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

### **Second Opinion on the United Kingdom, Adopted on 6 June 2007**

#### **EXECUTIVE SUMMARY**

Since the adoption of the Advisory Committee's first Opinion in November 2001, the authorities of the United Kingdom have taken further steps to improve the implementation of the Framework Convention. Legislation on racial equality has been strengthened and new legislative provisions protecting individuals from religious discrimination have been introduced. New legislation has been adopted in England and Wales aimed at improving the availability of authorised sites for Gypsies and Travellers. Public authorities have taken steps to strengthen equal opportunities in their functions and recruitment practices, including through the collection of data on the situation of minority groups.

In May 2007, an important power-sharing agreement was reached between Northern Ireland's leading nationalist and loyalist parties, marking the resumption of Northern Ireland's devolved Government, established in 1998 under the historic Belfast (Good Friday) Agreement. Significant efforts are being made in Northern Ireland to promote integration between Protestants and Catholics, although housing estates and schools still tend to be split along sectarian lines. The Government of the United Kingdom and devolved Executives have taken major steps to promote the languages and cultures of the peoples of Wales, Scotland and Northern Ireland, although there is still room for improvement, especially in Northern Ireland.

Notwithstanding the United Kingdom's particularly advanced approach to promoting non-discrimination and equality, problems persist in a number of areas due to inconsistencies in the legislation and shortcomings in its implementation. Inequalities continue to affect persons belonging to minority ethnic communities in the fields of employment, education, housing, health and access to justice. Negative and inaccurate reporting by certain sectors of the media is contributing to hostile attitudes towards certain groups, in particular Gypsies and Travellers, asylum-seekers, migrant workers and Muslims. There has been an increase in incidents motivated by racist and religious hatred recorded in different parts of the country.

There is a need to identify further ways of promoting the participation of persons belonging to minority ethnic communities in public affairs, including by stepping up consultations and other forms of dialogue with the broadest possible spectrum of minority representatives.

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

**SECOND OPINION ON THE UNITED KINGDOM**

1. The Advisory Committee adopted the present Opinion on the United Kingdom 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 State Report (hereinafter the State Report), received on 22 February 2007, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to London, Edinburgh, Glasgow and Belfast from 18 to 23 March 2007.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in the United Kingdom. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the first cycle of monitoring of the Framework Convention, contained in the Advisory Committee's first Opinion on the United Kingdom, adopted on 30 November 2001, and in the Committee of Ministers' corresponding Resolution, adopted on 13 June 2002.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on the United Kingdom.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of the United Kingdom as well as with representatives of national minorities and others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present Opinion public upon its receipt.

## **I. MAIN FINDINGS**

### **Monitoring process**

6. The United Kingdom approached the second monitoring cycle of the Framework Convention, on the whole, in a co-operative and inclusive manner. This generally positive approach was marred, however, by a considerable delay in the Government's submission of its second state report, which was only received in February 2007, nearly three years after the due date. This situation gave rise to a decision by the Committee of Ministers to authorise the Advisory Committee to begin monitoring the United Kingdom without a state report.

7. Notwithstanding the United Kingdom's considerable reporting delay, the Advisory Committee welcomes the two rounds of public consultations which the Government organised in the course of preparing the state report; the first, in 2003, and the second, at the end of 2006, shortly before the report was submitted. Non-governmental organisations have complained, however, that insufficient time was allocated to the second round of consultations.

8. The state report contained extensive information about legislative and policy developments relevant to the protection of national minorities in the United Kingdom, including valuable contributions from the devolved administrations. In addition to the information provided in the state report, the Advisory Committee benefited from the constructive and open spirit of discussions held with government representatives during the visit, both in London and with the devolved administrations.

### **General legislative and policy framework**

9. The United Kingdom's devolution process has resulted in considerable legislative and policy variation of relevance to minorities across the country. While the United Kingdom parliament has exclusive power to legislate on human rights and equality issues for Great Britain, the Northern Ireland Assembly, during periods of devolution, is responsible for its own legislation in these fields (with the exception of criminal justice and policing). The Scottish Parliament also has legislative powers in a range of fields that are relevant to minorities, while the Welsh Assembly Government possesses important executive powers in these fields.

10. Devolution has helped to increase awareness in and demand for the preservation and development of the cultures of the peoples of Wales, Scotland and Northern Ireland. The Scottish and Welsh administrations are responding to this by developing and overseeing the implementation of a range of language and other related policies. Progress developing such policies in Northern Ireland has been more limited, partly due to the suspension of the Northern Ireland Assembly from 2002 until May 2007.

11. The United Kingdom as a whole also has particularly advanced provisions concerning non-discrimination and equality, including an innovative system of positive duties which requires public authorities to actively promote race equality and good race relations. These positive duties have helped to increase awareness about racism and discrimination among the general public and to raise expectations about the performance of public institutions among persons belonging to minorities. However, these expectations have been disappointed in a number of areas due to inconsistencies in the legislation and shortcomings in its implementation.

### **Scope of application of the Framework Convention**

12. The United Kingdom maintains its position that the scope of the Framework Convention is confined to the protection of “racial groups” as defined in the Race Relations Act 1976, which in turn is a matter for the Courts to interpret. The Advisory Committee welcomes the fact that the “racial group” criterion, as interpreted by the Courts, has allowed a wide range of groups to benefit from protection under the Framework Convention, including minority ethnic communities, the Scots, Irish and Welsh, Sikhs, Jews, Gypsies and Irish Travellers. On its own, however, the “racial group” criterion may result in exclusions from the Framework Convention’s scope of application of groups that have legitimate claims to be covered.

13. The Government should consider supplementing its current criterion based on recognition as a “racial group” in case law with other criteria to ensure that an equitable approach to the Framework Convention’s scope of application is pursued.

### **Combating discrimination**

14. Great Britain and Northern Ireland’s legislation on racial equality has been strengthened in a number of ways and new legislation, protecting individuals from religious discrimination, has been introduced in Great Britain. There are, however, inconsistencies in the resulting legislative framework which the relevant administrations are taking steps to remedy. In 2005, the Government of the United Kingdom initiated a Discrimination Law Review which is expected to result in a single Equality Act for Great Britain by 2008/2009. A similar process aimed at producing a Single Equality Bill for Northern Ireland has been on-going since the first monitoring cycle.

15. At the level of implementation, there has been some progress in the fulfilment by public authorities in Great Britain of their general, as well as specific duties, under the Race Relations (Amendment) Act 2000, to promote race equality and good race relations. Progress has also been recorded in respect of efforts to achieve full and effective equality between Protestants and Catholics in the field of employment in Northern Ireland. Nevertheless, shortcomings persist in the implementation of these statutory duties by public authorities in Great Britain and Northern Ireland and particular difficulties continue to face persons belonging to minority ethnic communities in the fields of employment, housing, health and access to justice. Notwithstanding the efforts of the Northern Ireland authorities to promote integration between Protestants and Catholics, housing estates and schools in Northern Ireland still tend to be split along sectarian lines.

### **Protection and promotion of minority cultures**

16. The Government and devolved Executives continue to provide important financial backing to public bodies and voluntary sector organisations that work to promote the languages and cultures of the peoples of Wales, Scotland and Northern Ireland. While considerable funding is also available for voluntary sector organisations representing minority ethnic communities, the latter informed the Advisory Committee that these funds are mostly available for projects aimed at promoting equality and mainstreaming rather than promoting minority cultures.

17. New legislation has come into force in England and Wales aimed at remedying the shortage of adequate stopping sites for Gypsies and Irish Travellers and the negative effect that this has had on their ability to maintain and develop their culture. However, delays in the implementation of the new legislation, and in some cases resistance to taking the necessary

measures on the part of local authorities, mean that numerous Gypsy and Traveller families continue to live on unauthorised land and/or unauthorised encampments.

### **Promoting intercultural dialogue and tolerance**

18. Notwithstanding a number of positive initiatives launched by some media in the United Kingdom, reports received by the Advisory Committee suggest that sectors of the press continue to discuss issues concerning certain minorities – especially Gypsies and Travellers, migrant workers, asylum-seekers and Muslims – in a manner that is often biased, stereotyped and inaccurate. The Advisory Committee is concerned that such negative and prejudicial reporting is contributing to a climate of fear and hostility and aggravating community relations. A feeling of exclusion from mainstream society appears to be prevalent among the Muslim and Gypsy and Traveller populations. There is a need for the Government to tackle this situation by stepping up efforts to combat prejudices in the general public and by strengthening consultations with the groups concerned.

19. The decision to establish a Commission for Integration and Cohesion in 2006, a fixed-term body in charge of identifying opportunities at local level to improve intercultural dialogue and good race relations, illustrates the Government's awareness of the need to strengthen work in this field. The Advisory Committee notes, however, the concerns expressed by non-governmental organisations about the nature of this Commission's work so far. It is important to avoid moving the debate away from multiculturalism and shifting responsibility for patterns of segregation on minority ethnic communities themselves. Efforts to ensure that the police do not use stop and search powers disproportionately in respect of persons belonging to minority ethnic communities need to be stepped up.

### **Use of minority languages**

20. Steps have been taken to increase the amount of TV broadcasting in Scottish Gaelic and Irish in Northern Ireland and Scotland, respectively, although further efforts are needed to ensure that reception of the programmes is guaranteed throughout the territories concerned.

21. As regards the use of minority languages with administrative authorities, Wales continues to take the lead with some 350 language schemes developed by public bodies already in operation. The coming into force of Scotland's Gaelic Language Act, in 2005, and the recent adoption of a National Gaelic Language Plan, are welcome developments which should result in the adoption and implementation of similar language plans for the Gaelic language in Scotland. The Advisory Committee welcomes the Government's commitment in the 2006 St Andrews Agreement to introduce an Irish Language Act, and to develop strategies for enhancing and protecting the Ulster Scots language, heritage and culture.

### **Education**

22. The Government of the United Kingdom and devolved Executives have launched specific projects to support racial equality in schools, including by boosting the teaching of English as an additional language. As part of their duties under the Race Relations (Amendment) Act 2000, schools in Great Britain have also made significant efforts to monitor the impact of their policies on the achievement levels of pupils belonging to minority ethnic communities. In spite of these initiatives, improvements in the achievement levels of minority ethnic pupils have been slight, exclusion rates continue to disproportionately affect Black pupils, and persons

belonging to certain minority ethnic communities continue to be significantly under-represented in higher education.

23. Gaelic, Irish, Scots and Ulster Scots speakers in Scotland and Northern Ireland continue to call for greater opportunities for receiving education in or of their minority languages. The Advisory Committee welcomes the efforts made by the Scottish Executive to expand the availability of Gaelic-medium education in Scotland, and the decision taken by the Northern Ireland administration to review its policy toward Irish-medium education in order to better respond to current and future needs. The Advisory Committee also welcomes the discussions taking place in the United Kingdom on how to encourage schools to expand the provision of minority ethnic languages.

### **Participation**

24. Notwithstanding the efforts made by certain public sector bodies to promote minority ethnic recruitment, there are still important areas of public life, including the judiciary, where persons from minority ethnic backgrounds are under-represented. The employment gap between minority ethnic communities and the majority population is particularly wide in the private sector.

25. As regards participation in public affairs and decision-making, the proportion of minority ethnic communities in the Houses of Parliament, the devolved Assemblies and Parliaments, and local councils also remains low. Consultations with minority ethnic communities need to be stepped by all the administrations, while ensuring that the broadest possible spectrum of opinions is engaged with.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application

##### *Findings of the first cycle*

26. In its first Opinion, the Advisory Committee welcomed the United Kingdom's approach to the scope of application of the Framework Convention, which has allowed a wide range of groups - including minority ethnic communities<sup>1</sup>, the Scots, Irish and Welsh, Sikhs, Jews, Roma/Gypsies and Irish Travellers - to receive protection under the Convention. This was the result of the United Kingdom's decision to base its first State Report on the definition of "racial group"<sup>2</sup> as set out in the Race Relations Act 1976, namely: "a group of persons defined by colour, race, nationality (including citizenship) or ethnic or national origin". The Advisory Committee also noted that the Courts have the possibility of defining which groups amount to a "racial group" under the Race Relations Act 1976.

27. At the same time, the Advisory Committee noted that certain groups have not (or have not yet) been included in the definition of "racial group", including Muslims and other religious groups (although, in many cases, the latter are also members of minority ethnic communities, which are covered by the Framework Convention), as well as the Cornish. The Advisory Committee therefore considered that there remained scope for covering further groups in the application of the Framework Convention and called on the authorities to examine this question in consultation with the persons concerned.

##### *Present situation*

#### a) Positive developments

28. The Government of the United Kingdom responded to representations made by a number of Cornish organisations and individuals by including the persons concerned in the consultations held prior to the preparation of the second State Report.

29. The Advisory Committee welcomes the pragmatic approach taken by the Scottish Executive, which identifies Gypsies/Travellers as a minority group with specific needs and requiring protection, both in their policies and in relation to the Framework Convention, in spite of the fact that Scottish Courts, unlike their equivalents in England and Wales, have not established that Scottish Gypsies/Travellers are a "racial group" for the purposes of the Race Relations Act 1976.

30. The Advisory Committee notes that, since the first monitoring cycle, the Government has extended other forms of protection to Muslims, Cornish individuals and Scottish Gypsies/Travellers notwithstanding their non-recognition as racial groups. In the case of the Cornish, in 2002, the United Kingdom recognised the Cornish language under Part II of the

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<sup>1</sup> The term "minority ethnic communities" is used in this Opinion, following the terminology used by the Government of the United Kingdom, and by minority representatives themselves, to refer to groups of persons, of immigrant descent, which display cultural, religious and/or linguistic identities that are distinct from the majority.

<sup>2</sup> This Opinion uses the term "racial groups" and related terms ("race relations", "race equality", "racial hatred", etc.) following the terminology used in the United Kingdom to refer to those minority groups, and policies aimed at protecting their rights, covered by the Race Relations Act 1976 and the Race Relations (Northern Ireland) Order 1997.



