concerns about how college-provided ESOL courses for adults are organised, since they often do not match the need of the potential beneficiaries in terms of scheduling and costs (non-EU and non-asylum seekers/refugees would be subject to higher fees).<sup>120</sup>

### *Recommendations*

119. The Advisory Committee encourages the Executive to adopt legislation directing the Department for Education to enhance shared education.

120. It also calls on the Executive to monitor the Traveller Education Support Service to ensure that access and attendance of Traveller children to education is effective and that funds provided to schools in relation to children belonging to ethnic minorities are used to improve their attainment.

## **Textbooks, other teaching materials and teacher training**

### *Present situation*

121. Sparse information was received by the Advisory Committee about initiatives, curricula, textbooks and other teaching materials reflecting diversity in society as well as the history and presence of national and ethnic minorities in the country. Education Scotland, the Scottish Government's Executive Agency in charge of developing education, focused on equality and diversity and published best practices put in place by schools. Wales elaborated guidance to celebrate diversity in schools and an online curriculum resource on Gypsies and Traveller history and culture aimed at providing a more relevant cultural curriculum and breaking down prejudice and stereotyping. Textbooks have been revised to reflect better the historical reality of Wales. In Northern Ireland, teacher training to enhance shared education is deemed necessary by interlocutors to increase schools' participation. The Advisory Committee recalls that state parties shall ensure the promotion of intercultural understanding, knowledge of minorities and respect for diversity in school curricula. It also deems it essential that all teachers be adequately trained to promote respect for different ethnic, cultural and linguistic backgrounds and to promote inclusion and dialogue in the classroom and throughout daily school routines, including extracurricular activities.

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<sup>120</sup> See NICE report as in n.61.

*Recommendation*

122. The Advisory Committee calls on the authorities to ensure that, in co-operation with minority groups, curricula, textbooks and other teaching materials reflect appropriately the ethnic diversity and historical presence of all national and ethnic minorities in the United Kingdom. Staff of all schools shall be effectively trained to accommodate diversity in the classroom and promote intercultural respect and understanding in schools.

**Article 14 of the Framework Convention****Instruction in and of minority languages***Present situation*

123. The Advisory Committee welcomes the Education (Scotland) Bill 2015, which imposes a duty on local authorities to promote Gaelic education, a provision to allow parents to request Gaelic-medium education for their child and a duty on Bòrd na Gàidhlig to produce Guidance on Gaelic Education. According to the authorities, both Gaelic-medium education and Gaelic teaching have been progressing in the period under examination in terms of number of pupils (overall 14 500), schools, availability of higher education courses and teacher training, and curriculum material. Dedicated institutions and grants are available to achieve these results.<sup>121</sup> In 2014, four Scots language co-ordinators were appointed to Education Scotland to take forward the Scottish Government's priorities for Scots within education. This includes developing resources and providing teacher training.

124. The Welsh Government has strategic responsibility for Welsh-medium education, which is planned at the local level by local education authorities, and progress has been registered across Wales.<sup>122</sup> Local authorities began implementing statutory Welsh in education plans required by the School Standards and Organisation Act (Wales) 2013. The purpose of these plans is to improve planning for Welsh-medium education, Welsh Second Language and the teaching of subjects through the medium of Welsh. The Executive is also funding the production of Welsh-language, bilingual educational and learning resources. However, the Advisory Committee understands from the authorities that progress to open Welsh-medium schools is slow since it is based on demand, and it requires a cultural change to embrace the language. Moreover, the level of Welsh teaching in bilingual schools is not consistent across the nation.

125. Article 89 of the Education (Northern Ireland) Order 1998 places a statutory duty on the Department of Education to 'encourage and facilitate' Irish-medium education in line with demand. Interlocutors informed the Advisory Committee that, although some progress has been made in respect of Irish-medium education in recent years (two new primaries and one additional secondary school), after some 45 years of Irish medium education, the number of children currently receiving their education through Irish remains around 5 000. Limited engagement of the Department of Education, the fact that the curriculum is rather an add-on to the mainstream English curriculum and the current economic climate, which

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<sup>121</sup> For example, resources free of charge, for both fluent speakers and learners, to nurseries, primary schools, secondary schools and lifelong learning groups each year are provided by *Stòrlann Naiseanta na Gàidhlig*. See State Report.

