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

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### **Third Opinion on the United Kingdom adopted on 30 June 2011**

#### **EXECUTIVE SUMMARY**

The authorities of the United Kingdom have maintained a positive approach to the monitoring process of the Framework Convention. Substantial progress has been made in promoting and advancing equality of persons belonging to different minority ethnic communities, based on extensive data collection. Important steps have been taken in recent years, in particular with the adoption in 2010 of the new Equality Act. The application of this act could set new standards in combating discrimination and promoting equality in all areas of life. Participation of persons belonging to minority ethnic communities in public affairs, and in social and economic life, has improved, although inequalities persist in some areas, such as employment, housing and health care, and affect some groups in particular.

Significant efforts have been made to combat hate crime. It is, however, on the increase since the adoption of the second Opinion of the Advisory Committee. Hostility in some sectors of the majority population against groups such as Gypsies, Travellers and Roma, migrants and Muslims persist. It is sometimes aggravated by the media stirring up hostility and prejudices against these groups.

Additional measures have been taken in Scotland and Wales to promote the use of minority languages.

Additional steps should be taken to develop a comprehensive and human rights-based anti-discrimination and equality legislation for Northern Ireland as well as legislation on the use of the Irish language and activities to promote its use in public life.

The situation of Gypsies and Travellers remains of particular concern, despite measures undertaken by the authorities, in particular in the area of education. They continue to experience significant difficulties in the field of accommodation, due to a persisting shortage of adequate permanent and transit sites throughout the country, resulting in frequent evictions and sometimes in tensions with the majority population.

The authorities have decided to carry out important budgetary cuts in many areas, which are likely to have a significant impact on persons belonging to minority ethnic communities in many spheres. It is important to assess carefully the impact of budgetary stringency on minority ethnic communities.

#### **Issues for immediate action**

- **Take measures to ensure that budgetary cuts are kept at a minimum and do not have a disproportionately negative impact on the situation of persons belonging to minority ethnic communities, by means of impact assessments of ongoing and planned cuts and careful monitoring;**
- **Take more vigorous measures to meet the accommodation needs of Gypsies and Travellers; increase the delivery of sites, including by improving the coordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery and find adequate solutions to the accommodation needs of Gypsies and Travellers;**
- **Develop comprehensive legislation on the Irish language in Northern Ireland and take resolute measures to protect and implement more effectively the language rights of persons belonging to the Irish-speaking community.**

## TABLE OF CONTENTS

<b>I. MAIN FINDINGS .....</b>	<b>5</b>
Monitoring process.....	5
General overview of the implementation of the Framework Convention after two monitoring cycles .....	5
Legislative and institutional framework.....	6
Situation of Gypsies and Travellers .....	7
Combating racism and intolerance .....	7
Use of minority languages.....	8
Education.....	8
Participation .....	8
<b>II. ARTICLE-BY-ARTICLE FINDINGS.....</b>	<b>9</b>
Article 3 of the Framework Convention .....	9
Article 4 of the Framework Convention .....	12
Article 5 of the Framework Convention .....	16
Article 6 of the Framework Convention .....	21
Article 8 of the Framework Convention .....	26
Article 9 of the Framework Convention .....	27
Article 10 of the Framework Convention .....	28
Article 11 of the Framework Convention .....	30
Article 12 of the Framework Convention .....	31
Article 14 of the Framework Convention .....	34
Article 15 of the Framework Convention .....	36
Articles 17 and 18 of the Framework Convention.....	39
<b>III. CONCLUSIONS.....</b>	<b>41</b>
Positive developments following two cycles of monitoring .....	41
Issues of concern following two cycles of monitoring .....	41
Recommendations .....	42
Issues for immediate action.....	42
Further recommendations .....	43

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

**THIRD 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 23 March 2010, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during its visit to Belfast, Edinburgh, Cardiff and London from 7 to 11 March 2011.

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 monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on the United Kingdom, adopted on 30 November 2001 and 6 June 2007 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 13 June 2002 and 9 July 2008.

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. The Advisory Committee would also like to bring to the attention of state parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

## **I. MAIN FINDINGS**

### **Monitoring process**

6. The authorities of the United Kingdom have maintained a positive approach to the monitoring process of the Framework Convention. The Advisory Committee welcomes the publication of its second Opinion, jointly with the comments of the authorities, on 26 October 2007, before the Resolution of the Committee of Ministers was adopted on 9 July 2008.

7. The Advisory Committee notes with satisfaction that a number of minority representatives and organisations were consulted in the preparation of the third State Report and were invited to comment on a draft of the report. It also welcomes the fact that it received a large number of submissions from civil society organisations. Despite this, it appears that awareness of the Framework Convention still remains somewhat limited, including among persons belonging to minorities. Therefore, the Advisory Committee encourages the authorities to continue and step up the involvement of minority and other civil society actors in the monitoring process. They should also launch awareness-raising measures on minority rights and the Framework Convention.

8. The Advisory Committee welcomes the increased participation of the devolved executives of Scotland and Wales in the State Report, which contributes significantly to improving the quality of information provided. However, it notes with concern that the Northern Ireland Executive did not contribute at all to the drafting of the State Report. Consequently, the State Report lacks information from the authorities, as well as from the non-governmental side in Northern Ireland, as the lack of participation of the authorities also prevented NGOs and minority representatives from being involved in the reporting process. The authorities in Northern Ireland informed the Advisory Committee that this failure was due to a lack of political consensus in the devolved executive on minority and human rights-related issues. The Advisory Committee regrets this situation and urges the authorities in Northern Ireland to demonstrate their commitment to the goals of the Convention through full participation in the preparation of the next report. The Advisory Committee also regrets that no expert appointed in respect of the United Kingdom was elected on the list of experts eligible to sit on the Advisory Committee at the time of preparation of this Opinion and that, therefore, it could not benefit from the knowledge and insight of such an expert.

### **General overview of the implementation of the Framework Convention after two monitoring cycles**

9. Significant progress has been made in promoting and advancing equality of persons belonging to different minority ethnic communities since the second monitoring cycle. Figures indicate an overall reduction of inequalities between ethnic minority communities and the majority population in the fields of education and employment in particular. Specific efforts were made to improve the collection of evidence and data on the situation of persons belonging to minorities. Even though data collection does still not manage to capture the situation of persons belonging to all minority ethnic groups, improvements in this field have led to better needs assessment. Various public bodies and service providers have been allocated additional duties with a view to promoting equality further.