European Charter for Regional or Minority Languages. The measures of protection taken in respect of Muslims (and other religious groups) in Britain and Gypsies/Travellers in Scotland are described in Articles 4 and 5 below.

b) Outstanding issues

31. The Government of the United Kingdom maintains its position that the scope of the Framework Convention is confined to the protection of “racial groups” as defined in the Race Relations Act 1976, which in turn is a matter for the Courts to interpret. The Advisory Committee notes that there have been calls from different quarters in the United Kingdom, including from the Commission for Racial Equality, for the Government to take a broader approach to establishing which groups fall under the scope of application of the Framework Convention. The Advisory Committee considers that, while the “racial group” criterion, as interpreted by the Courts, has allowed a wide range of groups to benefit from protection under the Framework Convention, there is a risk that over-reliance on this criterion, without taking other considerations into account, may result in exclusions from the Framework Convention’s scope of application of groups that have legitimate claims to be covered.

32. The formal non-inclusion of Scottish Gypsies/Travellers appears particularly problematic from this perspective, including in view of the fact that Gypsies and Travellers<sup>3</sup> living in England and Wales have been recognised as “racial groups” within the meaning of the Race Relations Act 1976, and therefore as falling under the Framework Convention’s scope of application. According to the information received by the Advisory Committee, Scottish Gypsies/Travellers have endeavoured, without success, to take cases of discrimination, on grounds of their ethnicity, to the Courts. The Equal Opportunities Commission of the Scottish Parliament has responded to this situation by requesting the Government of the United Kingdom to amend the Race Relations Act 1976 with a view to explicitly including Scotland’s Gypsy/Traveller community within the meaning of “racial group”.<sup>4</sup>

33. The Advisory Committee notes that the Government of the United Kingdom has not accepted the representations made by Cornish organisations and individuals concerning the possible inclusion of the Cornish under the Framework Convention’s scope of application. These representations, which began as the submission of information concerning the Celtic identity and the specific history, language and culture of the Cornish, have gained in magnitude over the years, culminating most recently in an application for judicial review concerning the Government’s non-inclusion of the Cornish in the second State Report. The Advisory Committee considers that the “racial group” criterion, which requires a Court to determine liability in a claim of racial discrimination, appears to be too rigid to accommodate the situation of the Cornish, whose “separate identity and distinctiveness” is recognised by the Government of the United Kingdom in their second State Report.

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<sup>3</sup> This Opinion uses the term “Gypsies and Travellers” to refer to a heterogeneous group of persons who associate themselves with a “Gypsy” and/or “Traveller” identity, including Romany Gypsies, Irish Travellers and Scottish Gypsies/Travellers. While the precise number of Gypsies and Travellers throughout the United Kingdom is not known, it is estimated that there are between 90,000 and 120,000 Gypsies and Travellers living in caravans in England, and up to three times as many living in conventional housing. See ‘Common Ground. Equality, good race relations and sites for Gypsies and Irish Travellers’, Report of a Commission for Racial Equality inquiry in England and Wales, 15 May 2006.

<sup>4</sup> The Advisory Committee notes that a similar step was taken in respect of the Irish Traveller community, which was explicitly listed as falling within the meaning of “racial group” in the Race Relations (Northern Ireland) Order 1997 (No. 869 (N.I.6)).

34. Representatives of the Muslim population in the United Kingdom have also requested recognition and protection for Muslims as a minority group under the Framework Convention. The Advisory Committee notes that, as most Muslims in the United Kingdom are also members of minority ethnic communities, they are in practice already largely covered by the Framework Convention.<sup>5</sup> Nevertheless, a percentage of Muslims are British converts to Islam, who are not covered by the Framework Convention, and many Muslims consider that their religious identity, rather than their ethnic identity, should be the basis for their inclusion. The Advisory Committee notes, in this context, that some members of the United Kingdom's parliament, as well as the Commission for Racial Equality, have questioned whether there is justification for interpreting the scope of the Framework Convention as confined to the protection of "racial groups", resulting in the exclusion of British Muslims, for example, but not of Jews and Sikhs.

#### *Recommendations*

35. The Government should consider supplementing its current criterion based on recognition as a "racial group" in case law with additional criteria to ensure that the Framework Convention is applied in a fair and consistent manner. This concerns in particular the situation of Scottish Gypsies/Travellers whose formal exclusion from the Framework Convention's scope of application appears problematic, particularly in view of the inclusion of Gypsies and Travellers living in England and Wales.

36. The Advisory Committee encourages the Government to consider this question also in relation to the Cornish, whose claims for recognition under the Framework Convention deserve further examination, in consultation with the persons concerned.

37. The Advisory Committee encourages the Government to launch consultations with representatives of the Muslim population in order to address their concerns regarding the Framework Convention's scope of application.

### **Census categories**

#### *Findings of the first cycle*

38. In its first Opinion, the Advisory Committee noted that persons belonging to certain groups (including the Welsh, Cornish, Ulster-Scots and Roma/Gypsies) regretted not having the possibility to declare their affiliation with a particular group in the context of the 2001 census, even though the possibility of writing in an affiliation to an "other" group existed for certain census categories. The Advisory Committee called on the authorities to provide greater clarity, in the context of future censuses, on the possibilities for affiliating to other particular groups.

#### *Present situation*

##### a) Positive developments

39. The Advisory Committee is pleased to note that the ethnic identity questions to be included in the 2011 censuses are currently subject to review and consultations by each of the United Kingdom administrations. The wide-ranging nature of the consultations, which have included meetings with representatives of minority ethnic communities, and also with Cornish organisations and individuals, are to be welcomed in view of the important role that census categories play not only in the collection of census data but also in the monitoring arrangements

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<sup>5</sup> For instance, some of the largest Muslim groups in the United Kingdom have Pakistani, Bangladeshi, Indian and Turkish ethnic background but there are also many other sizeable Muslim ethnic groups.

used by public authorities in order to meet their obligations under the Race Relations (Amendment) Act 2000 (see comments under Article 4 below).

40. The Advisory Committee understands that census test questions have been prepared and pilots are being organised in various parts of the country. The Advisory Committee welcomes the fact that, in each jurisdiction, the test questions include a pre-determined specific category for Gypsies and Travellers. This is an improvement on the 2001 censuses, where only Northern Ireland included a specific Traveller category.

41. The Advisory Committee also understands that the respective administrations are considering the inclusion in the 2011 census of a general question concerning language proficiency, in contrast to the 2001 census, which only queried persons' possible proficiency in Gaelic (for respondents in Scotland), Welsh (for respondents in Wales), and Irish (for respondents in Northern Ireland). The Advisory Committee considers that this will provide useful information for meeting the linguistic needs of minorities.

#### b) Outstanding issues

42. The Advisory Committee notes that concerns have been expressed that the proposed categories for the 2011 census would not capture the numbers of persons belonging to certain minority ethnic communities, including the increasing number of new migrants. Some local authorities are reportedly concerned that inadequate population estimates concerning these non-visible minority ethnic communities have led to insufficient central funds to meet service demands. The failure of the census to capture these communities may also contribute to the reported tendency of certain public authorities to view "race relations" as referring to established and "visible" minorities only, and not to new and often "White" migrants.

43. The Advisory Committee also notes that Cornish organisations and individuals have criticised the decision not to include a separate tick-box for Cornish in the census test question, which, in their view, prevents the Government from obtaining accurate data about the strength of Cornish identity.

#### *Recommendations*

44. The authorities should continue their inclusive approach also in the later stages of the census reviews taking place in each of the United Kingdom jurisdictions.

45. While recognising the limitations in terms of space and capacity to process information in the context of a census, the authorities are encouraged to identify ways of improving the scope and accuracy of data concerning non-visible minority ethnic communities, if necessary, by means other than a census, and to consider the proposals of other groups, including the Cornish.

46. Efforts are needed to raise awareness among public authorities on the relevance to new migrant communities of promoting good race relations.

## **Principle of free self-identification**

### *Present situation*

47. The Advisory Committee takes note of the duties placed on employers by Northern Ireland's fair employment legislation as regards work force monitoring (see also comments under Article 4 below). Under this legislation, employers are required to submit annually a monitoring return giving details of the "community background" of their employees, trainees and applicants, meaning their affiliation to the Protestant or Roman Catholic community in Northern Ireland. Whereas the principal method for collecting this data relies on the free self-identification of each employee, trainee or applicant, where the latter do not respond to a direct question on their "community background", employers are encouraged to make such a determination themselves based on written information supplied by the person concerned. Persons belonging to minority ethnic groups are also subject to these monitoring requirements and have the option of indicating that they are not a member of either community.

48. The Advisory Committee notes that the data collected under the fair employment legislation remain anonymous and may be used purely for statistical purposes, in order to determine whether members of each community are enjoying fair participation in employment and, if not, to identify additional measures that could be adopted to secure fair participation. The Advisory Committee reminds the Government that restrictions on the right to free self-identification by persons belonging to national minorities are not consistent with Article 3 of the Framework Convention. However, the Advisory Committee considers that, in the specific context of Northern Ireland, and at this particular moment in time, the determination by employers of the community background of their employees, trainees and applicants may be relevant in order to secure the fair participation of under-represented groups.

### *Recommendations*

49. The Government should regularly review the authorisation given to employers in Northern Ireland to make a determination of the "community background" of employees, trainees and applicants, when the latter do not provide this information, in order to ensure its continuing relevance to the objective of securing equality in the field of employment.

## **Article 4 of the Framework Convention**

### **Legislative and institutional developments in the field of anti-discrimination**

#### *Findings of the first cycle*

50. In its first Opinion, the Advisory Committee welcomed the important legislative innovations introduced by the Race Relations (Amendment) Act 2000, giving public authorities in Great Britain a general duty, as well as a series of special duties, to promote race equality and good race relations. The Advisory Committee regretted, however, that certain provisions under the Act – in particular, the prohibition of discrimination by public authorities in carrying out any of their functions – did not apply to Northern Ireland.

51. During the first monitoring cycle, the Advisory Committee noted the lack of comprehensive legislation to protect individuals from religious discrimination and considered that this has had an adverse effect on persons belonging to minority ethnic communities. The

Advisory Committee called on the Government to examine further the legal measures necessary to deal with this issue.

52. The Advisory Committee also noted that proposals to set up a new human rights and equality body had raised concerns among certain parties, especially as regards the new body's relationship to existing bodies. The Government was invited to examine the proposals carefully and, in the meantime, to give full support to existing human rights and equality bodies to enable them to carry out their important functions.

*Present situation*

a) Positive developments

53. The Advisory Committee welcomes the measures taken to transpose the European Council Directive 2000/43/EC of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. These measures have strengthened existing legislation on racial equality in Great Britain and Northern Ireland by introducing a new, broader definition of indirect discrimination on the grounds of race, ethnic or national origins, as well as by introducing a prohibition on racial harassment and by creating new regulations concerning the burden of proof.<sup>6</sup> It is also a positive fact that the resulting legislation in Northern Ireland has extended protection against discrimination on grounds of race, ethnic and national origins to functions of public authorities that involve the provision of any form of social security, health care and any other form of social protection.

54. The Advisory Committee welcomes the introduction of a new prohibition on discrimination on grounds of religion and/or belief in employment or vocational training, in the form of Great Britain's Employment Equality (Religion or Belief) Regulations 2003. These new provisions resulted from the transposition of European Council Directive 2000/78/EC, establishing a general framework for equal treatment in employment and occupation.<sup>7</sup> The adoption of the Equality Act in 2006 has further extended protection against discrimination on grounds of religion and/or belief in Great Britain to the provision of goods, facilities and services, and public functions (including the important fields of policing and education).

55. Responding to criticisms of excessive complexity and inconsistencies in Great Britain's existing non-discrimination legislation, the Government initiated a Discrimination Law Review in February 2005 with the aim of creating a simpler and more coherent framework. This review is expected to result in a Single Equality Act covering all six strands of discrimination law (race, religion, gender, sexual orientation, disability and age) by 2008/2009. The Advisory Committee welcomes this review, whose objectives include not only exploring areas where protection against discrimination is currently inconsistent, but also examining the future scope of public sector duties and reviewing enforcement procedures and remedies against breaches of discrimination law.

56. The Advisory Committee welcomes the commitment expressed by the signatories of the St Andrews Agreement in 2006 (including the Government of the United Kingdom and the four main political parties in Northern Ireland) to work rapidly towards the adoption of a Single

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<sup>6</sup> The amendments can be found, in the case of Great Britain's legislation, in the Race Relations Act 1976 (Amendment) Regulations 2003 and, in the case of Northern Ireland, in the Race Relations Order (Amendment) Regulations (Northern Ireland) 2003.

<sup>7</sup> These provisions already existed in Northern Ireland under the latter's Fair Employment Training (Northern Ireland) Order 1998.

Equality Bill for Northern Ireland, and to re-launch consultations with a view to producing a possible Bill of Rights for Northern Ireland. These two long-standing objectives had been put on hold as a result of the political stalemate in Northern Ireland following the suspension of the devolution process between Autumn 2002 and May 2007.

57. There have also been positive developments regarding the United Kingdom's institutional framework for promoting equality and human rights. In the context of Northern Ireland, the Advisory Committee welcomes the decision to strengthen the functions of the Northern Ireland Human Rights Commission, including its investigative powers. The Advisory Committee also notes the establishment of a new Commission for Equality and Human Rights (CEHR) under the Equality Act 2006. Scheduled to begin operating in October 2007, the CEHR will bring together the work of the three existing equality commissions in Great Britain, including the Commission for Racial Equality,<sup>8</sup> which should help ensure greater coherence across Great Britain's anti-discrimination agenda and also better tackle cases of multiple discrimination.

b) Outstanding issues

58. The Advisory Committee regrets that the broad remit of Great Britain's Race Relations (Amendment) Act – which prohibits discrimination in any function carried out by a public authority or other body carrying out functions of a public nature<sup>9</sup> – has not yet been extended to Northern Ireland.