<sup>122</sup> In 2014-15 the government provided over £5.6 million via the Welsh in Education Grant to undertake activities on a regional, local and school level to implement the strategy.



poses a particular threat to university courses in Irish, are all factors preventing further progress. Likewise, there is a lack of teachers, which is particularly serious at post-primary level, and very little training is available.<sup>123</sup>

126. Interlocutors of the Advisory Committee indicated that the current piecemeal and ad hoc provision of language and cultural awareness sessions and language teaching in primary and secondary schools in Cornwall is the consequence of education being centrally organised by the government and the lack of dedicated funding. The curriculum is entirely English and this has prevented, on the one hand, the introduction of the Cornish language and Cornish Studies on schools' curricula, and, on the other hand, the establishment of immersion education in Cornish. Any inclusion of Cornish issues is on a voluntary basis initiated by a teacher and not incorporated on a permanent basis in the teaching. Finally, there is no pre-school provision through the medium of Cornish, though there are parents expressing such an interest. In view of the recognition of the Cornish as a national minority, its representatives expressed readiness to begin a dialogue on education policies with the UK Government. Finally, educational resources in Cornish are very limited and there is a lack of teacher training in terms of language awareness, their own language skills in Cornish and their ability to teach Cornish.

127. The Advisory Committee expresses concern about the fact that initiatives to provide first language education for national and ethnic minorities' children, and curricula that reflect their culture in the classroom, appear to be very limited. According to minority representatives, while there is the possibility of teaching minority languages in schools where there is enough demand, this does not appear to be common practice, or it has been abolished (e.g. Polish in Northern Ireland). Similarly, bilingual assistants are not available for all minorities, and teaching of the Romani language is not available.

#### *Recommendation*

128. The Advisory Committee calls on the authorities to renew and intensify their efforts to develop Irish-medium education and Irish language teaching. They should also engage in a dialogue with the Cornish minority to consider flexible and pragmatic solutions to allow for a more systematic provision of teaching in and of the Cornish language, as well as taking measures to develop the teaching of minorities' first language.

### **Article 15 of the Framework Convention**

#### **Participation in public life, decision-making processes and public administration**

##### *Present situation*

129. The Advisory Committee notes that representation of national and ethnic minorities in public life has improved, but continues to be low at both UK and local levels.<sup>124</sup> According to the state report, ethnic minorities recruited in the public service numbered 9.6% in 2013

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<sup>123</sup> See Pobal Report (n.88).

<sup>124</sup> Minorities' presence in the UK Parliament increased in 2015, although it still represents a small part of the overall body (41). In Scotland, in 2015 only one non-white ethnic minority MP was elected; in 2012 only 1.4% of elected councillors were from an ethnic minority background and only seven of the 32 local councils have at least one minority ethnic councillor. In Northern Ireland, participation of minorities in public life is much more limited, with one elected person in the Assembly.

(compared with 5.7% in 1997); however, their presence has decreased at the senior level (from 4.8% in 2011 to 3.8% in 2013). To improve the situation, measures to help the career progress of persons belonging to minorities have been put in place. In Northern Ireland, sectarianism seems to marginalise Black and ethnic minority voters or potential candidates for office,<sup>125</sup> and their presence in public service amounts to 0.2%. No specific training for leadership or similar measures appears to be in place to help improve the situation.

130. Participation in the decision-making process through consultative bodies varies among the nations, but overall appears to remain rather unstructured. The Advisory Committee notes that the All-Party Parliamentary Group on Islamophobia was re-established in Parliament in 2011, and the cross-Government Working Group on Anti-Muslim Hatred was created in 2012. In Scotland the authorities give precedence to informal dialogue with ethnic communities and expressed no intention of establishing more formal consultative bodies. The Wales Race Forum was established to help the Welsh Executive understand the key issues and barriers facing Black and ethnic minority communities and to enable it to engage on a regular basis.

131. The Advisory Committee notes that Gypsy, Traveller and Roma participation in public life is almost non-existent. Mechanisms to consult them are either no longer functioning, such as the Ministerial Working Group on tackling inequalities experienced by Gypsies and Travellers, or are considered inefficient by the minority's representatives, as is the case with the Liaison group with NGOs at DCLG, which lacks participation of Roma representatives. Gypsy, Traveller and Roma presence in public service is very limited, and often also social and welfare officers do not belong to the minority. In Wales three times per year Gypsy, Traveller and Roma associations lead a forum with the Executive, the police and other stakeholders. The Travelling Ahead Project ensures young Gypsies and Travellers are better able to participate in decision making.