10. While very important and far-reaching steps have been taken to develop policies and the legislation in the field of equality (see remarks under paragraph 14 below), there is a need for a more rights-based approach in the efforts to promote equality and for greater awareness of human rights and of minority rights as part of human rights in society at large. Debates are

ongoing among politicians and in some media about the value of the Human Rights Act of 1999 and worrying views advocating the abolition of this act have been expressed. The negative discourse on human rights that is disseminated by some politicians can but have a detrimental impact on the promotion of equality as a whole. A parliamentary commission has now been set up to investigate the creation of a Bill of Rights for the United Kingdom and the Advisory Committee hopes that the work of this commission will result in improved protection of human rights as a whole.

11. The authorities have decided to carry out important budgetary cuts in many areas, which are likely to have a significant impact on persons belonging to minority ethnic communities. While acknowledging that the authorities need to respond to challenges posed by the global economic crisis, the Advisory Committee believes that it is important to assess carefully the impact of budgetary stringency on persons belonging to minority ethnic communities, especially those belonging to the most disadvantaged groups in society, so as to avoid jeopardising the progress achieved in the last decade in the field of equality and harming social cohesion as a whole.

12. The Advisory Committee observes that a key priority of the current Government policy is to promote decentralisation, i.e., localism, and that a Localism Bill<sup>1</sup> is currently before the Parliament. Decentralisation of decision-making is in principle better suited to local needs. Nevertheless, it is important to ensure that persons belonging to minority ethnic communities continue to have access to support, and that localism does not result in disproportionately less access to support for these persons than previously available under more centralised decision-making processes.

13. Therefore, steps should be taken to put in place institutional guarantees to ensure that the rights of persons belonging to minority ethnic communities are respected and implemented at local level. Such steps include a clear framework, implementing mechanisms and guidelines from government for linking national legislation and policy regarding minority ethnic groups with local administration mandates. They should also include sanctions for non-compliance by local authorities, where appropriate; providing redress for individuals; deepening and broadening the knowledge by local authorities and politicians of human rights and minority rights, including the Framework Convention for the Protection of National Minorities; carrying out careful and regular monitoring of how the local situation for minority ethnic communities compares with the country as a whole, as well as appropriate needs assessment; and ensuring a consistent application of the provisions of the Framework Convention throughout the country.

### **Legislative and institutional framework**

14. Important steps have been taken in recent years, in particular with the adoption in 2010 of the new Equality Act. This act harmonises and replaces many previous strands of anti-discrimination legislation, simplifying and strengthening protection against discrimination and establishing a comprehensive, cross-cutting legislative framework which covers the multidimensionality of discrimination and broadens protected characteristics. This act could prove a milestone and set new standards in combating discrimination. The Equality and Human Rights Commission, as well as the Human Rights Commissions in Northern Ireland and Scotland have continued to carry out important and laudable work in implementing the existing legislation, providing analysis and studies and raising awareness of the population. It is important to ensure that financial restrictions do not prevent them from continuing to carry out their work effectively and independently in the future.

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<sup>1</sup> The Localism Bill entered the parliamentary procedure in April 2011.

15. In Northern Ireland, it is regrettable that the legislative process seems to have stalled with regard to the preparation of a Single Equality Act, and a Bill of Rights for Northern Ireland, as well as legislation on the Irish language. The Belfast (Good Friday) Agreement of 1998 as well as the St Andrews Agreement (2006) introduced a duty for the authorities to develop and adopt such a legislation and the lack of progress on these issues, due to a lack of consensus within the devolved executive, is to the detriment of persons belonging to minorities.

### **Situation of Gypsies and Travellers**

16. Gypsies and Travellers continue to experience significant difficulties in various areas of life, and in particular in the field of accommodation. There is a persisting shortage of adequate permanent and transit sites throughout the country, resulting in unauthorised encampment, evictions and frequent tensions with the settled population. Local authorities are often reluctant to provide new sites, or refurbish existing ones. Gypsies and Travellers also experience difficulties in obtaining planning permission for private sites. Reforms are foreseen in the existing planning system, as well as in the overall system of delivery of sites, which aim at granting more competences to local authorities in decision-making concerning the accommodation of Gypsies and Travellers. It is important to ensure that this new approach does not result in local authorities deciding arbitrarily on whether there is a need for more sites and, in the longer term, in an even greater shortage of sites.

17. Gypsies and Travellers also experience disadvantages in areas such as education and access to health care. There is a persisting need for a more resolute and comprehensive approach by the authorities, including the devolved executives. Against this background, recent initiatives, such as the setting up of an inter-ministerial commission to tackle the difficulties faced by Gypsies and Travellers in England and Wales and the elaboration, in Wales, of a National Strategy for Gypsies and Travellers, are to be welcomed.

### **Combating racism and intolerance**

18. The authorities have made continued efforts to implement measures to fight all forms of racism and intolerance in society. Significant progress has taken place with regard to data collection on hate crime. This data indicates that hate crime is on the increase since the adoption of the second Opinion of the Advisory Committee, which is a cause for concern. There is a worrying level of hostility against Gypsies, Travellers, migrants and Roma, a situation that is sometimes aggravated by certain sections of the media stirring up hostility and prejudices against them and other ethnic minority communities. There has also been a steady rise in Islamophobia and in hate crime against Muslims, a rise in incidents of anti-Irish racism reported in Scotland, as well as attacks against Roma families in Belfast in 2009. This situation is a source of concern.

19. Persons belonging to minority ethnic communities indicate that they continue to be subject to significantly higher rates of stop and search than the majority population. While amendments to the Terrorism Act 2000, adopted by the authorities following the judgement of the European Court of Human Rights in *Gillan and Quinton v. UK*, are to be welcomed, stop and search powers are disproportionately used against persons belonging to some minority groups at United Kingdom ports, borders and railway stations and on the border with Ireland.

20. The ongoing cooperation and continuously improving relations between the representatives of the two main communities in the Northern Ireland Executive is encouraging; nevertheless greater efforts should be made to encourage intercultural dialogue and mutual understanding. Furthermore a lack of a long-term integration strategy for persons belonging to minority ethnic communities leaves them on the fringes of mainstream society.

### **Use of minority languages**

21. In Northern Ireland, the authorities have failed to adopt comprehensive legislation on the Irish language and the general climate is not conducive to promoting the use of this language in public life. It is regrettable that measures to promote the visibility and use of this language have often been opposed with the justification that they constitute a discrimination against other groups of the population.

22. In Scotland, progress has been made in promoting the use of the Gaelic and Scots languages, although improvements are still needed, in particular regarding the use of Gaelic in relations with local authorities and the setting up of bilingual road signs. Additional measures are also needed to support the learning of the Gaelic and Scots languages at school.