59. The regulations introduced to transpose European Council Directive 2000/43/EC have created an inconsistency in British and Northern Ireland legislation by prohibiting discrimination on grounds of race, ethnic or national origins (in accordance with the European Council Directive) but not on grounds of colour or nationality, even though these two other grounds are covered in Great Britain's Race Relations Act 1976 and in Northern Ireland's Race Relations Order. The resulting regulations have therefore added further complexity to the United Kingdom's legislative framework for combating discrimination and have been criticised for unduly creating different standards of protection against discrimination for different groups.

60. The Advisory Committee regrets that Great Britain's new legislative provisions aimed at protecting against discrimination on grounds of religion and/or belief appear to be weaker than existing provisions for tackling discrimination on grounds of race and ethnic or national origins. In contrast to the Race Relations (Amendment) Act 2000, which imposes both general and specific race equality duties on public institutions, the new provisions relating to religious discrimination do not create positive duties on public institutions to promote religious equality.

61. Concerns about the effectiveness of the new CEHR are still widely held by representatives of minorities, who fear that the decision to merge the six anti-discrimination strands in the work of one commission may mean that less resources and support are given to combating racial discrimination than in the past. The Advisory Committee is also aware of concerns regarding the precise distribution of responsibilities between the CEHR and the soon to be established Scottish Commission for Human Rights, whose decisions will have precedence over the CEHR in all matters devolved to Scotland but whose mandate will be weaker.

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<sup>8</sup> The other two commissions are the Disability Rights Commission and the Equal Opportunities Commission.

<sup>9</sup> See Section 19B of the Race Relations (Amendment) Act 2000. The only exception concerns the area of immigration and asylum.

*Recommendations*

62. The authorities are urged to introduce a more extensive prohibition of discrimination in Northern Ireland's race equality legislation in relation to public functions.

63. The authorities should ensure, when drafting the Single Equality Act for Great Britain and the Single Equality Bill for Northern Ireland, that existing inconsistencies in anti-discrimination legislation are removed and that vigorous protection is afforded against discrimination, not only on grounds of race and ethnic or national origins, but also on grounds of religion and/or belief.

64. It will be important to ensure that the Commission for Equality and Human Rights is given the resources and support it needs to properly carry out its functions across each of the six strands of equality. It will also be important to ensure good cooperation between the CEHR and the Scottish Commission for Human Rights.

**Efforts to ensure full and effective equality***Findings of the first cycle*

65. In its first Opinion, noting that persons belonging to certain minorities faced greater difficulties in their access to housing, employment and health services, the Advisory Committee encouraged the Government and the devolved Executives to continue their efforts to ensure full and effective equality for these groups, paying particular attention to the situation of women.

66. Noting the increasing costs and formalities associated with employment tribunal proceedings, the Advisory Committee called on the Government to consider the merits for introducing legal aid for representation in employment tribunals.

*Present situation*

## a) Positive developments

67. Since the first monitoring cycle, there has been some progress in the fulfilment by public authorities in Great Britain of their specific duties under the Race Relations (Amendment) Act 2000, which include the duty to monitor, by racial group, staff in post and the number of applicants for employment training and promotion; the duty to conduct race equality impact assessments of all of their functions and policies; and the duty to prepare and publish race equality schemes explaining how they will achieve the above. Although the Advisory Committee does not have a full picture of the implementation of these duties across the country, it notes that most departments of the United Kingdom Government, the Welsh Assembly Government and the Scottish Executive have developed, or are in the process of developing, race equality schemes and ethnic monitoring arrangements. In 2005, the Government of the United Kingdom also adopted, for the first time, a cross-Government strategy to increase race equality and community cohesion, which includes precise targets across a number of policy areas, including education, employment, health, housing and the criminal justice system<sup>10</sup> (see also comments under Article 15 below).

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<sup>10</sup> This Government strategy, entitled 'Improving Opportunity, Strengthening Society', is for Great Britain and applies in Northern Ireland only to those matters which are reserved or excepted under the provisions of the Northern Ireland Act 1998. The strategy acknowledges that race equality and community relations are matters for the Northern Ireland Administration and that there are separate devolution arrangements for Scotland and Wales. Scotland has prepared its own National Strategy on Race Equality, but this has not yet been published.

68. In Northern Ireland, the Advisory Committee welcomes the progress reported in efforts to achieve full and effective equality between Protestants and Catholics in the field of employment. Under the Fair Employment and Treatment (Northern Ireland) Order 1998, public sector employers and private sector employers with more than ten full-time employees have been required to monitor their workforces, regularly review their employment practices to determine fair participation and, where shortcomings persist, adopt additional measures to increase the participation of under-represented groups. The Advisory Committee understands that Northern Ireland's fair employment legislation deals only with equality on grounds of religious belief or political opinion, and not on grounds of race or ethnicity. The Advisory Committee is therefore pleased to note that, according to a recent report by the Equality Commission for Northern Ireland, Section 75 of the Northern Ireland Act 1998, which does cover equality between persons of different racial groups,<sup>11</sup> has had some positive effects as well, especially as regards increasing access for persons belonging to minority ethnic communities to health services.<sup>12</sup> The Advisory Committee also welcomes the adoption, in July 2005, by the Northern Ireland Administration, of a Racial Equality Strategy, intended to last for five years. The strategy explicitly recognises Northern Ireland as a pluralistic society and abandons the tendency for equality concerns in Northern Ireland to focus exclusively on relations between the two main communities.

69. The Advisory Committee notes the efforts made under the United Kingdom's race equality strategy to tackle the unemployment gap between minority ethnic communities and the majority population in the private sector. In 2003, the Government published a Cabinet Office report on the situation of ethnic minorities in the labour market with 28 recommendations, which are now being taken forward by the Ethnic Minority Employment Task Force, made up of Government and non-government representatives. According to information provided by the government, there has been some, albeit limited, progress narrowing the employment gap since the establishment of this work force (see also comments under Article 15 below). The Advisory Committee is pleased to note that the Scottish Executive set up, in June 2005, its own strategic group to address racial inequalities that exist in the Scottish labour market, which is shortly due to produce an action plan. In Northern Ireland, steps have been taken to address the high levels of unemployment among the Traveller population, following the recommendations issued in 2000 by the Government's Promoting Social Inclusion Working Group on Travellers.

70. The Advisory Committee welcomes the fact that, under the Race Relations (Amendment) Act 2000, local authorities in Great Britain are required to mainstream racial equality in their housing policies, although progress implementing this requirement has so far, reportedly, been slow. The Advisory Committee also welcomes the efforts made at central level to introduce new regulations with a view to alleviating the accommodation difficulties faced by the Gypsy and Traveller populations (for more comments, including difficulties at the level of implementing these regulations, see Article 5 below).

71. Efforts have been made to promote racial equality in access to health services, although progress varies considerably among health providers and between localities. Equality schemes adopted by the Departments of Health in the various jurisdictions acknowledge the crucial importance of interpretation and translation services in delivering health services to persons belonging to minorities and the Advisory Committee welcomes the efforts made to offer these

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<sup>11</sup> Section 75 of the Northern Ireland Act 1998 establishes that public authorities shall have "due regard" to the need to promote equality of opportunity, *inter alia*, between persons belonging to different ethnic groups.

<sup>12</sup> 'Section 75. Keeping it Effective. Reviewing the effectiveness of Section 75 of the Northern Ireland Act 1998', Equality Commission for Northern Ireland, May 2007.



services, free of charge, by most health providers across the country. In recognition of the particular difficulties registering with General Practitioners faced by Gypsy and Traveller groups, the Scottish Executive has developed patient-held records in some localities which take due regard of the itinerant life-style of many Gypsies/Travellers.

72. Finally, the Advisory Committee takes note of the steps taken to eliminate discrimination against persons belonging to minority ethnic communities and to promote confidence among them in the criminal justice system, although progress in this regard varies across the different jurisdictions (see comments under Article 6 below).

#### b) Outstanding issues

73. The Advisory Committee notes that Northern Ireland's race equality legislation does not require employers to monitor their workforces and employment practices in respect of ethnicity. Whilst Section 75 of the Northern Ireland Act makes it a duty for public authorities to assess the impact of their policies on the promotion of equality of opportunity also in respect of persons belonging to minority ethnic communities, this "duty to assess" is not as rigorous as the monitoring duties imposed on employers under Northern Ireland's fair employment legislation. Whilst it is encouraging that Northern Ireland's Racial Equality Strategy, launched in 2005, advocates the extension of ethnic monitoring, the Government acknowledges that there is still very little data on the situation of persons belonging to minority ethnic communities in Northern Ireland, not only as regards employment, but also in respect of the delivery of public services, especially in certain sectors such as health and welfare.

74. The Advisory Committee notes that, more than five years after public authorities in Great Britain were obliged under the Race Relations (Amendment) Act 2000 to have equality schemes and policies in place, there are still designated public authorities (including many local authorities in Wales) that have not complied with this duty. Shortcomings have also been reported, especially in Scotland and Wales, in the implementation by certain public authorities of their duty to collect and publish data on the situation of minority ethnic communities in their respective sectors.<sup>13</sup> The Commission for Racial Equality has initiated compliance proceedings with over 150 public authorities in Great Britain, which are not meeting their public duty to promote race equality. More generally, the Advisory Committee notes that, in both Great Britain and Northern Ireland, public authorities have tended to respond to their statutory duties to promote racial equality by focusing on procedures (including the adoption of equality schemes) and not to the same extent on changing practices and identifying targets in order to achieve equality of outcomes.

75. The Advisory Committee notes that persons belonging to certain minority ethnic communities in England are still almost twice as likely to be unemployed as the national average. According to a recent report published by the Equal Opportunities Commission, racism, sexism and anti-Muslim prejudice are amongst various reasons explaining the particularly high unemployment rates among Pakistani, Bangladeshi and Black Caribbean women.<sup>14</sup> The situation is also particularly difficult for Gypsies and Travellers who are often unable to maintain their traditional occupations owing to accommodation difficulties (see comments under Article 5) and who lack the skills and qualifications necessary to enter the wage economy. In this context, the Advisory Committee regrets the fact that the United Kingdom Government has not referred to

<sup>13</sup> 'Fairness and Freedom: The Final Report of the Equalities Review' 2007.

<sup>14</sup> 'Moving on up? The way forward. Report of the EOC's investigation into Bangladeshi, Pakistani, and Black Caribbean women and work', March 2007.

the particular situation of Gypsies and Travellers in the above-mentioned labour market strategy adopted in 2003. While the authorities of Northern Ireland have begun to take actions to meet the employment and training needs of the Traveller community, the measures taken so far have not been sufficient to reduce the persistence of long-term unemployment amongst this community.

76. The Advisory Committee has also received disconcerting reports about cases of migrants in the United Kingdom, working under temporary contracts or in some cases under no contracts, leaving them vulnerable to numerous forms of exploitation.

77. In view of the particular difficulties facing persons belonging to certain minority ethnic communities in the field of employment, the Advisory Committee regrets the information it has received suggesting that the Government is failing to adequately monitor the impact on ethnic minorities of current pension reform proposals.

78. In the field of housing, Government statistics continue to indicate that persons belonging to minority ethnic communities are much more likely to experience sub-standard housing conditions, including over-crowding and homelessness, than the overall population. In Northern Ireland, problems facing minority ethnic communities in the field of housing (particularly over-crowding for migrant workers) are reportedly compounded by the increasing occurrence of racist attacks in the neighbourhoods which they inhabit. In Scotland, due partly to the shortage of transit sites and through the legacy of past policies of assimilation, there are cases of Gypsies/Travellers living in settled accommodation in squalid conditions.

79. Considerable inequalities also continue to confront persons belonging to minority ethnic communities in the health sector, with certain ethnic communities suffering disproportionately from certain health conditions. Language barriers continue to be one of the obstacles preventing equal access to health. This could be resolved by providing more information to minorities concerning the availability of interpretation and translation services. Another obstacle appears to be the continuing shortage of adequate ethnic data, especially concerning communities that are not captured by the existing census categories (see comments under Article 3 above). One of these poorly monitored communities – the Gypsy and Traveller populations – face particular difficulties as few hospitals or clinics attempt to accommodate the needs of communities with itinerant life-styles.

80. The Advisory Committee regrets that, in England and Wales, legal aid is still only available at the appeal stage of cases brought to employment tribunals, thereby acting as a disincentive to potential claimants. Whereas legal aid is theoretically available for discrimination cases in fields other than employment, other developments, including a recent package of reforms to the whole system of procurement for legal aid funding in England and Wales (above all, the decision to establish fixed fees rather than hourly fees for lawyers) threaten to make it more difficult to obtain legal representation in discrimination cases across all sectors.<sup>15</sup>

### *Recommendations*

81. The Advisory Committee urges the authorities in Northern Ireland, Scotland and Wales in particular to pursue further their efforts to collect data on the situation of minority ethnic communities in all relevant sectors.

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<sup>15</sup> ‘Legal aid: a market-based approach to reform’, Lord Carter’s Review of Legal Aid Procurement, July 2006.

82. The authorities should ensure that the bodies in charge of ensuring compliance by public authorities with their statutory duties to promote equality have the necessary resources and support to accomplish their tasks. Greater emphasis should be placed by public authorities on identifying targets and changing practices in order to achieve equality of outcomes.

83. More rigorous efforts are needed to tackle racial inequalities in employment, making greater use of positive action opportunities and procurement procedures provided by the law. This should be preceded by close consultations with the groups concerned in order to identify the most appropriate measures of support.

84. The authorities are urged to examine further the situation concerning the system of procurement for legal aid funding and identify the ways and means to improve access to legal aid, especially in cases of employment discrimination.