132. The Advisory Committee observes that sustained efforts have been deployed across the UK to increase national and ethnic minorities' presence in the police, which has currently improved to 5.5%. Further positive action consists in targeting these groups to participate in general or dedicated programmes to integrate the police ranks, including at leadership level; this has begun to achieve outcomes.<sup>126</sup> Interlocutors of the Advisory Committee also indicated good practice examples, such as the association of officers belonging to minorities in London's Metropolitan Police or the Gypsy Roma Traveller Police Association.<sup>127</sup> Despite improvement, however, one of the most relevant barriers continues to be knowledge of the English language. Efforts are also needed to increase national and ethnic minorities' presence in the police in Northern Ireland, where it stands at 0.54%. The Police Service of Northern Ireland (PSNI) seems committed to encouraging applications from under-represented groups and to establishing an Ethnic Minority Police Association in its Equality, Diversity and Good Relations Strategy.

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<sup>125</sup> See NICE report (as in n.61).

<sup>126</sup> The Mayor's Office for Policing and Crimes achieved 26% BME presence as compared to 11.7% in the Metropolitan Police Service in 2015.

<sup>127</sup> For the Gypsy Roma Traveller Police Association, see [www.grtpa.com](http://www.grtpa.com), accessed 20 September 2016.

133. The Advisory Committee reiterates its view, as expressed in its 2008 thematic commentary,<sup>128</sup> that political participation of minority representatives in relevant decision-making processes is crucial for their interests to be heard; permanent consultative and advisory mechanisms can promote this aim. It also highlights the point that recruitment of persons belonging to national and ethnic minorities into public administration, law enforcement and the judiciary should be promoted as a means to better respond to their needs and to attest to the government's openness to diversity in society. An enhanced presence in police ranks may have a positive impact on the willingness of persons belonging to national minorities to address law enforcement when they require assistance (see also Article 6).

### **Devolution**

134. The devolution process has continued, and relations between the devolved executives and the UK Cabinet are in general considered good, although differences among nations remain. The Memorandum of Understanding (2012) is considered adequate and a good basis for co-operation, and no dispute mechanisms have been invoked during the reporting period. The recent review of the Memorandum has been welcomed by representatives of the Executives. The Joint Committee has been reconstituted and is expected to address pertinent issues. Issues of concern include differences in administrative cultures and adaptation to new administrative procedures. There is a desire for enhancement of the civil services; staff exchanges have been suggested as a mode of improvement. The Scottish referendum process was considered fair, and post-referendum negotiations have been smooth. The Draft Scotland Bill (2015), which provides additional powers, is expected to pass in both the Scottish and the UK parliaments. Negotiations on the Welsh Draft Bill came to a halt because of disagreement on its potential withdrawal of powers and for not paralleling the Scotland Bill, but they are expected to resume soon.

135. The Advisory Committee notes that an agreement has been reached between the UK Government, Cornwall Council and the Isles of Scilly Local Enterprise Partnership to decentralise a number of tasks and responsibilities to the Cornwall authorities. The so-called Devolution Deal (2015) aims to empower local authorities in sectors such as public transport, employment and skills, EU funding, business, energy, health and social care, public estate and heritage, and governance. No fiscal powers are transferred, and all delegated tasks are to be arranged by prior agreement with the UK Government. Moreover, the deal does not delegate tasks or powers in the areas of education and language revitalisation, the two most important issues to the Cornish people, according to the Advisory Committee's interlocutors. The Advisory Committee understands that these issues were discussed but agreement was not reached. In spite of its title, it is questionable if the agreement devolves any independent powers to the Cornwall Council. The Advisory Committee realises that it is a first step, but it urges the UK Government to continue the process, especially by expanding the deal to include education and language revitalisation.

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<sup>128</sup> Advisory Committee FCNM, "Second commentary on the effective participation of persons belonging to national minorities in cultural, social, and economic life and in public affairs", ACFC/31/DOC(2008)001 (27 February 2008), available at <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800bc7e8>, accessed 20 September 2016.