23. In Wales, significant efforts have been made to continue promoting the use of the Welsh language, especially since the adoption in 2010 of the Welsh Language Measure which confirms the status of Welsh as an official language. Further steps should be taken, however, to ensure that the Welsh language can be used more consistently in relations with the local authorities. It is important to ensure continued support for quality broadcasting in Welsh, notably through the S4C television channel.

### **Education**

24. The gaps in participation and achievements in education between students from minority ethnic communities and from the majority appear to be slowly narrowing at all levels of the education system. However, pupils belonging to some minority ethnic communities continue to have markedly lower achievement rates and higher exclusion rates.

25. Following recent changes in policies (see paragraph 12 above), it is now up to local communities and schools to decide on how they want to spend the available funds, including those which were until recently earmarked for pupils from minority ethnic communities. It is essential to ensure that the progress made towards reducing inequalities in education between minority ethnic communities' students and students from the majority population is not jeopardised by the lifting of the ring-fencing on a number of the funds previously set aside for them.

### **Participation**

26. Participation of persons belonging to minority ethnic communities in elected bodies has improved in all regions, although they are still insufficiently representative of the diversity of society. Further efforts have been made to improve the recruitment and retention of persons with a minority ethnic background in public services, in particular the police and the judiciary. These efforts remain, however, insufficient and further progress is in particular needed in order to achieve the goal of a truly multiethnic police force.

27. The authorities have continued to take measures to improve the participation of persons belonging to minority ethnic groups in socio-economic life, and to monitor improvements through extensive data collection (see remarks paragraph 9 above). However, despite the progress achieved in recent years, inequalities persist in some areas and for persons belonging to some groups, in particular in the field of employment and housing. Some recent migrants and asylum-seekers belonging to minority ethnic communities, including Roma, are facing destitution and experiencing substandard living conditions, due to a lack of access to social support and recent cuts in funds for the support of asylum-seekers.



## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

##### *Recommendations from the two previous cycles of monitoring*

28. In the previous monitoring cycles, the Advisory Committee welcomed the United Kingdom's wide interpretation of the scope of application of the Framework Convention, which extended coverage to "racial groups" as set out in the Race Relations Act (1976), i.e. to any groups present as a minority in the United Kingdom and defined by "colour, race, nationality or national or ethnic origins".<sup>2</sup>

29. However, the Advisory Committee considered that over-reliance on the "racial group" criterion, without evaluating the possible relevance of other criteria, may result in exclusions of groups that have legitimate claims to be covered. In this context, the formal non-inclusion of Scottish Gypsies / Travellers was deemed particularly problematic.

##### *Present situation*

30. The Advisory Committee observes with satisfaction that the authorities have reiterated that they will continue to apply a broad interpretation of the scope of application of the Framework Convention. It is also pleased to note that the adoption of the Equality Act (2010), which applies throughout the United Kingdom with the exception of Northern Ireland, extends interpretation of the protected characteristic of race and allows for possible future amendments so that caste may be considered as an aspect of race.

31. The Advisory Committee welcomes the ruling in the case of *K. MacLennan v./ Gypsy Traveller Education and Information Project*<sup>3</sup> recognising that Scottish Gypsies/Travellers have 'ethnic origins' within the meaning of the Race Relations Act (1976), and therefore enjoy protection of this Act and of the Framework Convention for the Protection of National Minorities.

32. The Advisory Committee is informed that Cornish organisations and individuals have continued to put forward the case for inclusion of the Cornish under the scope of application of the Framework Convention. They claim that they need additional support and legal guarantees for the development of their distinct cultural and linguistic identity.

33. It is also informed of the continued claims of representatives of Muslim communities to benefit from the protection of the Framework Convention. They underline that many of them identify primarily as members of the Muslim community rather than affiliating with a particular ethnic group or background, such as Pakistani, Bengladeshi or Somali and, as such, would like to have their distinct identity and culture as Muslims protected under the Framework Convention, in line with the principle of self-identification. The interlocutors of the Advisory Committee regretted that they were not able to engage in a dialogue with the authorities on this issue. They feel that the recognition of Jews and Sikhs as minorities protected under the Framework Convention paves the way for other groups identified by a common religious and cultural background also to benefit from the protection of the Framework Convention.

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<sup>2</sup> This approach has allowed a wide range of groups - including minority ethnic communities -, the Scots, Irish and Welsh, Sikhs, Jews, Gypsies and Irish Travellers as well as Roma - to receive protection under the Framework Convention.

<sup>3</sup> *Mr K MacLennan v./ Gypsy Traveller Education and Information Project*, S/132721/07

34. The Advisory Committee reiterates its view that, although the scope of application defined by the authorities of the United Kingdom is wide, the continued over-reliance on the “racial group” criterion may result in *a priori* exclusions from the scope of application of the Framework Convention of groups that have legitimate claims. Therefore, it finds that the authorities should seek to engage in dialogue with persons identifying with groups currently not covered by the Framework Convention to evaluate their claims, bearing in mind the right to free self-identification guaranteed by Article 3.1 of the Framework Convention.

#### *Recommendations*

35. The authorities are invited to reflect on adopting a more flexible approach to the criteria used to determine the scope of application of the Framework Convention.

36. The Advisory Committee also invites the Government to give due consideration to the claims for recognition under the Framework Convention raised by representatives of the Muslim community, and possibly other groups, and to engage in a dialogue with them.

### **Census categories**

#### *Recommendations from the two previous cycles of monitoring*

37. In the previous monitoring cycles, the Advisory Committee welcomed the fact that the authorities of the United Kingdom had embarked on an extensive review, including wide-ranging consultations with representatives of minority ethnic communities, of questions relating to the ethnic identity of census respondents. It noted, however, that concerns had been expressed about potential inadequate population estimates for some minorities, including new migrants, and also encouraged the authorities of the United Kingdom to consider proposals from other groups, including the Cornish.

#### *Present situation*

38. The census was carried out on 27 March 2011 on the basis of distinct questionnaires specifically prepared for each respective jurisdiction. The Advisory Committee is pleased to note that many significant developments were included in the form as a result of the extensive preparatory consultations carried out in recent years by the authorities. The Advisory Committee also recognises the efforts made by the authorities in the preparation of this census, such as the development of the Census Community Liaison Programme and the establishment of a Census Advisory Group, to develop effective strategies to allow for accurate reporting of statistics relating to various minority ethnic groups.