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

### **State support for the preservation of the culture of national minorities**

#### *Findings of the first cycle*

85. In its first opinion, noting that devolution had increased awareness and demand for recognition and development of the cultures of the peoples of Wales, Scotland and Northern Ireland, the Advisory Committee welcomed the important steps already taken to meet some of the demands and encouraged the Government to pursue these steps further.

86. While recognising the efforts already made to assist minority ethnic communities in preserving and developing their culture, the Advisory Committee considered that more could be done to demonstrate, recognise and value the cultural diversity of minority ethnic communities.

#### *Present situation*

##### a) Positive developments

87. The Advisory Committee is pleased to note that the Welsh Language Board, responsible for promoting and facilitating the use of Welsh, continues to receive important financial allocations from the Welsh Assembly Government. Besides developing and overseeing the implementation of Welsh language schemes by public bodies, the Welsh Language Board provides grants to voluntary sector organisations that work to promote the Welsh language.

88. The Scottish Executive has also continued to provide financial backing (mostly through the Scottish Arts Council) to organisations that work to promote Scottish Gaelic and Scots. The coming into force of the Gaelic Language Act in 2006, and the establishment of the Gaelic Language Board to oversee the Act's implementation, are welcome developments, which should serve to provide a more conducive environment for Gaelic speakers to maintain and develop their language and culture.

89. In Northern Ireland, the Arts Council and the Irish Language Agency (*Foras na Gaeilge*), the body responsible for the promotion of the Irish language throughout the whole island of Ireland, provide funds for artists working in the medium of Irish and other educational and cultural initiatives. The Ulster Scots Agency plays the same role in promoting Ulster-Scots, and has provided grants to groups undertaking educational, cultural and language initiatives. Both the Ulster Scots Agency and the Irish Language Agency receive funding from the United Kingdom and Irish Governments under the terms of the 1998 Belfast (Good Friday) Agreement.

90. The Advisory Committee notes that assistance continues to be available for organisations delivering projects that promote racial equality and foster strong community relations. At the national level, the main source of funding is the Government's Connecting Communities Plus programme, which has made £18 million<sup>16</sup> available to voluntary sector organisations over a three year period (2006-2009). Following a comprehensive review of race equality work in Scotland, a new Race Equality, Integration and Community Support Fund was created by the Scottish Executive in 2006, which will provide a total of £2 million to organisations over a two-year period (2006-2008). Since the establishment of Northern Ireland's Racial Equality Strategy, there has also been an increase in the amount of funds allocated to minority ethnic voluntary organisations in Northern Ireland, with a total of £1.7 million allocated over the period 2005-2008.

b) Outstanding issues

91. The Advisory Committee is concerned by the reports it has received from representatives of minority ethnic communities indicating that it has become increasingly difficult to access funding for their cultural initiatives. Applications for funding have reportedly become excessively complex making it difficult for small organisations with limited resources to apply. Another concern expressed by minority ethnic representatives is a shift in the funding priorities, so that most grants are made available for projects that promote equality and mainstreaming rather than the promotion of minority cultures. The Advisory Committee understands that strengthening contacts between different groups is a valuable objective, but it considers that efforts to promote "community cohesion" should not be pursued at the expense of initiatives aimed at maintaining and developing the cultures and languages of persons belonging to minority ethnic communities.

*Recommendations*

92. The authorities should step up existing initiatives, e.g. through the Community Development Foundation, to provide training and other forms of support that minority ethnic voluntary organisations may need in order to apply successfully for government grants.

93. The authorities should ensure that there are adequate funding opportunities for the initiatives of minority ethnic organisations aimed at maintaining and developing minority languages and cultures.

**Meeting the accommodation needs of Gypsies and Travellers**

*Findings of the first cycle*

94. Noting with concern the shortage of adequate stopping sites for Roma/Gypsies and Irish Travellers, and the effect that this has on their ability to maintain and develop their culture, the Advisory Committee called on the authorities to take further steps to ensure the availability of additional adequate stopping places.

*Present situation*

a) Positive developments

95. The Advisory Committee notes that new legislation has come into force in England and Wales aimed at remedying, albeit in limited ways, the precarious situation of Gypsies and

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<sup>16</sup> £1 is approximately equivalent to 1.5 Euros.

Travellers living in caravans. A new Housing Act, adopted in 2004, with effect in England and Wales, now requires local authorities to assess the need for Gypsy and Traveller accommodation in their areas when they assess the housing requirements for the rest of the population. Under a new planning circular adopted in 2006, local authorities are obliged to convey their assessment of Gypsy/Traveller accommodation needs to regional planning bodies who will determine, in Regional Spatial Strategies, how many caravan pitches should be provided across the region on the basis of these assessments.<sup>17</sup> The Government has made £56 million available over a two-year period (2006-2007) to local authorities (and to private landlords) to subsidise site provision and refurbishment schemes.

96. The Advisory Committee welcomes the increased attention given to the housing and planning needs of Gypsies and Travellers by the authorities in Scotland and Northern Ireland in recent years. In 2002, the Scottish Executive conducted a comprehensive survey of the provision by local councils of Gypsy/Traveller accommodation needs and has issued guidelines to local authorities on this basis. The process of mapping Gypsy/Traveller accommodation needs has been greatly assisted by the work of the Equal Opportunities Commission of the Scottish Parliament, which produced a valuable set of recommendations on improving services for Gypsies and Travellers in 2001, many of which focused on housing.<sup>18</sup>

97. Similarly, in 2003, the Northern Ireland administration expressed its commitment to implementing the recommendations of a comprehensive report on the Irish Traveller Population. Following the introduction of amendments to the Housing (Northern Ireland) Order 1981, also in 2003, which gave the Northern Ireland Housing Executive responsibility for providing suitable accommodation for Irish Travellers, a wide accommodation strategy for Travellers has been adopted.

#### b) Outstanding issues

98. Insufficient and inadequate site provision has contributed to a situation where numerous Gypsies and Travellers are currently living on unauthorised land or developing their land without planning permission.<sup>19</sup> While it may be too early to assess the effects of the new Housing Law and planning circular, the Advisory Committee notes that their success depends on the ability and willingness of local authorities to conduct proper assessments of Gypsy and Traveller accommodation needs. The Advisory Committee regrets, in this context, the information it has received from Gypsy and Traveller representatives regarding the uneven, and often poor quality of the needs assessments conducted by local authorities. Concerns have also been expressed at the unwillingness of many local authorities to comply with the requirements of Regional Spatial Strategies once they are published owing to intense hostility among the local population (see also comments under Article 6 below).

99. The Advisory Committee notes that the Government is currently considering proposals that would give local planning authorities the right to evict, without delay, Gypsies and Travellers living in caravans on unauthorised developments (land owned by the inhabitants for which they do not have planning permission), as long as an alternative site exists which the local

<sup>17</sup> Planning for Gypsy and Traveller Caravan Sites, Office of the Deputy Prime Minister Circular 1/2006, 2 February 2006.

<sup>18</sup> 'Inquiry into Gypsy Travellers and Public Sector Policies', Equal Opportunities Committee, 1<sup>st</sup> Report 2001, Scottish Parliament Paper 356.

<sup>19</sup> According to government figures, the total number of caravans in England without a legal stopping place was 4,067 in July 2005. This represents more than a quarter of the total number of Gypsy and Traveller caravans in England, which the Government reported to be 15,000 in 2005.

authority deems appropriate. This would amend the existing system, regulated by the Temporary Stop Notice Regulations, whereby local authorities must issue a stop and enforcement notice, and allow the passing of a period of time in which the persons concerned can appeal, before an eviction can proceed.

100. The Advisory Committee regrets the continuing lack of tenancy rights enjoyed by residents of Gypsy and Traveller sites and the failure so far of the Government to respond to calls made by Gypsy and Traveller representatives, as well as the Joint Committee on Human Rights and other members of the United Kingdom parliament, to amend the relevant legislation.<sup>20</sup>

101. Notwithstanding the increased awareness of the accommodation needs of Gypsies and Travellers in Scotland and Northern Ireland, progress improving the situation on the ground has been slow. In Scotland, the number of pitches for Gypsy/Traveller caravans has fallen in spite of Scottish Executive guidelines to local authorities regarding site provision. The absence of statutory requirements concerning the allocation of sites, combined with hostility to such sites among the local population, continues to affect provision.

102. The Advisory Committee notes that a new piece of legislation, the Unauthorised Encampment (Northern Ireland) Order 2005, has come into force in Northern Ireland allowing the police to evict persons living on unauthorised encampments, when suitable alternative sites are available.<sup>21</sup> In view of the slow progress implementing the Traveller accommodation schemes produced by the Housing Executive, this legislation may have an adverse effect on the ability of Irish Travellers to maintain their traditional lifestyle. According to information received by the Advisory Committee, since the introduction of the Unauthorised Encampment Order, there has been little progress in providing Travellers who choose to be nomadic with suitable transit sites.

#### *Recommendations*

103. There is a need for clear timetables with agreed deadlines for local authorities in England and Wales to comply with the new Housing Act and planning circular, and for stronger enforcement procedures. Local authorities are urged to ensure the participation of Gypsy/Traveller representatives in the accommodation needs assessments they conduct.

104. Gypsies/Travellers should have greater access to support in securing the legal protection of their rights.

105. The Scottish Executive should give serious consideration to the possibility of introducing statutory obligations to address the accommodation needs of Gypsies/Travellers. The Northern Ireland authorities should ensure the provision of sufficient funding for the development of suitable accommodation arrangements for Travellers.

106. The Government and devolved Executives must ensure that any of their actions concerning an eviction from an unauthorised development or an unauthorised encampment takes due account of the number and quality of alternative Gypsy/Traveller sites in the region.

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<sup>20</sup> See also the relevant European Court of Human Rights judgment, *Connors v. the United Kingdom*, Application no. 66746/01, 27 May 2004.

<sup>21</sup> This legislation is similar to the provisions already in force in Britain under Section 62 A-E of the Criminal Justice and Public Order Act (1994).

Consultations with the affected Gypsy/Traveller families must be organised before any decisions are taken concerning an eviction.

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

### **Promoting intercultural dialogue and tolerance**

#### *Findings of the first cycle*

107. In its first Opinion, the Advisory Committee expressed concern about reports it had received concerning the negative portrayal of some minorities in the media. Noting that the main recourse open to persons affected by such negative portrayals – the Press Complaints Commission – is rarely used, the Advisory Committee called on the Government, along with the relevant authorities or bodies, to consider how available recourses could be made more effective.

108. Noting the presence of hostile attitudes towards certain minorities, particularly Gypsies and Travellers, and the shortage of awareness-raising initiatives and campaigns concerning these groups, the Advisory Committee called on the authorities to consider ways of encouraging further steps in this area.

#### *Present situation*

##### a) Positive developments

109. The Advisory Committee is pleased to note that a number of initiatives have been launched by media representatives themselves aimed at combating the negative portrayal of certain minorities in the media. In 2003, the Press Complaints Commission produced guidance for media reporting on refugees and asylum-seekers which underlines the dangers of inaccurate, misleading and distorted reporting. More recently, the Society of Editors, together with the Media Trust, with funding from the United Kingdom Government, has published a practical guide to help journalists in print, broadcasting and new media to report fairly on matters of faith, race and cohesion. There have been some examples of good practice at local level too (e.g. the Leicester Mercury newspaper, which has set up a discussion group to advise the local media), as well as initiatives taken by national broadcasters such as the BBC to train journalists in diversity reporting.

110. The Advisory Committee notes the Government's decision in June 2006 to create a Commission on Integration and Cohesion, a fixed-term body charged with the task of identifying opportunities at local level to improve intercultural dialogue and good race relations. As part of this task, the Commission has recently completed a national consultation on what different organisations think integration and cohesion means to them. The Advisory Committee looks forward to the Commission's forthcoming report, which is due to be published in June 2007.

111. The Advisory Committee welcomes the efforts made by the Scottish Executive to raise awareness of racist attitudes and highlight their negative impact in its One Scotland, Many Cultures anti-racism campaign.

##### b) Outstanding issues

112. Notwithstanding the above-mentioned positive initiatives, the Advisory Committee has received numerous reports which indicate that sectors of the press continue to discuss issues concerning certain groups – particularly Gypsies and Travellers, migrant workers, asylum-

seekers and, increasingly, Muslims – in a manner that is often biased, stereotyped and inaccurate. The Advisory Committee is concerned that such negative and prejudicial reporting, especially when combined with provocative statements made by certain politicians, is contributing to a climate of fear and hostility and aggravating community relations. The Advisory Committee notes that, in 2006, the Commission for Racial Equality wrote to the Press Complaints Commission recommending, *inter alia*, that it should widen the prohibition of discrimination contained in its Code of Practice, which currently only provides protection to individuals against discriminatory press coverage if they have been explicitly named in an article.

113. The Advisory Committee has received reports suggesting that the capacity of the mainstream media, including public broadcasting, could be better utilised as a platform to promote mutual respect and understanding between the majority and the country's ethnic, cultural, linguistic and religious minorities. Representatives of minority ethnic communities report that they are only invited to participate in United Kingdom-wide media when an issue is debated which concerns their own community, not when the agenda concerns the mainstream. Information received from Welsh, Gaelic and Irish speakers suggests that the same marginalisation from mainstream news affects these groups.

114. While welcoming the establishment of the Commission on Integration and Cohesion as a potential source of constructive ideas on building tolerance and intercultural dialogue for local authorities, the Advisory Committee has received disconcerting reports from non-governmental organisations about the direction of the new Commission's work. It is alleged in particular that the Commission's use of the term "cohesion", reflecting a broader policy move by the Government as a whole, is moving the debate away from multiculturalism and tending to shift responsibility for recent patterns of increased segregation on minority communities themselves. The Advisory Committee notes that certain statements made by the Commission, including suggestions that one of the barriers to successful integration and cohesion is migrants' resistance to learning English, have fuelled resentment among minority communities.