*Recommendations*

136. The Advisory Committee reiterates its call to the authorities to enhance opportunities for persons belonging to national and ethnic minorities to participate in public affairs, and this should include measures that facilitate their engagement in broader political processes and mainstream political parties. Similarly, their recruitment into public service, in particular the police at central and local levels, should be promoted to send a clear message that diversity is valued across the UK.

137. The UK Government should continue the good dialogue with the three devolved administrations and ensure that negotiations progress in a transparent and democratic manner. It should establish permanent ongoing dialogue with Cornwall Council and the Cornish people through consultative and advisory mechanisms.

**Effective participation in socio-economic life***Present situation*

138. The authorities indicated that, in 2014, the employment rate of national and ethnic minorities was 61.4%, which is the highest since records began in 2001, and represents an increase of 20% during the period under examination. Nonetheless, they also acknowledged that barriers, such as language barriers, discrimination and low participation in apprenticeships, still affect ethnic minorities' unemployment, which was 11.3% as compared to 6.2% of the overall population.<sup>129</sup> Black Africans (18.3%) have the highest unemployment rate, while Pakistanis and Bangladeshis have low-skilled jobs, in contrast to Indians, who work in the highest skilled professions.<sup>130</sup> The Advisory Committee also understands from interlocutors that improved educational attainment does not automatically translate into higher employment rates for certain ethnic groups and, even when they do, there is still a "glass ceiling" effect so that it is more difficult for persons belonging to national and ethnic minorities to reach leadership roles.<sup>131</sup> This lack of leadership role model is held in turn to impact Black youth's opportunities. The Advisory Committee also observes the authorities' awareness of the need to improve minorities' employment, as exemplified by the 20% target, addressing in particular young Black men and Pakistani and Bangladeshi women in the UK Government's Vision 2020. Programmes such as Jobcentre Plus, Work Programme and the Apprenticeship Grant for Employers aim at the same goal. In Scotland, there seems to be a similar pattern, where progress in education and apprenticeship by persons belonging to minorities does not translate into better jobs.<sup>132</sup>

139. The Advisory Committee understands from its interlocutors that Gypsies, Travellers and Roma still experience exclusion from many different aspects of political, social and

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<sup>129</sup> Department for Work and Pensions, Labour Market Status by ethnic group, April 2015, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/422616/labour-market-status-by-ethnic-group-april-2015.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/422616/labour-market-status-by-ethnic-group-april-2015.pdf), accessed 20 September 2016.

<sup>130</sup> Policy Exchange, "A Portrait of Modern Britain", 2014, available at [www.policyexchange.org.uk/media-centre/press-releases/category/item/ethnic-minorities-will-make-up-a-third-of-britain-by-2050](http://www.policyexchange.org.uk/media-centre/press-releases/category/item/ethnic-minorities-will-make-up-a-third-of-britain-by-2050).

<sup>131</sup> See Business in the Community, "Race at Work Report", 2015, available at <http://race.bitc.org.uk/all-resources/research-articles/race-work-report>, accessed 20 September 2016.

<sup>132</sup> Non-white groups aged 25-49 have a significantly lower employment rate (55.2%) than their white counterparts (72%), and a higher unemployment rate (7.9% compared with 5.5%); see CRER Report (n.26).

economic life.<sup>133</sup> In particular, the employment situation of Gypsies and Travellers has deteriorated and shows big discrepancies with the rest of society.<sup>134</sup> Taking into consideration the traditional occupations of these minorities, their situation also worsened as a consequence of the Scrap Metal Dealers Act 2013, which introduced the administratively burdensome obligation to apply to each local authority and pay a fee to carry out the activity. While the aim of the Act was to reduce metal thefts, Gypsies and Travellers' representatives argued that it affects them disproportionately, in particular because of the fact that they work across different local authorities. The UK Government indicated that the legislation was under review. The Advisory Committee also observes the authorities' awareness of the serious health inequalities experienced by Gypsies and Travellers who continue to suffer from poor health, difficult access to health services and lower life expectancy across the country.<sup>135</sup> A recent study commissioned by the authorities demonstrated widely the link between poor health conditions and inadequate and insecure campsite availability.<sup>136</sup>