39. The Advisory Committee warmly welcomes the inclusion of a national identity tick box allowing for respondents to self-identify as British, English, Scottish, Welsh, Northern Irish and Irish (in Northern Ireland) and /or by indicating another national identity, thereby allowing for declaring multiple national identities. Furthermore, the ethnicity question in the 2011 Census has also been expanded to include, among others, Gypsy / (Irish) Traveller (in Scotland); Arab (in England, Scotland and Wales); and Polish (in Scotland). The Advisory Committee also commends the introduction, in Scotland, of a question on ethnicity which relates to the geographical origin of persons belonging to some minority groups.<sup>4</sup>

40. The inclusion in the 2011 census of a general question concerning language proficiency is to be welcomed as an opportunity to garner useful information to help meet the linguistic needs of persons belonging to minority communities. In England, Wales and Northern Ireland,

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<sup>4</sup> Groups now referred to as «African, African Scottish» and «African British». There is also a possibility to identify as “Black”, “Black Scottish” or “Black British”.

respondents were able to nominate their main language, if this is not English (or Welsh in Wales), as well as indicate their proficiency in English. In Scotland, respondents were invited to indicate any language other than English that is used in the home. Furthermore, in Northern Ireland and Scotland, respondents were asked to indicate their proficiency in Irish and Ulster Scots or Scottish Gaelic and Scots respectively. This is another commendable development. Against this background, the Advisory Committee believes that the authorities in Northern Ireland should make every effort to ensure that the census results are not used to further politicise the language issue (see also remarks under Article 5 and 10 below).

41. However, the Advisory Committee notes concerns expressed by various minority representatives that the census would not accurately reflect the numbers of people belonging to certain communities, in particular new migrants from Central and Eastern Europe, Gypsies and Travellers and Irish.

42. Cornish representatives have criticised the decision not to include in the census a separate tick box for the Cornish national identity in spite of the increasing trend among the community, according to these representatives, to self-identify as Cornish.

#### *Recommendation*

43. The Advisory Committee invites the authorities to continue research and consultation that will allow for effective strategies and expanded and adapted enumeration procedures to be developed for future censuses, so as to ensure accurate data collection, in line with the principles of Article 3 of the Framework Convention and internationally recognised data protection standards.<sup>5</sup>

### **Respect for the right to free self-identification in Northern Ireland**

#### *Recommendations from the previous cycles of monitoring*

44. In previous monitoring cycles, the Advisory Committee reminded the authorities that the possibility for employers in Northern Ireland to determine the community background of employees in cases where no information was provided in the context of work force monitoring was understandable in the specific context of Northern Ireland, but was nonetheless a restriction on the right to free self-identification. It should therefore be subject to regular review.

#### *Present situation*

45. The Advisory Committee underlines the importance that workforce monitoring has had in supporting fair participation of under-represented groups in employment. While research conducted by the Equality Commission for Northern Ireland would appear to demonstrate a “steady and consistent convergence of the workforce”<sup>6</sup>, it is nonetheless, according to different interlocutors of the Advisory Committee, too early to conclude that workforce monitoring, including through the subjective determination of community background by employers, should be reduced or brought to an end. The Advisory Committee reiterates, however, that this practice impinges on the right to free self-identification of the persons concerned as guaranteed by Article 3.1 of the Framework Convention. It should therefore be carefully monitored and reviewed against progress made in the field of equal opportunities in the labour market. As progress continues, workforce monitoring could be mainstreamed and expanded to include

<sup>5</sup> See: Committee of Ministers' Recommendation No. (97) 18 and the Council of Europe Convention ETS 108 concerning the protection of personal data collected and processed for statistical purposes as well as the recommendations of the United Nations Economic Commission for Europe prepared in co-operation with the Statistical Office of the European Communities.

<sup>6</sup> Equality Commission of Northern Ireland, Monitoring Report No. 20, 17 October 2010.

persons belonging to minority ethnic communities as a means of assessing equality of opportunity in the labour market for these persons as well.

46. The Advisory Committee also understands that the affiliation with either of the two main communities (Catholic and Protestant) continues to be referred to frequently in many aspects of daily life, even though this affiliation often goes beyond religious belief and the terminology used is therefore not adequate. Moreover, it was informed that the lack of affiliation with one of the two communities, in particular for persons belonging to minority ethnic communities, results in disadvantages in various areas, such as participation in public affairs and the support for language and culture. Against this background, the Advisory Committee draws the attention of the authorities to the self-identification categories (such as citizenship or national identity) that were recently introduced in the 2011 census. Data collected under these new categories could also help better analyse the situation of under-represented groups (including minority ethnic communities) in employment and other fields in the future, while fully respecting the right to free self-identification protected under Article 3.1 of the Framework Convention.

#### *Recommendations*

47. The authorities should continue to review regularly the duty for employers to determine the community background of their employees in the context of work force monitoring against its relevance to the objective of securing equality in the field of employment. They should also consider including persons belonging to minority ethnic communities in workforce monitoring, while fully respecting the right to free self-identification.

48. The Advisory Committee also encourages the authorities to build on the criteria introduced in the 2011 census and start using identification criteria other than community/religious background so as to obtain more accurate data on the population as a whole.

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

#### **Legislative and institutional developments in anti-discrimination in Great-Britain**

#### *Recommendations from the two previous cycles of monitoring*

49. In the previous monitoring cycles, the Advisory Committee welcomed adoption of the Equality Act in 2006, as well as the initiation of a Discrimination Law Review with a view to creating a more simplified and coherent framework for the protection against discrimination. However, concerns were also expressed about the resources and support given to combating discrimination in the context of the newly established Equality and Human Rights Commission.

#### *Present situation*

50. The Advisory Committee welcomes the adoption by the Government of the United Kingdom of the Equality Act (2010) on 6 April 2010. This Act harmonises and replaces many previous strands of anti-discrimination legislation, simplifying and strengthening protections and establishing a comprehensive, cross-cutting legislative framework, addressing a number of inconsistencies in anti-discrimination legislation identified previously by the Advisory Committee and the European Commission against Racism and Intolerance.<sup>7</sup> The Advisory Committee warmly welcomes the positive action provisions in the new Equality Act.<sup>8</sup> These

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<sup>7</sup> See European Commission against Racism and Intolerance, Fourth Report on the United Kingdom, adopted on 2 March 2010.

<sup>8</sup> Which entered into force in April 2011.

provisions allow proportionate action to be taken to encourage or enable persons with protected characteristics to overcome a disadvantage for reasons connected to that protected characteristic.