#### *Recommendations*

115. Further resources need to be directed at raising awareness about, and tackling inaccurate reporting on, minority ethnic communities, focusing in particular on those groups which currently find themselves in the most vulnerable positions, including Gypsies and Travellers, asylum-seekers and Muslims.

116. The media should be encouraged to pursue further its actions aimed at increasing knowledge of and interest in the United Kingdom's multi-cultural and multi-lingual society.

117. The Commission on Integration and Cohesion, and the Government as a whole, needs to ensure that any references to community cohesion are clearly explained in order to highlight that an integrated society is one that is based on mutual respect, equality and diversity.

### **Hate crime**

#### *Findings of the first cycle*

118. Noting the increase in racially motivated incidents in Northern Ireland, the Advisory Committee called on the Government to extend to Northern Ireland the provisions for tackling racially aggravated violence, harassment and criminal damage in the Crime and Disorder Act 1998.



119. Aware of continuing resistance to embracing the rationale for reporting and recording racist incidents among the police, the Advisory Committee encouraged the Government to continue its work to improve these practices in accordance with the recommendations of the Stephen Lawrence Inquiry.<sup>22</sup>

*Present situation*

a) Positive developments

120. The Advisory Committee welcomes the introduction, in 2004, of provisions in the Criminal Justice (No.2) (Northern Ireland) Order 2004 which identify an increase in the sentences of various offences if hostility based on religion or race is established.

121. Aware of the reported increase in the number of incidents of religious hatred in recent years, particularly targeted at Muslims, the Advisory Committee is also pleased to note the creation of religiously aggravated offences under criminal law in 2001, with effect in England and Wales, and in 2003, with effect in Scotland.

122. In relation to the protection afforded to persons against hate speech, the Advisory Committee welcomes the increase in the maximum penalty for incitement to racial hatred (from 2 to 7 years), and the introduction, in 2006, of a new offence of incitement to religious hatred with effect in England and Wales.

123. The Advisory Committee welcomes the steps taken by the Crown Prosecution Service and other Government agencies to improve the reporting and recording as well as the prosecution of hate crimes in England and Wales, including the creation of a Racist Incident Group to monitor and scrutinise efforts at addressing racist crime and awareness-raising initiatives among the public to encourage greater reporting.

124. In Scotland, the adoption of the Lord Advocate's Guidelines on the investigation and reporting of racist crime, in May 2001, have been followed by a series of surveys indicating that there has been some improvement in the recording of racist incidents by the police, even if cases still rarely reach the Courts. In Northern Ireland, a positive development has been the establishment of ethnic minority liaison officers in the police services.

b) Outstanding issues

125. The Advisory Committee is concerned by the continuing increase in the number of racist incidents recorded in Northern Ireland and in Scotland, where persons belonging to minority ethnic groups make up very small proportions of the total population. It is regrettable that Scotland still has no specific legislation prohibiting incitement to religious hatred.

126. While welcoming the efforts made to improve the reporting and recording of hate crimes by the police in England and Wales, the Advisory Committee has received reports suggesting that the police services are still far from eliminating racist behaviour within their own ranks.<sup>23</sup>

127. In view of the reported increase in religiously aggravated incidents, the relevant authorities should consider extending the practice developed by the London Metropolitan Police of

<sup>22</sup> Sir William MacPherson's Inquiry into the racist murder of Black teenager Stephen Lawrence in 1999.

<sup>23</sup> 'The Police Service in England and Wales', Final report of a formal investigation by the Commission for Racial Equality, March 2005.

distinguishing between racially aggravated and religiously aggravated incidents when reporting and recording hate crimes.

128. The Advisory Committee notes that there exists an inconsistency in the elements required to prove the offence of incitement to racial hatred, on the one hand, and incitement to religious hatred, on the other. There is a risk that the higher threshold required to prove incitement to religious hatred will render successful prosecution of this offence less likely.

129. Information available to the Advisory Committee suggests that the extent and accuracy with which racist incidents are recorded in Scotland vary from one police unit to another. According to credible reports, fear and distrust felt by minority ethnic communities towards the police act as a barrier to their willingness to report such incidents.<sup>24</sup> The same problem is reported in Northern Ireland, although there reports have also indicated continuing resistance among the police to recording racist incidents or acknowledging their seriousness.<sup>25</sup>

#### *Recommendations*

130. Further resources need to be devoted to identifying and prosecuting hate crime in Northern Ireland. Scotland should also step up efforts in this field, and should introduce specific legislation prohibiting incitement to religious hatred.

131. More attention should be given to religiously aggravated incidents in efforts to improve the reporting and recording of hate crime, including by disaggregating the data for racist and religiously aggravated crimes. The Government of the United Kingdom should examine the possibility of ensuring consistency between the thresholds for proving the offences of incitement to religious hatred and incitement to racial hatred.

132. The Government and devolved Executives should step up their efforts to provide police throughout the United Kingdom with robust on the job training and support in diversity work and in dealing with hate crime.

### **Impact of policing on minority ethnic communities**

#### *Findings of the first cycle*

133. In its first Opinion, the Advisory Committee urged the Government to continue its efforts to ensure that stop and search powers are used fairly and effectively and that persons belonging to minority ethnic communities are not disproportionately stopped and searched.

134. Noting the establishment of the Police Ombudsman for Northern Ireland, and the plans to establish similar independent police complaints systems in England and Wales as well as in Scotland, the Advisory Committee hoped that these initiatives would bolster public confidence in the police.

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<sup>24</sup> See for instance 'Law at Work Report', commissioned by the CRE and published in July 2005.

<sup>25</sup> 'The next Stephen Lawrence? Racist Violence and Criminal Justice in Northern Ireland', Research Report for the Northern Ireland Council of Ethnic Minorities, by Robbie McVeigh, 2006; 'Hate Crime in Northern Ireland', Criminal Justice Inspection Northern Ireland, 2007.

*Present situation*

## a) Positive developments

135. The Advisory Committee welcomes the public statements issued by the United Kingdom authorities and by Muslim leaders, following the July 2005 bomb attacks in London, underlining the importance of maintaining solidarity between all communities in the face of terrorism. In their statements, the United Kingdom authorities have likewise highlighted the positive contributions made by the Muslim community to British society.

136. The Home Office acknowledges that stop and search powers continue to be used disproportionately in respect of persons belonging to minority ethnic communities in England and Wales. The Government reports that it is committed to reversing this and has issued guidance to all forces based on the examination by line-managers of individual officers' stop and search patterns by ethnicity. Since 2004, police in Scotland have also been required to record the ethnicity of persons subject to stop and search. Advisory boards have also been set up within police authorities to encourage greater community scrutiny over police conduct.

137. The Advisory Committee welcomes the establishment of the Independent Police Complaints Commission, which became operational on 1 April 2004. In 2006, the Police, Public Order and Criminal Justice (Scotland) Act established the Police Complaints Commissioner of Scotland with powers to bring disciplinary proceedings against police officers.

## b) Outstanding issues

138. According to the Government's statistics, persons belonging to certain minority ethnic communities continue to be disproportionately stopped and searched. In England and Wales, Black people were the highest targets (14%) of stops and searches under Section 1 of the Police and Criminal Evidence Act, while constituting only 4.4% of the overall population. Asians were the highest targets (11%) of stops and searches under the Terrorism Act 2000, while constituting only 2.2% of the overall population.<sup>26</sup>

139. Reports of discrimination in the use of stop and search powers are especially problematic under the Terrorism Act 2000, which contains provisions allowing Chief Constables (subject to approval by the Home Secretary) to authorise, in certain localities, the exercise of stop and search powers without the requirement of reasonable suspicion in order to counter a particular and specific threat of terrorism. The Advisory Committee understands that such authorisations have been renewed repeatedly in London's Metropolitan Police District. The Advisory Committee recalls the House of Lords' decision outlawing discrimination in the exercise of public functions. This prohibition extends to all policing functions, even where a particular community presents a threat.<sup>27</sup> Discriminatory stop and search practices not only result in innocent persons being targeted; they can also lead to the stigmatisation of an entire community.

140. The implementation of several other recent pieces of anti-terrorism legislation has also raised concerns of their discriminatory impact. While welcoming the repeal, in 2005, of provisions allowing the indefinite detention of foreign nationals without charge, the Advisory Committee notes the concerns expressed by minority ethnic communities who feel that the

<sup>26</sup> 'Statistics on Race and the Criminal Justice System – 2005', a Home Office publication under section 95 of the Criminal Justice Act 1991, 2005.

<sup>27</sup> R (on the application of the European Roma Rights Centre) v the Immigration Officer at Prague Airport [2005] 2 A.C.1.

“control orders” adopted under the Prevention of Terrorism Act 2005, to replace indefinite detention, continue to subject detainees to onerous conditions and are used disproportionately against Muslims. The same concerns have been expressed by minority ethnic communities in relation to the extension of pre-charge detention to 28 days under Section 41 of the Terrorism Act 2000.

*Recommendations*

141. The Advisory Committee urges the authorities to give additional guidance to individual police officers on the circumstances in which stop and search practices will be discriminatory and to ensure that line-managers within police units have sufficient resources to monitor the stop and search patterns of individual officers.

142. The Advisory Committee urges the Government to review the use of stop and search powers under the Terrorism Act 2000, and all other legislation connected with the fight against terrorism, to ensure that they do not discriminate directly or indirectly against persons or groups of persons on grounds of ‘race’, colour, language, religion, nationality or national or ethnic origin, and to abrogate any such discriminatory legislation, in accordance with ECRI’s General Policy Recommendation No. 8 on combating racism while fighting terrorism.

143. Authorisations for stop and search powers without reasonable suspicion under the Terrorism Act 2000 should be monitored with particular care to ensure that the powers are necessary and proportional to address a serious risk of terrorism, and to ensure that their renewal does not turn into a purely administrative exercise.

**Relations between Northern Ireland’s two main communities**

*Findings of the first cycle*

144. While recognising the particular circumstances that have led many housing estates and schools in Northern Ireland to be split along sectarian lines, the Advisory Committee called on the Government to explore with the communities concerned how a more integrated approach to both housing and education could lead to strengthening of relations between Protestants and Catholics.

*Present situation*

a) Positive developments

145. The Advisory Committee welcomes the power-sharing agreement reached in May 2007 between Northern Ireland’s leading nationalist and loyalist parties, marking the resumption of Northern Ireland’s devolved Government, established in 1998 under the historic Belfast (Good Friday) Agreement. This development, and the spirit of co-operation which it signals between representatives of the Protestant and Catholic communities, should help to strengthen efforts aimed at overcoming sectarian divisions in Northern Ireland.

146. The Advisory Committee notes, in this context, the positive initiatives already pursued by the authorities under Northern Ireland’s *Shared Future* strategy, launched in April 2005. In the field of housing, these initiatives include two pilot projects of integrated housing and plans to encourage further integrated housing in other areas.

147. Since the first monitoring cycle, the Northern Ireland Department of Education has also stepped up efforts to encourage and facilitate integrated education, in line with the objectives

laid out in the *Shared Future* strategy. The Department has considerably increased its funding of the Northern Ireland Council of Integrated Education, set up with the objective of encouraging and facilitating integrated education. A Community Relations policy has also been launched by the Department to promote and develop contacts and shared activities between young people in Northern Ireland.

#### b) Outstanding issues

148. The Advisory Committee notes that, in spite of the commitment expressed by the Northern Ireland Housing Executive, housing estates in Northern Ireland continue to be highly segregated along sectarian lines.

149. Parents in Northern Ireland are still reluctant to send their children to integrated schools. Currently there are 56 grant-aided integrated schools, catering to more than 17,000 pupils, representing only around 5% of the total pupil population of Northern Ireland. Further school integration also requires prior investment in integrated teacher-training.

#### *Recommendations*

150. The Advisory Committee calls on the authorities to step up efforts to promote awareness, among the communities concerned, of the benefits of a more integrated approach to housing as a way of strengthening relations between Protestants and Catholics in Northern Ireland.

151. The authorities should, as a priority, seek further resources to encourage and support schools that change to integrated status, and to raise awareness among the public at large about the long-term benefits of integrated education. The authorities should also seek ways to train teachers in the same colleges, irrespective of their community background.

### **Article 8 of the Framework Convention**

#### **Blasphemy law**

#### *Findings of the first cycle*

152. Noting that the blasphemy law is restricted solely to Christians and does not protect other religions, the Advisory Committee considered that the law was discriminatory and should either be abolished or extended to other religions.

#### *Present situation*

#### Outstanding issues

153. According to the information provided in the United Kingdom's second State Report, the Government is keeping the options on blasphemy under review but has no current plans to change the blasphemy law.

#### *Recommendations*

154. The Advisory Committee reiterates its view that the Government should, as a matter of priority, either abolish the law, as suggested by the Commission for Racial Equality, or extend it to other religions in order to provide full and effective equality and guarantees.

## **School regulations and practices concerning religion and/or belief**

### *Present situation*

155. The Advisory Committee notes that the study of religion is compulsory in state-maintained schools in the United Kingdom. While teachers have the option of taking into account the teachings and practices of other principal religions, the study of religion in schools is required to reflect the fact that the religious traditions of Great Britain and Northern Ireland are in the main Christian. The Advisory Committee also notes that a daily act of worship is also compulsory in state-maintained schools. According to existing regulations, this act should be wholly or mainly of a 'broadly Christian character'.

156. While the legislative and regulatory framework allow for exemptions from both religious education and religious worship, upon parental demand or pupil opt-outs,<sup>28</sup> the Advisory Committee has received complaints from representatives of minority ethnic communities that, in certain cases, schools do not provide adequate alternative activities for pupils who have opted-out. Minority representatives also informed the Advisory Committee that the study of religion is still often taught in Scotland without examining the teachings and practices of non-Christian religions. They also reported that certain schools continued to engage in practices which overlook the religious diversity of their pupils, including the organisation of prize-giving ceremonies in churches.