140. All across the UK, and considering they are mostly EU citizens, Roma experience a different kind of discrimination in employment, being mainly employed in low-paid and precarious work due to low qualifications and poor literacy in the English language. The Advisory Committee notes that Roma also face discrimination in housing, in particular overcrowding and a disproportionately high proportion renting in the private sector, although this is not always perceived as seriously problematic by Roma themselves, who need low housing costs as a consequence of being in low-paid and precarious jobs. Access to welfare and health services is more problematic, although positive steps have been taken (dedicated social welfare officers, entry point for services), for example in Northern Ireland, following serious public health concerns. Nonetheless, the Advisory Committee is very concerned by reports of increasing numbers of Roma children taken into foster care in England, which would be often the consequence of destitution and poor quality housing.<sup>137</sup> Social services departments claim that their interventions occur on the ground of parental neglect, thereby demonstrating the high cost and impact on these communities of the inequalities experienced. The Advisory Committee also understands from first-hand experience that Roma families opt to leave the country rather than face such a risk.

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<sup>133</sup> The Traveller Movement, "Gypsies and Travellers: community, equality and discrimination", June 2015, available at <http://travellermovement.org.uk/wp-content/uploads/Gypsies-Travellers-Community-Inequality-and-Discrimination.pdf>, accessed 20 September 2016.

<sup>134</sup> According to the 2011 census, Gypsy or Travellers were the ethnic groups with the lowest proportion of respondents who were economically active: only 51% were employed, compared with 75% for the total of England and Wales, and 20% were unemployed (compared to 7% for England and Wales as a whole).

<sup>135</sup> DCLG, "Progress report by the ministerial working group on tackling inequalities experienced by Gypsies and Travellers", 2012, p. 12, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6287/2124046.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6287/2124046.pdf), accessed 20 September 2016.

<sup>136</sup> The Traveller Movement, "Impact of insecure accommodation and the living environment on Gypsies and Travellers' health", Report commissioned by the National Inclusion Health Board, January 2016, available at [www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/490846/NIHB\\_-\\_Gypsy\\_and\\_Traveller\\_health\\_accs.pdf](http://www.gov.uk/government/uploads/system/uploads/attachment_data/file/490846/NIHB_-_Gypsy_and_Traveller_health_accs.pdf), accessed 20 September 2016.

<sup>137</sup> European Roma and Travellers Forum, above at note 39.

### *Recommendations*

141. The Advisory Committee calls on the authorities to intensify targeted initiatives to maximise the participation of persons belonging to national and ethnic minorities in employment, training and career progression, in line with the Vision 2020 targets, and to allocate sufficient funds.

142. It also reiterates its call on the authorities to step up efforts to reduce inequalities experienced by Gypsies, Travellers and Roma in social and economic life, specifically implementing measures in close co-operation with those communities' representatives to prevent discrimination in employment and housing, health inequalities and inadequate social services interventions that result in undue taking of children into foster care.

## **Article 16 of the Framework Convention**

### **Impact of reforms on national minorities**

#### *Present situation*

143. The Advisory Committee notes that the number of local councils in Northern Ireland was reduced from 26 to 11 following the 2015 Review of Public Administration. Progress in establishing the working of the new councils has been patchy, often as a consequence of the different territorial and community configuration. Interlocutors informed the Advisory Committee that, even in areas where Irish language policies were long established and relatively forward-thinking, the drafting of 'new' policies as opposed to the continuation of existing policies has often provoked bitter rows and negative reporting. Without strategic direction, a suitable legislative framework and detailed monitoring of progress within the councils, the Irish language community fears marginalisation and further disadvantage in the new arrangements.

144. The Advisory Committee was informed by Cornish interlocutors that they were of the opinion that the new housing policies geared toward increasing the stock available for out-of-county buyers of second homes would make prices rise, thereby potentially pushing Cornish and Cornwall residents out of the market, thus affecting the cultural balance between Cornish and newcomers. The Advisory Committee reminds the UK Government that Article 16 aims to protect national and ethnic minorities against measures that change the proportion of the population in areas inhabited by persons belonging to national minorities, including but not limited to expropriations, evictions and expulsions.