51. The Advisory Committee also considers that the inclusion of a multiple discrimination provision in the Act is a significant development. Whereas the Government has postponed enactment of this provision pending further consideration, the Advisory Committee notes with satisfaction that the Employment Appeals Tribunal expressed the view that employees are protected from multiple discrimination by the existing legislation.<sup>9</sup>

52. The Advisory Committee also considers as a significant positive development the new public sector equality duty contained in the Equality Act. Public bodies (and private bodies with respect to any public functions they may carry out) will now be legally obliged to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity, and foster good relations. The Advisory Committee expects that the authorities will consider measures to ensure the implementation of this part of the Equality Act in the near future.

53. Considering the major role played by the Equality and Human Rights Commission (EHRC) and the fact that it embodies the multidimensionality of discrimination and the intersection between equality and human rights, the Advisory Committee deeply regrets the sweeping cuts imposed on the EHRC, noting that its budget will have diminished by 68% by 2015 and that staffing levels will be reduced from 460 to 200 within 12 months. The Advisory Committee is concerned that such drastic cuts could severely undermine the ability of the EHRC to carry out its task effectively and independently.

#### *Recommendations*

54. The Advisory Committee encourages the authorities to promote a full and effective implementation of the new Equality Act, as well as monitoring of its implementation.

55. The Advisory Committee calls on the authorities to consider carefully the scale and impact of the proposed cuts on the Equality and Human Rights Commission and urges them to ensure that the Commission has all necessary resources to carry out its functions effectively and independently.

### **Efforts to ensure full and effective equality**

#### *Recommendations from the two previous cycles of monitoring*

56. In the previous monitoring cycles, the Advisory Committee observed developments such as the adoption of Race Equality Schemes across the UK. Nevertheless, persons belonging to minority ethnic communities continued to face considerable inequalities in the fields of health and employment.

#### *Present situation*

57. The Advisory Committee welcomes the continued efforts of the authorities to promote equality in all areas of life, including employment, education, housing and access to health care (see remarks under Article 15 below), through comprehensive strategies, such as the Racial Equality Strategy in Northern Ireland, the strategy to tackle racial inequalities in England and Wales and the Fund for Tackling Race Inequalities set up to implement this strategy, as well as the Race Equality Scheme for 2008-2011 in Scotland. The Advisory Committee expects that the authorities will continue to allocate sufficient funding for the implementation of these strategies.

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<sup>9</sup> See *O'Reilly v. BBC*, case no 2200423/2010 of 10 January 2011 and *C. and Khan v. Ghafour t/a Go Go Real Estate*, case no.1809595/09 of 2 July 2010.

Furthermore, monitoring of their impact and monitoring of equality in various areas of life is well advanced in the United Kingdom, although there remain inconsistencies and lack of data in some areas. Therefore, the Advisory Committee is pleased to learn that the Government and the devolved administrations continue to work on ways to improve and complement data collection.

58. The Advisory Committee notes with concern that recently arrived migrants and asylum-seekers belonging to minority ethnic communities, including Roma, frequently face destitution and substandard accommodation, even homelessness. Many of them have limited access to social support in case of unemployment. Information brought to the attention of the Advisory Committee indicates that some Roma migrants in particular do not have access to social services due to a lack of familiarity with the system in place and reluctance to approach the authorities. Migrant women whose situation depends on the status of their husband are particularly vulnerable to poverty. While acknowledging that the authorities have made efforts to tackle these problems, particularly in Scotland where asylum-seekers still have access to support upon arrival, the Advisory Committee deplors the recent cuts in provision of support to asylum-seekers in England, Wales and Northern Ireland. The Advisory Committee believes that the authorities should consider adopting measures to address the situation of migrants who slip through the social protection net and avoid cases of destitution and homelessness.

59. Difficulties faced by Gypsies and Travellers throughout the United Kingdom in the areas of employment, education (see remarks under Article 12 below), health care (see remarks under Article 15 below) and accommodation (see remarks under Article 5 below) are also a source of concern for the Advisory Committee. While commending the efforts undertaken and results achieved by the authorities in this field, the Advisory Committee is concerned by the argument sometimes put forward by the authorities that taking specific measures to improve the situation of Gypsies and Travellers, particularly in the field of housing, discriminates against persons belonging to the majority population (see also remarks under Article 5 below). The Advisory Committee appreciates that, in the case of Dale Farm,<sup>10</sup> the local authorities and politicians have followed a twin-track approach, seeking to enforce the law while pursuing dialogue in consultation with representatives of local Travellers in order to avoid forced eviction. However, the authorities also informed the Advisory Committee that equality under the law of the United Kingdom is to be understood as formal equality before the law, and not as providing additional rights for minorities. The Advisory Committee reiterates its view that such an understanding of special measures for disadvantaged minority groups is not in line with the principles of Article 4.2 and Article 4.3 of the Framework Convention and does not take into account the undertaking by States Parties in this article to adopt, where necessary, adequate measures to promote full and effective equality.<sup>11</sup>

60. In the context of the current financial climate, the Ministry of Justice launched a consultation on a possible reform of legal aid provision in England and Wales. While the proposal to retain discrimination cases within the scope of legal aid is to be welcomed, the Advisory Committee is concerned by the proposal to withdraw support for legal representation in a number of instances, such as before the Employment Tribunal and the Special Education Needs and Discrimination Tribunal, and in a number of issues relating to immigration such as for the granting of leave to remain, entry clearance, citizenship and travel documents and issues of family or private life. This could have an overwhelmingly disproportionate impact on persons belonging to some minority ethnic communities, particularly migrants and Roma, Gypsies and Travellers.

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<sup>10</sup> The Advisory Committee visited the Dale Farm encampment during its visit to the United Kingdom in March 2011.

<sup>11</sup> See Explanatory Report on the Framework Convention for the Protection of National Minorities.

*Recommendations*

61. The Advisory Committee encourages the authorities to continue implementing strategies to promote equality in all areas of life and on all characteristics relating to minority ethnic communities protected under the Equality Act, and to allocate sufficient financial support for their implementation. The authorities should also continue to monitor carefully equality outcomes, in close consultation with representatives of minority groups and in full respect of international standards in the field of personal data collection.<sup>12</sup>

62. The authorities should raise awareness in society that developing special measures to improve the situation of persons belonging to disadvantaged minority groups, such as Gypsies and Travellers, should not be considered as discriminating against the majority population, in line with Article 4.2 and Article 4.3 of the Framework Convention.

63. The Advisory Committee urges the Government to give serious consideration to the possible impact on persons belonging to minority ethnic communities, including Gypsies, Travellers and Roma, of the proposed reforms to legal aid.

64. The authorities should pay particular attention to the situation of migrants and asylum-seekers belonging to minority ethnic communities and take measures to eliminate destitution and avoid homelessness among these persons.