157. The Advisory Committee notes that a similar failure to engage with minority religious communities has characterised the process of reforms of the core curriculum for schools in Northern Ireland. These reforms, which involve proposals to change the content of Religious Education, have reportedly only involved consultations with the four Christian churches of Northern Ireland.

158. The Advisory Committee notes that the Government has adopted new guidance for schools in England concerning school uniforms and the right to wear religious dress in schools. According to these guidelines, schools have the ability to ban full-face veils (the *niqab*) on grounds of security, safety or learning concerns, although any decision must be preceded by proper consultations with the parents concerned. The Advisory Committee notes that the governing boards of schools in England already had the right to set their own regulations concerning school uniform and that most have opted for a permissive approach. There is a risk that the new guidance may be interpreted by schools in a way that restricts the right of every person belonging to a national minority to manifest his or her religion and/or belief.

### *Recommendations*

159. The Government and devolved Executives are encouraged to give school teachers clearer guidance on the importance of covering non-Christian religions and/or beliefs in the study of religion. It is further of importance that a religion is not imposed on students by conducting school ceremonies in churches.

160. The authorities should ensure that adequate alternative activities are provided to all students who do not attend the study of religion or acts of daily worship.

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<sup>28</sup> Following the adoption of the Education and Inspection Act 2006, pupils aged 16 and over can opt out of acts of religious worship.

161. Educational authorities and schools must take the necessary steps to inform and consult with minority ethnic communities when decisions are taken or policies adopted which may affect the right of minority ethnic pupils to manifest their religion and/or belief at school.

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

### **Northern Ireland**

#### *Findings of the first cycle*

162. In its first Opinion, the Advisory Committee called on the Government to explore further how to cater for the needs of the Irish speaking community in particular, as well as the needs of the Ulster-Scots speaking community, in terms of their access to and creation of their own media.

#### *Present situation*

##### a) Positive developments

163. The Advisory Committee welcomes the establishment, in June 2005, of the Irish Language Broadcast Fund to provide financial support for Irish language film and television production. With a budget of £12 million pounds for a five-year period, it has the potential to make a significant contribution to the availability of Irish-language television programming. The Irish Language Broadcast Fund also provides training courses for Irish-language television producers.

164. The Advisory Committee notes that, while there is no dedicated Irish-language television service in Northern Ireland, Irish-language television programmes are either transmitted on BBC or on TG4, an all-Ireland television channel funded by the Irish Government. According to information provided by the Government of the United Kingdom, the Government has begun to fund the extension of reception of TG4 in Northern Ireland.

165. The Advisory Committee welcomes the decision by the BBC radio to begin broadcasting a half-hour programme in Ulster Scots on a weekly basis. This is an improvement on the past, where Ulster-Scots radio programmes were only broadcasted irregularly. The Advisory Committee also commends the decision to broadcast programmes on the history and culture of Ulster-Scots in Northern Ireland, which reportedly have been very popular.

##### b) Outstanding issues

166. While welcoming the Government's decision to fund the extension of reception of TG4 in Northern Ireland, the Advisory Committee regrets that reception of TG4 is still unavailable in some parts of Northern Ireland. The Advisory Committee also notes that the United Kingdom's decision to switch to digital broadcasting in 2012 may create difficulties concerning access to TG4.

#### *Recommendations*

167. The Advisory Committee urges the authorities to ensure that Irish speakers throughout Northern Ireland have adequate access to Irish-language television services produced in the Republic of Ireland. Preparations are necessary to ensure that reception of the all-Ireland station TG4 is not negatively affected by the digital switch-over in 2012.

## **Scottish Gaelic broadcasting**

### *Findings of the first cycle*

168. The Advisory Committee welcomed the statement in the Government's Communications White Paper, published on 12 December 2000, that consideration will be given to the recommendations of the Gaelic Broadcasting Taskforce on the feasibility of a dedicated Gaelic television service once digital television becomes widely available.

### *Present situation*

#### a) Positive developments

169. The Advisory Committee welcomes the support given by the UK Government and the Scottish Executive to the establishment of a dedicated Gaelic digital television service, which is expected to begin operating before the end of 2007. Preparations for establishing this service, which will be run by the Gaelic Media Service (which has replaced the Gaelic Broadcasting Committee) in partnership with the BBC, are well underway. Current funding provision is sufficient to broadcast 1.5 hours of original Gaelic-language TV programming per day. This new service will significantly increase the number of hours of Gaelic language television available in Scotland.

#### b) Outstanding issues

170. The Advisory Committee understands that, when digital switch-over takes place in Scotland, the new Gaelic digital service will be available on free-to-view digital terrestrial television. However, digital switch-over is not expected until 2011, and in the meantime, access to the new Gaelic language digital service will be restricted to viewers who subscribe to a fee-paying cable or satellite television service.

171. The Advisory Committee is also aware that the long-term future of the new Gaelic channel is still not consolidated. The Gaelic Media Service's partnership agreement with the BBC will be reviewed in three to five years' time and there are concerns about the availability of funding and appropriate infrastructure beyond this period.

### *Recommendations*

172. In view of the crucial role that Gaelic broadcasting can play in ensuring a sustainable future for the Gaelic language in Scotland, the Advisory Committee urges the authorities to ensure that the Gaelic Media Service and its new digital television channel have access to appropriate funding and infrastructural support.

## **Minority ethnic communities**

### *Findings of the first cycle*

173. The Advisory Committee noted that, notwithstanding steps already taken to open up broadcasting to minority ethnic communities, representatives of these communities still identified shortcomings and called for greater diversity and opportunities in media broadcasting.



*Present situation*

## a) Positive developments

174. The Advisory Committee notes that, under the Communications Act 2003, Ofcom, the new, UK-wide communications regulator, has a duty to promote training and equal opportunities in employment by television and radio broadcasters. According to figures provided by the Government, persons belonging to minority ethnic communities made up 8.8% of the overall workforce in the field of broadcasting in 2005 (although information about their representation in senior or management positions was not made available).

175. The Government of the United Kingdom promotes a number of schemes aimed at providing greater opportunities for persons belonging to minority ethnic communities to create and use their own media. One of these schemes, the Audio-Visual Entrepreneurship Equal Project, with a budget of £3 million, has assisted over 600 beneficiaries to develop the skills, knowledge and experience they need to develop businesses in the broadcasting sector.

## b) Outstanding issues

176. Research conducted into the experience of persons belonging to minority ethnic communities in the media, particularly in print journalism, indicates that, despite the industry's efforts to attract minority ethnic journalists, the numbers remain low due to workplace structures which directly or indirectly operate as barriers to journalists from ethnic minority backgrounds entering and remaining in the profession.<sup>29</sup>

*Recommendations*

177. Efforts to encourage cultural diversity and equal opportunities for persons belonging to minority ethnic communities in the electronic media should be continued and in print journalism should be stepped up.

**Article 10 of the Framework Convention****Use of minority languages in private and in public***Findings of the first cycle*

178. In its first Opinion, the Advisory Committee found that the use of minority languages in private and in public and with administrative authorities is significantly less developed in Northern Ireland than in Wales and Scotland, and called on the authorities to reflect on how to promote further the use of Irish and Ulster-Scots in these contexts.

*Present situation*

## a) Positive developments

179. The Advisory Committee welcomes the continuing commitment of the Welsh Assembly Government to the preservation and development of the Welsh language, as indicated in the decision to launch a National Action Plan for a Bilingual Wales (the *Iaith Pawb* initiative) in 2003. The Advisory Committee notes the continued funding which the Welsh Assembly Government provides to the Welsh Language Board (see also comments under Article 5) and the

<sup>29</sup> 'Why ethnic minority workers leave London's print journalism sector', by the Working Lives Research Institute for the Commission for Racial Equality, April 2006.

latter's work helping to prepare, implement and monitor the language schemes that all designated public bodies are required to develop, of which around 350 are already in operation. The Advisory Committee also welcomes the commitment made by central government departments which provide services in Wales, although not defined as public bodies for the purpose of the Welsh Language Act, to prepare language schemes as well.

180. The Advisory Committee welcomes the coming into force of the Gaelic Language (Scotland) Act in 2005 and the establishment of the statutory body, the Gaelic Language Board (*Bòrd na Gàidhlig*), to oversee the implementation of the Act. The Advisory Committee notes that the Gaelic Language Board has recently produced a National Gaelic Language Plan which sets out the strategies and priorities for the future development of Gaelic language, culture and education. The Gaelic Language Board is also able to request Scottish public authorities to develop local Gaelic language plans, using the Welsh language scheme model, and has already done so in respect of the Scottish Executive, the Scottish Parliament and the local councils of the Western Isles, the Highlands and Argyll and Bute, where the largest concentrations of Gaelic speakers live.

181. The Advisory Committee also welcomes the Scottish Executive's preparation of a Strategy for Scotland's Languages, which covers, besides Gaelic, also Scots and the languages of Scotland's growing ethnic minority population. The draft Strategy, which is currently subject to a consultation process, identifies Scots as an important part of Scotland's cultural heritage which should be recognised, respected and celebrated. The Advisory Committee is pleased to note that, while emphasising the need to ensure that new migrants and refugees learn English, the draft Strategy aims to create a supportive environment so that speakers of languages other than English are able to maintain and develop their minority languages.

182. The Advisory Committee is pleased to note the commitment made by the Government, in the Northern Ireland (St Andrews Agreement) Act 2006, "to introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language".<sup>30</sup> The St Andrews Agreement also placed a duty on the Northern Ireland Assembly to adopt strategies setting out how it proposes to enhance and protect the development of Irish, and how it proposes to enhance and protect the Ulster Scots language, heritage and culture. The Advisory Committee understands that a draft Irish Language Bill is currently undergoing a public consultation process.

183. The Advisory Committee notes that guidance for public servants in Northern Ireland on implementing the provisions for Irish and Ulster Scots under the European Charter for Regional or Minority Languages was issued in 2005.

#### b) Outstanding issues

184. According to information received by the Advisory Committee, although it is possible to submit oral and written correspondence in Gaelic to the Scottish Executive, few Gaelic speakers are aware of this possibility and the Scottish Executive is only now beginning to develop a Gaelic language service. The possibilities for using Gaelic in relations with administrative authorities in the areas with large concentrations of Gaelic-speakers are reportedly better, but even here it is not always guaranteed.

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<sup>30</sup> Annex B, St Andrews Agreement, 13 October 2006.

185. The Advisory Committee received complaints from Scots speakers that the efforts of non-governmental organisations to promote the use of Scots in public are hindered by the lack of respect and recognition that Scots enjoys in Scottish society and public institutions.

186. Although the Advisory Committee was not able to obtain a full picture of the possibilities for using Irish in relations with administrative authorities in Northern Ireland, it understands that the situation varies considerably from council to council. The Advisory Committee refers to the findings of the Committee of Experts on the European Charter for Regional or Minority Languages, which welcomed the guidance issued to public servants on how to implement the provisions on Irish under the Charter, but concluded that greater efforts were needed to ensure its implementation.<sup>31</sup>

187. The Advisory Committee understands that the consultation document on the draft Irish Language Bill issued by the Government included a number of different models, and that there is currently disagreement as to whether the Act should follow a rights-based approach (following Ireland's example) or whether it should work on the basis of language schemes (as in Wales). Irish-language NGOs, who are strongly in favour of the former, point out that a language act based purely on consensus and cooperation would not be sufficient, given the tension which surrounds language issues in Northern Ireland.

#### *Recommendations*

188. The Advisory Committee urges the Scottish Executive and other administrative bodies that operate in areas of high concentration of Gaelic speakers to ensure the proper and timely development and implementation of their language plans, in close cooperation with the Gaelic Language Board.

189. The Scottish Executive should back up, with concrete actions, the commitment it expressed in the draft Strategy for Scotland's languages to recognise, respect and celebrate Scots as an important part of Scotland's heritage.

190. The Advisory Committee encourages the Government and Northern Ireland Assembly to ensure that the process of adopting the Irish Language Act is not dominated by political considerations and reflects as far as possible the needs of the Irish-speaking population as set out in the responses submitted to the Government's public consultation process. The Northern Ireland Assembly should adopt strategies, at the earliest opportunity, to enhance and protect, in addition to Irish, the Ulster Scots language, heritage and culture, in accordance with the commitment expressed in the 2006 St Andrews Agreement.

### **Article 11 of the Framework Convention**

#### **Bi-lingual road signs in Scotland**

##### *Present situation*

191. The Advisory Committee notes that the Scottish Executive has erected bi-lingual road signs (Gaelic/English) on the roads that lead directly to ferry ports serving the island Gaelic communities. Information received by the Advisory Committee suggests, however, that requests from local authorities in adjacent areas, which used to be inhabited by large concentrations of

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<sup>31</sup> European Charter for Regional or Minority Languages, Application of the Charter in the United Kingdom, 2<sup>nd</sup> monitoring cycle, Strasbourg 14 March 2007, ECRML(2007)2, p. 63.

Gaelic speakers, to erect bi-lingual signs on roads which connect to the ferry port roads, have been rejected by the Scottish Executive.

*Recommendations*

192. The Advisory Committee encourages the Scottish Executive to develop a more proactive approach to the issue of erecting bi-lingual road signs and to consider the possibility of erecting such signs on all major roads in Scotland which connect to the west coast ferry ports, especially where a demand for such signs has been expressed by the local authorities.

**Article 12 of the Framework Convention**

**Equal access to education**

*Findings of the first cycle*

193. In its first Opinion, the Advisory Committee identified a number of difficulties faced by children and adults from certain minority ethnic backgrounds, especially African and African Caribbean, Pakistani and Bangladeshi, in the field of education. These problems included lower attainment levels, higher school exclusion rates, lower levels of participation in higher education, and under-representation among the teaching staff. The Advisory Committee called on the Government to take steps in order to improve this situation.