145. The Advisory Committee is also aware of the ongoing efforts to reform through public consultations the parliamentary constituency boundaries for the entire UK, with a view to reducing the number of seats in the House of Commons. Boundary Commissions have published reviews for boundaries in 2011/12 and 2013. The reviews were heavily criticised, in part for not respecting natural communities<sup>138</sup> and from a concern about the requirement to reconcile the fixed electorate tolerance (i.e. within 5% of the electoral quota) with the need to respect local ties and/or existing constituency boundaries. It has

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<sup>138</sup> McDougall Trust, quoted in Political and Constitutional Reform, Eighth Report, An unsatisfactory review?, paragraph 17, available at [www.publications.parliament.uk/pa/cm201415/cmselect/cmpolcon/600/60002.htm](http://www.publications.parliament.uk/pa/cm201415/cmselect/cmpolcon/600/60002.htm), accessed 20 September 2016.

become clear that the reviews severely limited the extent to which the Boundary Commissions were able to consider other factors, such as continuity with previous constituencies and the reflection of local communities.<sup>139</sup> Cornish interlocutors of the Advisory Committee were particularly concerned by the proposed new electoral boundaries that would establish one constituency comprising parts of Cornwall and parts of Devon, which would potentially affect the rights of persons belonging to the Cornish minority. While the Advisory Committee realises that this process is a UK process and a concern in many other constituencies across the country,<sup>140</sup> it wishes to draw the attention of the UK Government to the fact that Article 16 prohibits restricting the enjoyment of the rights of the Framework Convention in connection with the redrawing of borders. It also notes that the Venice Commission in 2005 established that electoral districts (their number, size, form and magnitude) may be designed with the purpose of enhancing minorities' participation in decision-making processes.<sup>141</sup>

### *Recommendation*

146. The Advisory Committee urges the authorities to ensure that any administrative and constituency border reform follows an inclusive process, which takes into account the presence of persons belonging to a national minority in the territory, their meaningful participation and respect for their rights.

## **Article 18 of the Framework Convention**

### **Bilateral agreements**

#### *Present situation*

147. The Advisory Committee notes that the British-Irish Council (BIC) is a multi-party agreement organisation that addresses a number of issues (among others: special planning, digital and social inclusion, housing, energy, environment, transport and languages) of relevance for the co-operation between the Republic of Ireland and the UK. It has eight members: in addition to Ireland and the UK, these are the governments of Wales, Scotland, Northern Ireland, Guernsey, Jersey and the Isle of Man. The Cornish language is listed as an official language in the UK member territory, and representatives of Cornwall are able to participate in meetings of the Council.

148. One of the BIC's working groups focuses specifically on indigenous, minority and lesser-used languages, and the Welsh Executive takes the lead in this area. During the reporting period, there have been two meetings on the topic (November 2011 and October 2014). The 2014 meeting addressed the issue of developing and supporting early years education and childcare in indigenous, minority and lesser-used language communities,

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<sup>139</sup> See in general, Political and Constitutional Reform, Eighth Report (cited in n.140).

<sup>140</sup> Representatives from the London Borough of Lambeth voiced similar concerns that splitting wards between constituencies should only occur when "ward boundaries do not represent traditional community boundaries", but should not be considered "purely to keep to a mathematical formula".

<sup>141</sup> European Commission for Democracy through Law (Venice Commission), "Report on electoral rules and affirmative action for national minorities' participation in decision-making processes in European countries", 2005, paragraph 68(e), available at [www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2005\)009-e](http://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2005)009-e), accessed 20 September 2016.

including the important role that legislative, regulatory and/or policy approaches can play. In this regard, the value of bilateral contacts between smaller BIC administrations was raised.

149. Although the Cornish language is considered an official language in the UK jurisdiction, Cornwall is not a member of the BIC, nor is its participation in the work of the BIC visible. According to the Advisory Committee's interlocutors, there has not been any substantial discussion of the protection and promotion of the Cornish language in the working group. Combined with the fact that the working group meets rather infrequently, the Advisory Committee is concerned that the Cornish language is being neglected in the work of the British-Irish Council in spite of the fact that it has been a recognised minority language in the UK since 2003.

*Recommendation*

150. The Advisory Committee calls on the British-Irish Council to address actively the Cornish language in its work and to endeavour to involve the Cornwall authorities, in part by creating an institutional presence for Cornwall in the Council and by promoting bilateral relations between the Cornwall authorities and other language communities' administrations.



### III. Conclusions

151. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by the United Kingdom.