**Anti-discrimination and equality in Northern Ireland***Recommendations from the two previous cycles of monitoring*

65. In the previous monitoring cycles, the Advisory Committee noted the inconsistencies between British and Northern Irish legislation that added further complexity in the legislative framework for combating discrimination. In this context, the Advisory Committee welcomed the commitment in the St Andrews Agreement for all parties to work towards rapidly fulfilling longstanding objectives to adopt a Single Equality Act for Northern Ireland and a possible Bill of Rights for Northern Ireland.

*Present situation*

66. Despite the commitment undertaken in the St Andrew's Agreement, no progress has been made towards adopting comprehensive equality legislation for Northern Ireland, which is a source of concern for the Advisory Committee. Existing legislation in Northern Ireland remains complex and piecemeal. Consolidated legislation, such as that adopted in Great-Britain, is needed to put an end to the significant discrepancies and inconsistencies that exist between the different jurisdictions.

67. The Advisory Committee notes with interest that the Government led a consultation on the possible aims and content of a Bill of Rights for Northern Ireland. However, it understands with regret that no significant progress has been made towards adoption of such a bill.

68. The Advisory Committee is also concerned about reports regarding the manner in which "Operation Gull", a form of immigration control at Northern Ireland ports and airports and along the border with Ireland on passengers travelling within the Common Travel Area,<sup>13</sup> is being conducted. As the State Report contained no information relating to the implementation of the Framework Convention in Northern Ireland, no detailed statistics are available on the implementation of this programme. Nevertheless, information brought to the attention of the

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<sup>12</sup> See footnote 5.

<sup>13</sup> The Common Travel Area is a passport-free zone that comprises the islands of Ireland, Great Britain, the Isle of Man and the Channel Islands.

Advisory Committee raises serious concerns of racial profiling targeting in particular persons belonging to some minority groups (see also remarks under Articles 17-18 below).

69. The Advisory Committee is pleased to note that progress continues to be made in efforts to achieve full and effective equality between Protestants and Catholics in the field of employment in Northern Ireland (see also remarks under Article 3 above). Positive measures to increase participation of persons belonging to the Irish community in the police force have led to a marked improvement of participation of members of that community in the work force in line with Article 4.2 and Article 4.3 of the Framework Convention (see also remarks under Article 15 below).

70. The Advisory Committee notes with concern that the budget of the Northern Ireland Human Rights Commission (NIHRC) will be cut by 25% from 2013. It should be recalled that the NIHRC is an important part of the institutional architecture of the Belfast (Good Friday) Agreement and that it continues to play a major role in promoting respect for human rights. The NIHRC must therefore have the necessary resources to continue to carry out its tasks effectively.

#### *Recommendations*

71. The Advisory Committee urges the authorities to adopt harmonised, comprehensive anti-discrimination legislation for Northern Ireland in order to put an end to the disparity in protection against discrimination that exists between Northern Ireland and Great-Britain. It also calls on the authorities to resume progress towards adoption of a Bill of Rights, reflecting the particular circumstances of Northern Ireland.

72. Every effort should be made to ensure that the Northern Ireland Human Rights Commission has the necessary resources to carry out its duties effectively and independently.

73. The authorities should review the manner in which immigration controls are carried out in ports, airports and along the border with Ireland, so as to avoid any racial profiling of persons belonging to some minority groups.

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

#### **Preservation and promotion of minority cultures and languages**

##### *Recommendations from the two previous cycles of monitoring*

74. In the previous monitoring cycles, the Advisory Committee invited the authorities to ensure that adequate funding opportunities were provided for the initiatives of minority ethnic organisations aimed at maintaining and developing minority languages and cultures.

##### *Present situation*

75. The Advisory Committee notes that the new policy of the government emphasises the need to reduce public deficits and to cut on a number of expenditures. It also promotes localism (see also remarks in paragraph 12 above), a policy that devolves significant powers to local authorities, including in the allocation of funds for different needs, including to those of persons belonging to national minorities. Against this background, the Advisory Committee notes with concern that many of the representatives of minorities with whom it met are worried about the potentially disproportionate impact of budgetary cuts on the sustainability of activities for the promotion of minority cultures and languages. Their concern is caused on the one hand by the position of minorities in society in general and the fact that it is more difficult for them to convince local authorities to allocate funding to meet their needs, especially for persons facing social exclusion, such as Gypsies and Travellers. On the other hand, the lifting in a number of



cases of earmarking for some of the funds previously allocated to persons belonging to minority ethnic communities also raises concerns that the latter could be left with very limited access to public support. In this context, the Advisory Committee reiterates its view that it is important to ensure that local authorities fully implement minority rights and their obligations resulting from the Framework Convention.

76. Moreover, interlocutors of the Advisory Committee regret that impact assessment of budgetary restrictions on minority needs seems often not to have been carried out. This lack of assessment is, reportedly, often connected with a lack of data on the situation of some minorities in certain areas of life. Against this background, the Advisory Committee notes with satisfaction that some assessments of budgetary restrictions on the situation of persons belonging to minority ethnic communities have been made, for instance by the Welsh authorities. It also welcomes the publication by the Equality and Human Rights Commission Scotland of guidance to assess adequately the impact of financial decisions which might have a disproportionate impact on persons belonging to minorities and the dissemination of this guidance through the public service in Scotland.

77. The Advisory Committee is concerned by plans that have been under preparation since 2009 by the North South Ministerial Council<sup>14</sup> relating to Northern Ireland to reconfigure core support for activities aimed at preserving and promoting the Irish language and culture, including funds distributed so far through the Irish Language Agency (*Foras na Gaeilge*).<sup>15</sup> The Advisory Committee is also informed of the concerns of various stakeholders relating to the intention expressed by the authorities of Northern Ireland to promote the Irish and Ulster Scots languages and cultures on an equal footing, whereas speakers of the two languages have very different needs. The Advisory Committee has been made aware of instances where funding for Irish language provision has been refused on the basis that identical funding could not be provided for Ulster Scots language (see also remarks under Article 4 and Article 10).

78. Additionally, the Advisory Committee is concerned that most of the attention and efforts of the authorities continue to be directed at the two main communities, Catholics and Protestants. The needs in terms of preservation of cultures and languages of persons belonging to minority ethnic communities are reportedly not adequately catered for. In this context, restrictions in the funding allocated for the support of these persons, notably through the Minority Ethnic Fund, could also have a disproportionate effect on them.