*Present situation*

a) Positive developments

194. Under the Race Relations (Amendment) Act 2000, and subsequent orders adopted under this act, educational establishments in England, Wales and Scotland have, in addition to their general statutory duty to tackle racial discrimination, promote equality of opportunity and good race relations, a series of “specific duties” which include monitoring the impact of all their policies on pupils, staff and parents from different racial groups, and preparing race equality policies which explain the actions they will take in order to tackle inequalities. The Advisory Committee has received reports which suggest that important efforts have been made by schools to collect and analyse education-related data by ethnicity. It is particularly positive that, since 2003, Gypsy/Roma and Travellers of Irish heritage have been added as distinct categories within school census data, in spite of their absence from the official census categories in Britain (see comments under Article 3 above).

195. The Advisory Committee notes that providing equal opportunities for all children is identified as a priority in the United Kingdom’s cross-Government strategy to increase race equality and community cohesion, launched in 2005. Specific work launched under this strategy in England has included the expansion of childcare and nursery education, making grants available to minority ethnic pupils, boosting teaching of English as an additional language and disseminating good practice to help schools identify ways to raise the achievement of minority ethnic pupils. Schools in England are now encouraged to mainstream diversity and equality issues throughout the curriculum, rather than only within the study of Citizenship. According to the data on the achievement of pupils by ethnic community collected annually by the Department of Education and Skills (concerning England), there have been gradual improvements for all minority ethnic communities since 2003 and children from certain ethnic backgrounds, namely Chinese and Indian, continue to perform significantly better at school than their peers.

196. Although the development of policies in support of racial equality in schools has been more limited in Scotland and Northern Ireland, reflecting the relatively small size and more recent presence of minority ethnic populations in both constituent countries of the United Kingdom, efforts have also been made by the Scottish Executive and Northern Ireland administration to address this issue. The Advisory Committee notes that Citizenship education is included in Scotland's national guidelines for schools, which are currently being reformed *inter alia* to ensure that equality issues are mainstreamed into the whole curriculum. Northern Ireland is also currently engaged in curricular reforms which will see the introduction of a new subject on Citizenship (including teaching on diversity and inclusion) to be implemented from September 2007.

#### b) Outstanding issues

197. Notwithstanding the above-mentioned positive developments, the information available to the Advisory Committee suggests that improvements in the achievement levels of minority ethnic pupils have been slight and other problem areas have not been resolved. A recent report commissioned by the Government indicates that exclusion rates in England still disproportionately affect Black students<sup>32</sup> and little progress has been made in terms of improving the participation of persons belonging to certain minority ethnic communities, such as Bangladeshi women and African Caribbean men, in higher education. The Advisory Committee is concerned about reports which indicate that, while schools in England have generally made progress implementing their duty to monitor the impact of their policies, many of them have failed to identify clear goals or targets for improvement.

198. Information received from representatives of minority ethnic communities in Scotland suggest that schools in Scotland are also reacting slowly to their race equality duties, but also to the Scottish Executive's national guidelines covering citizenship, inclusion and diversity. The Advisory Committee notes that the non-prescriptive nature of Scotland's national guidelines for schools means that the problems identified by minority representatives in relation to Citizenship education in England – which is reportedly not always taken seriously by teachers - are even greater in Scotland. Schools in Scotland, particularly in rural areas, where many new migrants with poor proficiency in English are moving to, often do not have the resources nor the experience to adapt their policies appropriately.

#### *Recommendations*

199. The Government should step up efforts to support schools in taking forward the requirements of the Race Relations (Amendment) Act 2000, including by providing the necessary financial resources that may be needed to deal with the additional work required.

200. The Advisory Committee calls on the Government to provide clearer guidelines on how schools should teach Citizenship. This part of the national guidelines for schools should be made prescriptive in Scotland.

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<sup>32</sup> 'Exclusion of Black Pupils: Priority Review. Getting it. Getting it right', Department for Education and Skills, September 2006.

## **Gypsies and Travellers**

### *Findings of the first cycle*

201. In its first Opinion, the Advisory Committee found that attendance levels of Gypsy and Traveller children at primary schools, and more particularly at secondary schools and higher education, were low and called on the Government to examine how the situation could be improved.

202. Noting that the majority of primary age Irish Traveller children in Belfast are educated separately in a single school (St Mary's Primary School), due in part to concerns about the possibility of racist intimidation and bullying at other primary schools, and considering that it is in the best long-term interests of both Irish Traveller children and settled children to be educated together in an integrated environment, the Advisory Committee called on the Government to explore further how to achieve this aim.

### *Present situation*

#### a) Positive developments

203. The Advisory Committee notes that the education departments of the various United Kingdom jurisdictions continue to fund services aimed at improving educational opportunities for Gypsies and Travellers. In England, the Government continues to fund the Traveller Education Support Service set up by local authorities to help meet the needs of Gypsy and Traveller children. The Scottish Executive similarly continues its support of the Scottish Traveller Education Programme. Northern Ireland uses a system of Traveller Liaison Teachers based in each Education and Library Board, which visit and provide support to Irish Traveller pupils in their respective areas. New guidelines have been issued to schools on how to prevent and tackle bullying and research and pilot projects are being funded to encourage schools to provide distance-learning for children with interrupted schooling.

#### b) Outstanding issues

204. Statistical data suggests that the attainment levels of Gypsy and Traveller pupils continue to be the lowest of all minority ethnic communities. Many Gypsies and Travellers feel that their culture and heritage is not recognised and valued in schools and they continue to complain of bullying by their peers and discrimination from their staff. Traveller Education Services are reportedly often under-resourced and unable to meet the demands made of them. Difficulties faced by Gypsy and Traveller communities securing accommodation and high levels of unemployment (see Article 4) have a negative impact on the ability of Gypsy and Traveller children to go to school and/or take advantage of the limited facilities for distance learning that are made available.

205. The Department of Education of Northern Ireland has stated that, while it is its policy to encourage the integration of education for Traveller children and other children, there are no plans to phase out provision at St Mary's Primary School so long as there is sufficient demand for places at the school among Traveller children and parents. Instead, the school has received extensive investment of resources and, according to the Education and Training Inspectorate of Northern Ireland, this is resulting in improvements in the standards which Traveller children enrolled in this school attain.

*Recommendations*

206. The relevant authorities should step up their efforts to support the educational needs of Gypsy and Traveller children and special funding should be set aside for this purpose.

207. More strenuous efforts are needed to ensure that there is no place for bullying and racist intimidation of Gypsy and Traveller children in schools, and consideration should be given to introducing greater flexibility in the curriculum to ensure that it inspires and motivates Gypsy and Traveller children.

208. While welcoming the Department of Education's current investment into St Mary's Primary School to ensure that its teaching standards are adequate, the Advisory Committee encourages the Department of Education to find ways, in consultation with the parents of the Traveller children enrolled in this school, to move towards a more integrated solution.

**Teacher training***Findings of the first cycle*

209. The Advisory Committee noted the Government's comment during the first monitoring cycle that in Scotland there is a need for expanding initial teacher education for Gaelic-medium teaching and encourages the Scottish Executive to pursue ways to increase the supply of Gaelic medium teachers.

*Present situation*

## a) Positive developments

210. The Advisory Committee welcomes the Scottish Executive's expressed commitment to increase the availability of Gaelic medium teachers. The Committee understands that additional funding has been provided to the universities of Strathclyde and Aberdeen to increase the number of teacher-training places, and a course has been developed to assist Gaelic-speaking teachers who teach through the medium of English to transfer to Gaelic-medium teaching. A Gaelic Teacher Recruitment Officer has also been appointed by the Gaelic Language Board.

211. The Department for Education and Skills has launched a number of projects under the *Aiming High* initiative aimed at developing accredited training in England for teachers working with bilingual pupils. The Scottish Executive and Northern Ireland administration are equally beginning to invest in programmes to train teachers to teach English as an additional language.

## b) Outstanding issues

212. While recognising that the Scottish Executive's increased investment into training Gaelic-medium teachers will take time to begin producing results, the Advisory Committee notes that the shortage of teachers was highlighted in the United Kingdom School Inspectorate report of 2005 as the key obstacle to expanding Gaelic-medium education.

213. Representatives of minorities in Northern Ireland stressed the shortage of teachers of English as an additional language in their exchanges with the Advisory Committee.

*Recommendations*

214. The Advisory Committee urges the authorities to continue investing in the provision of teacher training places as a necessary step for promoting knowledge of the languages of both national minorities and the majority population.

**Article 14 of the Framework Convention**

**Languages of minority ethnic communities**

*Findings of the first cycle*

215. Noting the importance of giving adequate recognition and support to those wishing to learn their own minority language, the Advisory Committee called on the authorities to further assess the level and variety of language needs of the minority ethnic communities.

*Present situation*

a) Positive developments

216. The Advisory Committee welcomes the findings of the final report of the Dearing Review on the Government's language policy, which recommends, among other things, that more attention be given to the teaching of languages of minority ethnic communities. Noting that the linguistic diversity of England's large minority ethnic population is a national asset, the report called on the Government to review present policies in order to encourage schools to offer a broader range of languages, including the languages of minority ethnic communities.<sup>33</sup>

217. The Advisory Committee notes that the Government is currently considering proposals to remove the statutory requirement for state-maintained schools to offer a working language of the European Union to students aged 11-14, and replace it with guidance on promoting the study of widely-spoken languages, which may include Mandarin, Urdu and other widely-spoken world languages depending on local needs and circumstances. Some schools, on their own initiative, have begun to expand the provision of minority ethnic languages.

218. The Scottish Executive is preparing guidance on language teaching aimed at encouraging schools to support children from minority ethnic communities in maintaining their own first languages.

b) Outstanding issues

219. The Advisory Committee notes that the current provision of teaching in or of minority ethnic languages relies mostly on supplementary schools run by minority ethnic communities, usually on evenings or weekends. Funding opportunities for these schools are reportedly limited and vary from locality to locality.

*Recommendations*

220. The Advisory Committee considers that the authorities should make concerted efforts to promote bi-lingual and multi-lingual education, including by stepping up funding for supplementary schools, and take a proactive approach in encouraging schools to expand the provision of minority ethnic languages, in accordance with the Dearing report.

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<sup>33</sup> 'Languages Review', Report by Ron Dearing and Lid King for the Department for Education and Skills, 8 March 2007.



## **Education in and of Gaelic, Scots, Irish and Ulster-Scots**

### *Findings of the first cycle*

221. In its first Opinion, the Advisory Committee found that possibilities for receiving education in and of Welsh, Scottish-Gaelic and Irish have increased in recent years, but that further support was needed, in particular, for Irish language education. It also considered that the situation of Ulster-Scots needed to be examined.

### *Present situation*

#### a) Positive developments

222. The Advisory Committee welcomes the efforts made by the Scottish Executive to expand the provision of Gaelic-medium education, which is now available at all levels of education with improved resources and teaching materials. Whilst introducing teaching in or of Gaelic remains voluntary for schools, the Advisory Committee welcomes the proactive approach taken by local authorities in the areas with high concentrations of Gaelic speakers to create Gaelic-medium classes and schools. The Advisory Committee notes that the Gaelic Language Board's National Gaelic Language Plan includes *inter alia* a National Gaelic Education Strategy which should lead to a more consistent approach to the provision of Gaelic-medium education at local level.

223. The Advisory Committee notes that, according to the Government, twenty primary schools and one secondary school that teach through the medium of Irish are currently 100% funded by Northern Ireland's Department for Education, which also provides grants to English-medium schools which decide to establish Irish-medium units and to schools which apply to become "satellites" to the main Irish-medium schools. The Advisory Committee welcomes the Department of Education's decision to undertake a fundamental review of current policy towards the development of education through the medium of Irish, based on current and likely future demand, in accordance with the recommendations of the Bain's report.<sup>34</sup>

#### b) Outstanding issues

224. The Advisory Committee notes that, in Scotland, there is currently no right to receive Gaelic-medium education, and the provision depends on the positions taken by particular schools.

225. According to information received from representatives of Irish speakers and the Council for Irish-Medium Education, set up in 2000 to promote and facilitate Irish-medium education, government funding for Irish-medium education has not always been forthcoming, even when the school applying for the funds has met the necessary numerical threshold (12 children in a single-year intake).

226. The Advisory Committee notes that there are no Scots-medium classes in Scotland, in spite of the demands expressed by representatives of Scots speakers for the establishment of such classes.

227. Ulster-Scots speakers have repeated the calls they made during the first monitoring cycle for the introduction of teaching of Ulster-Scots in schools and other educational establishments.

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<sup>34</sup> 'Schools for the Future: Funding, Strategy, Sharing'. Report of the Independent Strategic Review of Education, December 2006, commissioned by the Government of Northern Ireland.

*Recommendations*

228. The Advisory Committee encourages the relevant authorities in Scotland and Northern Ireland to continue expanding the availability of Gaelic and Irish medium education, especially in areas where a demand for such education has been expressed.

229. Existing demand for Scots-medium classes in Scotland and for teaching of Ulster-Scots in Northern Ireland should be examined by the relevant authorities.

**Article 15 of the Framework Convention**

**Electoral representation**

*Findings of the first cycle*

230. In its first Opinion, the Advisory Committee found that the presence of persons belonging to minority ethnic communities in legislative bodies was low and considered that the United Kingdom should examine the legal, procedural and institutional barriers that may hinder minority ethnic representation in these legislative bodies.

*Present situation*

a) Positive developments

231. The Advisory Committee welcomes the support given by the Government to Operation Black Vote, a non-governmental organisation which aims to promote greater participation of Black and ethnic minorities in political life by organising internship opportunities with MPs and local councillors. The Advisory Committee also welcomes the recent announcement by the Government of a new drive to increase the number of minority ethnic councillors.

b) Outstanding issues

232. The Advisory Committee regrets that the efforts made so far to increase minority ethnic representation in elected bodies have yielded insufficient results as the proportion of minority ethnic communities in the Houses of Parliament, the devolved Assemblies and Parliaments, the Greater London Assembly and local councils, remains low.