152. The authorities are invited to take account of the detailed observations and recommendations contained in sections I and II of the Advisory Committee's Fourth Opinion.<sup>142</sup> In particular, they should take the following measures to improve further the implementation of the Framework Convention:

#### **Recommendations for immediate action<sup>143</sup>**

- **Revert to previous legislation in England addressing specifically the provision of permanent and temporary site needs of the Gypsies and Travellers minority, and reinstate a duty for local authorities to provide these sites when the need has been identified in order to ensure adequate availability; reintroduce a compliance duty for local authorities as regards the provision of sites in Scotland; and set up a multi-agency taskforce on Traveller sites in Northern Ireland to cater to the needs of Irish Travellers;**
- **Counter the climate of inter-ethnic prejudices and hate speech by stepping up efforts and initiatives to promote tolerance and intercultural dialogue; continue to firmly condemn provocative language in public discourse; engage with mass media outlets to promote a more nuanced understanding and reporting of facts that risk fuelling intolerant and ethnically hostile behaviour and reduce the use of derogatory language; and endeavour to establish an independent press regulator responding to the criteria enunciated by the Leveson Report;**
- **Adopt appropriate legislation protecting and promoting the Irish language and take measures to ensure progress on language rights of persons belonging to the Irish minority; the UK Government should engage in a dialogue to create the political consensus needed for adopting legislation; the Northern Ireland Executive should endeavour to implement the 'good relations' duty as provided under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights of persons belonging to all national and ethnic minorities;**

**Take all necessary steps to ensure access to the linguistic and cultural rights provided by the Framework Convention to the Cornish minority, in particular by reconsidering the decision to cut all funding for the Cornish language in view of the disproportionate impact such a measure will have on the delicate process of revitalising a minority language when access to other public financial resources is limited.**

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<sup>142</sup> A link to the Opinion is to be inserted in the draft resolution before submission to the GR-H.

<sup>143</sup> The recommendations that follow are listed in the order of the corresponding articles of the Framework Convention.

### **Further recommendations<sup>144</sup>**

- Take the necessary measures to include a Cornish ‘tick-box’ in the next census in view of the Cornish people’s recognition as a national minority.
- Collect disaggregated data on Gypsies, Travellers and Roma to help devise policies targeting the socio-economic inequalities that persons belonging to those minorities experience in England; start collecting disaggregated equality data on the situation of persons belonging to national and ethnic minorities to help adopt and implement effective minority protection and equality-promoting policies in Northern Ireland.
- Adopt robust and comprehensive unified legislation on equality or otherwise strengthen racial equality in Northern Ireland, and harmonise protection across the UK; introduce definitions of ‘good relations’ and ‘sectarianism’ in Northern Ireland legislation in line with international standards relating to combating racism and promoting human rights in general.
- Ensure that policy documents, such as integration and race strategies, are complemented by appropriate action plans and adequate resources to ensure effective access to rights for persons belonging to minorities, in particular with regard to the Northern Ireland Racial Equality Strategy 2015-2025.
- Take resolute action to ensure that the revision of the BBC Charter improves access to mass media for persons belonging to national and ethnic minorities; increase funding and ensure a variety of programmes for minority languages, in particular for the Irish language, and introduce such support for the Cornish language.
- Monitor effectively the measures adopted to guarantee equal access to education and to enhance the achievements of pupils belonging to national and ethnic minorities, with particular attention to Gypsies, Traveller and Roma children across the country.
- In Northern Ireland, renew efforts to develop Irish-medium education and Irish language teaching; expand and facilitate shared education; ensure that access to education and attendance by Traveller children is effectively put in place and monitored by the Traveller Education Support Service; identify pragmatic and flexible solutions to accommodating the demands of national and ethnic minorities on bilingual signage.
- Engage in a dialogue with the Cornish minority to ensure that cultural policies are developed in a way respectful of the traditions and the identity of the minority; improve the use and visibility of Cornish in public life at the local level and consider flexible and pragmatic solutions to allow more systematic provision of education in the Cornish language and of the Cornish culture.
- Intensify targeted initiatives to maximise participation of persons belonging to national and ethnic minorities in employment, training and career progression in line with the Vision 2020 targets. Continue the good dialogue with the three devolved administrations and establish permanent ongoing dialogue and consultative mechanisms with Cornwall Council.

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<sup>144</sup> The recommendations that follow are listed in the order of the corresponding articles of the Framework Convention.