79. In Scotland, the Advisory Committee welcomes the fact that the authorities have continued to provide support to a number of minority organisations and projects targeting minorities through different funds, such as the Fairer Scotland Fund. However, interlocutors of the Advisory Committee regret that most of the funds available for minority organisations are either directed at projects implemented in geographically concentrated minority communities, or allocated to local authorities. As a result, organisations targeting communities which are not geographically concentrated have reportedly less access to funds. Additionally, claims have been made that decisions on the allocation of funding are not always inclusive enough and that it remains difficult for smaller organisations to access shrinking sources of funding.

80. Interlocutors of the Advisory Committee in Scotland, England and Wales have underlined that the current streams for access to subsidies for activities aimed at supporting minority cultures tend to leave aside persons belonging to some minority communities, such as persons belonging to the Irish minority and migrants from Eastern European countries.

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<sup>14</sup> The North South Ministerial Council was established following the 1998 Belfast (Good Friday) Agreement. It involves representatives of the executive of both parts of the island with a view to exchanging information and developing cooperation.

<sup>15</sup> *Foras na Gaeilge* was established following the 1998 Belfast (Good Friday) Agreement. It is responsible for promoting the Irish language throughout the island of Ireland.

Representatives of the Irish minority in particular claim that they have limited access to support for cultural activities. The Advisory Committee is of the opinion that there is a need for further development of adequate mechanisms to ensure that the needs of all minorities are adequately identified and met.

*Recommendations*

81. The Advisory Committee calls on the authorities to evaluate carefully the impact of budgetary cuts on the preservation and promotion of minority languages and cultures, in close cooperation with representatives of the groups concerned, to ensure that they are not disproportionately affected by budgetary stringency. The authorities should also ensure that local authorities respect their obligations pertaining to the protection of minority rights.

82. Adequate mechanisms should be put in place to ensure that the needs of all persons belonging to minorities, including minority ethnic communities in Northern Ireland, are duly taken into account when allocating support.

83. The Advisory Committee also calls on the authorities to develop and implement measures to promote the use of the Irish and Ulster Scots languages in Northern Ireland, in close cooperation with representatives of the groups concerned and based on adequate needs analysis.

**Traditional lifestyle of Gypsies and Travellers  
and meeting their accommodation needs**

*Recommendations from the two previous cycles of monitoring*

84. In the previous monitoring cycles, the Advisory Committee invited the authorities in England and Wales to comply with the Housing Act of 2004 and ensure greater availability of sites, while fully involving Gypsy and Traveller representatives in ongoing needs assessments in the field of accommodation.

85. Both the Scottish and Northern Ireland executives were also invited to improve the availability of sites, by respectively introducing statutory obligations to address the needs in this field and allocating more funds for the development of suitable accommodation.

86. The Government and devolved executives were urged to take due account, when planning evictions from unauthorised sites, of the number and quality of alternative Gypsy/Traveller sites in the region.

*Present situation*

87. The Advisory Committee notes with deep concern that, despite the efforts made in certain regions, Gypsies and Travellers continue to face substantial difficulties in the field of accommodation. The Advisory Committee received extensive information indicating that progress in providing both permanent and transit sites has been very limited since its second Opinion was adopted and that, in general, local authorities have failed to deliver and/or refurbish sites in accordance with previous needs assessment. In all of the regions that the Advisory Committee visited, it found out that resistance by local authorities, reflecting also attitudes in the majority population, is a major obstacle to the provision of new sites and that, where a need to provide sites has been identified, the authorities often do not take steps to meet this need. Moreover, it understands that, whereas public funds and financial incentives are available in all regions for local authorities to build new sites or refurbish existing ones, they are often underused.

88. While the Advisory Committee is aware that there is a shortage of land in some regions, it is worried by the difficulties facing Gypsies and Travellers in all regions of the United Kingdom when seeking to obtain planning permission for private sites, bearing in mind in particular that Gypsies and Travellers are encouraged to develop private sites as an alternative to publicly run sites. It is of the opinion that planning rules should be applied in a manner that fully takes into account the specific needs of Gypsies and Travellers and that does not lead to discriminatory treatment in practice.<sup>16</sup>

89. In this respect, the Advisory Committee is concerned by proposals contained in a new Planning Policy for Travellers' Sites covering England, on which consultation is currently being carried out. Its expressed aim to introduce more fairness in the system of planning applications is based on the assumption that Gypsies and Travellers are unduly privileged in planning procedure. The Advisory Committee wishes to emphasise that, as mentioned in paragraphs 87 and 88 above, Gypsies and Travellers, according to many interlocutors, face disadvantages in the planning process rather than privileges and that many difficulties and conflicts stem from the lack of authorised sites and not from Gypsies and Travellers being unduly privileged by the system (see also remarks paragraph 59 above). This policy also aims at making it more difficult to grant planning permission retroactively and at strengthening enforcement powers of local authorities. The Advisory Committee is of the opinion that granting retroactive planning permission has often allowed the authorities to solve accommodation problems without having to make use of eviction procedures, which have a demeaning impact on the persons concerned, in particular on women. Additionally, interlocutors of the Advisory Committee indicated that in cases of evictions from unauthorised sites, Gypsies and Travellers are often not provided with adequate alternative accommodation and are therefore forced to stop illegally on the roadside.

90. Other important elements contained in the draft Planning Policy for Travellers' Sites mentioned above, as well as in the Localism Bill, are of concern to the Advisory Committee. These include the planned suppression of Regional Spatial Strategies whose aim was to coordinate local planning issues with wider-ranging national policy goals. While understanding that these strategies were not always easy to design and implement, the Advisory Committee is concerned that, should this provision come into force, it would leave it entirely up to local councils to take decisions concerning the accommodation needs of Gypsies and Travellers. Additionally, the new Planning Policy foresees the suppression of guidance for the authorities on how they assess the needs for sites, as well as the existing imposition of targets for site building. Bearing in mind the findings described above on the strong resistance of many local authorities, as well as the majority population locally, to provide sites for Gypsies and Travellers, the Advisory Committee observes with concern that this policy might result in local authorities deciding arbitrarily on whether there is a need for more sites and, in the longer term, in an even greater shortage of sites and possibly more tensions between local communities.

91. The Advisory Committee welcomes the entry into force on 30 April 2011 of amendments to the Mobile Homes Act of 1983, providing security of tenure for caravans on local authority sites in England.<sup>17</sup> The Advisory Committee expects that this new legislation will also apply to Wales (see also remarks in paragraph 93 below).

92. In Scotland, the Advisory Committee is aware that there is, as in other regions, a large gap in site provision as local authorities, who are responsible for site provision and management are mostly not complying with their duties, despite efforts made by the Scottish executive to

<sup>16</sup> For example, the Advisory Committee was informed by solicitors in Scotland that 80% of the planning permission requests concerning Gypsies and Travellers are usually rejected, while the rejection rate for persons belonging to other population groups stands at around 20%.