*Recommendations*

233. The authorities are urged to examine, in close cooperation with the persons concerned, the factors that may be hindering minority ethnic representation in legislative bodies and identify further ways of encouraging greater participation of persons from minority ethnic backgrounds in electoral processes at all levels.

**Participation in economic and public life**

*Findings of the first cycle*

234. In its first Opinion, the Advisory Committee found that persons belonging to minority ethnic communities generally had higher levels of unemployment and were under-represented in a wide range of public sector services. The Advisory Committee called on the United Kingdom to continue its efforts to improve this situation.

235. The Advisory Committee also urged the United Kingdom to ensure the necessary reforms in recruitment and retention to provide an even balance of police officers from the Catholic and Protestant communities as required under the Police (Northern Ireland) Act 2000.

*Present situation*

a) Positive developments

236. The Advisory Committee welcomes the Government's efforts to tackle the unemployment gap between minority ethnic communities and the majority population (see also comments under Article 4). These efforts have focussed on ensuring that government programmes to get people into jobs meet the needs of minority ethnic communities and on improving access to education and training for persons belonging to minorities.

237. In the public sector, the Advisory Committee welcomes the particular efforts made by the Crown Prosecution Service (which operates in England and Wales) to meet targets for recruitment, retention and progression of minority ethnic staff, and notes that efforts to encourage minority ethnic recruitment into the police, in England, Wales and Scotland, have also met with some success.

238. Positive results have also been achieved in other sectors, including the field of education, where the Department for Education and Skills has worked to attract minority ethnic communities in England to the teaching profession. According to Government figures, the national target for recruiting teachers from a minority background, established at 9%, has been exceeded.

239. The Advisory Committee welcomes the progress achieved by the Police Service of Northern Ireland (PSNI) since the first monitoring cycle in terms of achieving the 50:50 ratio of Protestant and Catholic workers in its staff. According to the monitoring reports of the Equality Commission for Northern Ireland, Catholic presence in the PSNI reached 19.5% in 2006, up from 8.4% in the year 2000.

b) Outstanding issues

240. The prohibition of discrimination in the Race Relations Act and Race Relations (Northern Ireland) Order applies to all sectors of society. However, the Advisory Committee notes that current race equality duties in Great Britain and Northern Ireland (which include the duty to produce a race equality scheme) do not cover the private sector, which nevertheless is responsible for the employment of more than 75% of the work force and is an increasingly significant service provider. With regard to the Government's decision not to extend race equality duties to the private sector, the Advisory Committee notes the recommendation issued by the Commission for Racial Equality and the authors of the Equalities Review, in the context of the Discrimination Law Review, that public sector equality duties should specifically require public authorities to use procurement as a tool to achieve greater equality. The Advisory Committee understands that the Government has initiated various procurement pilots but it remains reluctant about its wider use.

241. Notwithstanding the above-mentioned initiatives by public sector bodies to promote minority ethnic recruitment, there are still important areas of public life where persons from minority ethnic backgrounds are under-represented. The judiciary has been singled out in particular in this respect, although the Government has recently initiated reforms, *inter alia* to

the system of appointing judges, aimed at increasing diversity in this field. Most public sector bodies in Scotland and Wales continue to have low proportions of minority ethnic staff.

242. The Advisory Committee regrets the persistent patterns of social and economic exclusion and structural disadvantage experienced by Gypsy and Traveller communities, including those living in settled accommodation.

243. The Advisory Committee takes note of the reports it has received concerning a higher abandonment rate among Catholics from the Police Service of Northern Ireland than among Protestants. The number of Catholics employed in the prison service of Northern Ireland is reportedly particularly low.

#### *Recommendations*

244. The Government should give careful consideration to the recommendation issued by the Commission for Racial Equality and the authors of the Equalities Review concerning the use of public procurement as a tool to achieve greater equality.

245. Public authorities in Great Britain should continue taking measures to implement their specific duties concerning recruitment, retention and progression under the Race Relations (Amendment) Act 2000, and attention should be given to the need for reforms to the appointment process of the judiciary.

246. Local authorities should adopt a proactive approach to tackling the social and economic exclusion experienced by Gypsies and Travellers living in caravans or in settled accommodation in areas under their jurisdiction.

247. The Police Service of Northern Ireland should continue its efforts to achieve a balanced representation of Catholic and Protestant officers.

### **Consultation**

#### *Findings of the first cycle*

248. In its first Opinion, the Advisory Committee noted the work being done by the Race Relations Forum established by the Home Secretary to advise him on issues affecting minority ethnic communities. Noting that a number of groups had called for representation in this Forum to be extended to them as well, the Advisory Committee considered that the Government should examine ways of ensuring wider representation, albeit through a rotation system.

#### *Present situation*

##### a) Positive developments

249. The Advisory Committee notes that, since the first monitoring cycle, the Government has developed a new, project-based approach to consultations, with time-limited project groups giving advice to the Government on specific priority issues facing minorities. One such project group is REACH, established in February 2006, to analyse and develop recommendations on how to remedy the disproportionately poor outcomes in education of Black boys and young men and their over-representation in the criminal justice system.

250. In addition to these project groups, the Government and devolved Executives organise regular public consultations before new legislation or policies are adopted as part of their duty,

under existing equality legislation, to assess the impact of their functions on race equality (see also comments under Article 4 above). The Advisory Committee notes, in this context, the recent public consultations organised by the Government of the United Kingdom on proposed legislation relating to Gypsies and Travellers.

251. The Advisory Committee welcomes the establishment of the Northern Ireland Race Equality Forum in 2004, a standing consultative committee with representation of minority ethnic communities, to monitor and review the design and implementation of Northern Ireland's Racial Equality Strategy.

b) Outstanding issues

252. The new, project-based approach to consultations of the United Kingdom Government has led to the closure of the Race Relations Forum and the Lawrence Steering Group, two standing committees of minority representatives. The Advisory Committee notes, however, that standing consultative structures can play a particularly important role in facilitating the effective participation of persons belonging to minorities in public life by providing a regular forum for dialogue between minorities and government representatives.

253. The Advisory Committee is concerned by the complaints it has received from representatives of minority ethnic communities of Muslim faith regarding the difficulties they encounter in establishing a dialogue with the Government. This sense of alienation is reported to be widespread among representatives of most sections of the Muslim population in the United Kingdom, including the Muslim Council of Britain, the largest umbrella group of Muslim organisations in the country.

254. Shortcomings in government consultation processes also seem to exist in respect of certain groups of Gypsies and Travellers. The Advisory Committee has received information about the failure of a number of local authorities in England to properly inform and consult with Gypsies and Travellers about changes introduced to the management of their sites and, in the case of two sites in London affected by the Olympic grounds, about decisions concerning their relocation.

255. According to information received from the Executives in Scotland and Wales, it has proved more difficult to consult with Gypsies and Travellers in these two constituent countries of the United Kingdom, where the Gypsy and Traveller populations are reportedly more dispersed and lack the active representative organisations that exist in England. The Advisory Committee is concerned that, according to reports it has received, the thematic sub-group on Travellers of the Race Equality Forum of Northern Ireland has met only irregularly and has not been given sufficient attention.

*Recommendations*

256. The Government should keep its new, project-based approach to consultations under review and ensure that the closure of the Race Relations Forum and other standing consultative structures has not had any detrimental impact on the opportunities for minority ethnic communities to participate in public life.

257. The Advisory Committee urges the authorities to engage with the full spectrum of opinions when they consult with minority ethnic communities. There is a clear need to step up communication and meaningful consultations with a full spectrum of representatives of Muslim communities, in order to ensure their inclusion in decision-making.

258. The Government and devolved Executives must find ways of consulting with Gypsy and Traveller populations, notwithstanding the difficulties that their dispersion across the country may represent. It is particularly important that consultations are held with Gypsy and Traveller families who are about to be evicted.

## **Articles 17 and 18 of the Framework Convention**

### **Trans-frontier contacts and co-operation**

#### *Present situation*

259. The Advisory Committee takes note of the extensive opportunities available for persons in Northern Ireland to maintain contacts with persons residing in the Republic of Ireland with whom they share a common identity.

260. The Advisory Committee welcomes the close co-operation established between the Governments of the United Kingdom and the Republic of Ireland, reinforced by the St Andrews Agreement 2006, aimed at furthering the promotion of peace and stability and the protection of human rights in Northern Ireland.

#### *Recommendations*

261. The Advisory Committee encourages the Government of the United Kingdom to continue its close cooperation with the Republic of Ireland on all matters relevant to the protection of human rights in Northern Ireland and to continue encouraging trans-frontier contacts between persons living in the Republic of Ireland and Northern Ireland.

### III. CONCLUDING REMARKS

262. The Advisory Committee considers that the present concluding remarks could serve as a basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to the United Kingdom.

#### **Positive developments**

263. Since the adoption of the Advisory Committee's first Opinion in November 2001, the authorities of the United Kingdom have introduced a number of measures which have improved the implementation of the Framework Convention.

264. Great Britain and Northern Ireland's legislation on racial equality has been strengthened in a number of ways and new legislation, protecting individuals from religious discrimination, has been introduced in Great Britain. Provisions for tackling religiously aggravated incidents have come into force and a new offence of incitement to religious hatred has been created with effect in England and Wales.

265. Public authorities throughout the United Kingdom have taken steps to strengthen equal opportunities in their recruitment practices and functions. In England in particular, public authorities and schools have made commendable efforts to collect data on the situation of minority groups.

266. In May 2007, an important power-sharing agreement was reached between Northern Ireland's leading nationalist and loyalist parties, marking the resumption of Northern Ireland's devolved Government, established in 1998 under the historic Belfast (Good Friday) Agreement.

267. The authorities of Northern Ireland have launched a *Shared Future* strategy aimed at facilitating mutual respect, understanding and cooperation between all the communities living in Northern Ireland.

268. New legislation has been adopted in England and Wales aimed at improving the availability of authorised sites for Gypsies and Travellers living in caravans.

269. The Scottish Executive has taken important steps to enhance the preservation and development of Gaelic in Scotland, following the positive example of the Welsh Assembly Government's language policies in Wales. The entry into force of Scotland's Gaelic Language Act in 2005 is particularly noteworthy.

270. The Government's commitment, enshrined in the St Andrew's Agreement of 2006, to adopt an Irish Language Act for Northern Ireland, and to enhance and protect the Ulster Scots language, culture and heritage, is a welcome development.

#### **Issues of concern**

271. Notwithstanding the efforts made to strengthen the United Kingdom's equality legislation, persons from minority ethnic communities continue to face greater difficulties than the majority population in their access to public services and employment.

272. A shortage of data on the situation of persons belonging to minority ethnic communities in Northern Ireland, Scotland and Wales hampers efforts to combat discrimination and promote racial equality in these jurisdictions.

273. In spite of efforts made to ensure equal access to education, a number of problems remain in this area, including lower achievement levels and higher exclusion rates among persons belonging to certain minority ethnic communities.

274. Hostility among the local population and the resistance of certain local authorities to improving the availability of authorised sites have contributed to the fact that many Gypsies and Travellers continue to live on unauthorised sites and face the threat of eviction.

275. Negative and inaccurate reporting by certain sections of the media on issues relating to certain minorities, in particular Gypsies and Travellers, asylum-seekers, migrant workers and Muslims, is contributing to hostile attitudes towards these groups. There has been an increase in racist and religiously aggravated incidents in different parts of the country.

276. Although important measures have been taken to combat discrimination in the conduct of law-enforcement officials, persons belonging to certain minority ethnic communities continue to be disproportionately stopped and searched by the police. There is still no specific legislation prohibiting incitement to religious hatred in Scotland.

277. Notwithstanding the efforts made to promote integration between Protestants and Catholics, housing estates and schools in Northern Ireland still tend to be split along sectarian lines.

278. Possibilities for using Gaelic in communications with administrative authorities are not sufficiently publicised and are not always guaranteed. While the provision of Gaelic-medium education has increased, it is still not sufficient to meet existing demand. The Scots language should receive greater recognition and support from the Scottish authorities.

279. In Northern Ireland, there is a lack of clarity regarding the language rights of Irish speakers and further support is required for the Ulster Scots language, culture and heritage.

280. The presence of persons belonging to minority ethnic communities in elected bodies remains low. Representatives of minority ethnic communities consider that public consultations organised by the authorities are not always effective, and do not engage with the full spectrum of opinions.

## **Recommendations**

281. In addition to the measures to be taken to implement the detailed recommendations contained in chapters I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

- Ensure that public authorities adopt a more determined approach to combating discrimination and promoting equal opportunities, including in their functions and in their employment practices;
- Pursue further efforts to collect data on the situation of persons belonging to minorities in Northern Ireland, Scotland and Wales;



- Step up efforts to support schools to mainstream equality and diversity issues throughout the curriculum; encourage the media to pursue further its actions aimed at raising awareness of and interest in the United Kingdom's multi-cultural and multi-lingual society;
- Take the necessary steps to meet the accommodation needs of Gypsies and Travellers, in consultation with the persons concerned; provide Gypsies and Travellers with greater access to support in securing the legal protection of their rights;
- Continue to direct resources to identifying and prosecuting hate crime; introduce a statutory prohibition on incitement to religious hatred in Scotland; review the use of stop and search powers to ensure that they do not discriminate directly or indirectly against persons belonging to minorities;
- Intensify efforts to promote awareness, among the two main communities in Northern Ireland, of the benefits of a more integrated approach especially to housing and education;
- Pursue further existing initiatives to protect and enhance the development of the languages and cultures of the peoples of Wales, Scotland and Northern Ireland;
- Identify further ways of encouraging full participation of persons belonging to minority ethnic communities in elected bodies; step up meaningful dialogue with the broadest possible spectrum of representatives of minority ethnic communities, both at national and local levels.