<sup>17</sup> See also judgment of the European Court on Human Rights: *Connors v. United Kingdom*, Application N° 66746/01, final judgment of 27 August 2004.

assist them in this field. Various interlocutors of the Advisory Committee have also underlined an overall lack of comprehensive, coordinated approach to housing and related problems facing Gypsies and Travellers. Additionally, the sites that are available are reportedly often not suitable. Therefore, the Advisory Committee welcomes the preparation by the authorities of new guidelines for site management and refurbishment. It expects that Gypsies and Travellers will be effectively consulted in this process. It also notes with interest that the authorities of Aberdeen and region have elaborated a strategy to deal with unauthorised encampment so as to defuse tensions between Gypsies and Travellers and the majority population (see also remarks under Article 6 below). The Advisory Committee regrets, however, that in Scotland, caravans are still not recognised as homes and it hopes that the necessary legislation will be developed to fill in this gap.

93. The Advisory Committee notes with satisfaction that the Welsh executive is about to complete a national strategy for Gypsies and Travellers aiming at providing a more integrated approach to housing and other difficulties facing Gypsies and Travellers.<sup>18</sup> It expects that this strategy, once adopted, will contribute to filling in the existing gap in the field of sites. It also welcomes the fact that since 2010, the executive can place a duty on local authorities to deliver new sites. As far as security of tenure of caravans is concerned, the Advisory Committee hopes that the Welsh authorities will take the necessary measures so as to ensure that the above-mentioned amendments to the Mobile Homes Act of 1983 (see paragraph 91 above) also apply to Wales.

94. In Northern Ireland, the Advisory Committee welcomes the forthcoming entry into force of the new Caravan Bill which provides permanent security of tenure for caravan dwellers on all sites in Northern Ireland. However, the Advisory Committee is concerned by the fact that the Housing Executive, which is in charge of providing additional sites, has reportedly not met the objectives, identified in repeated needs assessment, in terms of setting up of sites. The need for the Housing Executive to obtain licenses from local councils in order to deliver new sites seems to be one of the reasons for this lack of delivery.

### *Recommendations*

95. The Advisory Committee urges the authorities at national and regional level to take far more vigorous measures to meet the accommodation needs of Gypsies and Travellers. In doing so, the authorities should develop further gender-sensitive and comprehensive strategies, in close consultation with Gypsies and Travellers, in particular women belonging to these communities, that duly take into account their other needs (see also remarks under Article 4 above). They should also improve the coordination of the different levels of authorities involved in sites delivery. Regular monitoring of the accommodation needs of Gypsies and Travellers should be pursued.

96. The authorities should also ensure that local authorities respect rights protected under the Framework Convention and provide adequate sites for Gypsies and Travellers, so as to enable them to preserve their culture and traditional way of life in line with Article 5 of the Framework Convention. Training should be offered to local authorities on the specific needs of Gypsies and Travellers so as to develop awareness and leadership at local level on these issues. The authorities should in particular raise awareness that developing special measures to improve the situation of Gypsies and Travellers should not be considered as discriminating the majority population.

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<sup>18</sup> The National Strategy for Gypsies and Travellers has, at the time of adoption of this Opinion, not yet been formally adopted by the Welsh Government. It is in a process of consultation.

97. The Advisory Committee urges the authorities to take measures, including as part of the new Planning Policy Strategy, to ensure that planning permission for caravan sites is granted in a way that duly takes into account the specific needs of Gypsies and Travellers and results in an increase in the availability of sites.

98. The authorities should also make sure that adequate alternative accommodation is provided in case of eviction that meets the needs of the persons concerned. Additional measures should be taken in Scotland and Wales to provide Gypsies and Travellers living in caravans with adequate security of tenure.

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

### **Fighting racism and intolerance**

#### *Recommendations from the two previous cycles of monitoring*

99. In the previous monitoring cycles, the Advisory Committee recommended that the authorities 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.

#### *Present situation*

100. The Advisory Committee notes with satisfaction that the authorities have continued to implement measures to fight against intolerance, promote mutual respect and value diversity in society. In Scotland, the “One Scotland Campaign” has been implemented as a result of the Race Equality Statement for 2008-2011, outlining the priorities of the Scottish Executive in this field. In Wales, the programme “Getting on together” launched by the Welsh Assembly Government aims at improving dialogue between Muslims and non-Muslims and the authorities adopted the ‘One Wales’ commitment to cultural diversity, pluralism and inclusion. A cross-Government task force was set up in 2008 to combat anti-Semitism, based on an All-Party Parliamentary Enquiry on anti-Semitism and subsequent evaluations have indicated that it had a positive impact on the fight against anti-Semitism. The Advisory Committee is of the view that this could be used as a model to tackle other forms of racism, such as Islamophobia (see remarks below). The Advisory Committee particularly values programmes directed at youth, including various projects to tackle bullying against pupils belonging to minority ethnic communities at school that are being implemented, in particular in Wales (see also remarks under Article 12 below).

101. Despite these commendable efforts, and the repeated commitments of the authorities to fight all forms of racism and intolerance, the Advisory Committee notes with concern that extreme-right parties, such as the British National Party, are increasingly frequently expressing hatred towards foreigners, including Eastern European migrants and Roma, and minority ethnic communities. According to representatives of minority ethnic communities, Islamophobia also continues to spread in society, sometimes triggered by politicians and disseminated through the media.<sup>19</sup>

102. The Advisory Committee welcomes initiatives undertaken by the authorities in some areas such as Aberdeen (see paragraph 92 above) to defuse tensions between Gypsies and Travellers and the majority population. It deplores, despite such measures, the reported level of hostility against Gypsies and Travellers in all the regions it visited. For instance, it learned during its visit to Dale Farm that Travellers are sometimes denied access to public places such as pubs; that local politicians have fuelled public opposition against their relocation to an

<sup>19</sup> See also European Commission against Racism and Intolerance, 4<sup>th</sup> Report on the United Kingdom, see footnote 7.

alternative site; and that pupils belonging to the majority population reportedly withdrew from the local school when Traveller children first registered in this school. It also notes with concern an increasing number of conflicts around Gypsy and Travellers' sites in Scotland.

103. It is also concerned by the rise in incidents of anti-Irish racism reported in Scotland. In particular, the Advisory Committee is deeply concerned by the recent parcel bombing campaign targeting prominent persons and associations connected with an Irish background, and of the continued chanting of anti-Irish songs at football games. In this context, the Advisory Committee welcomes the proposals currently before the Scottish government to make "sectarian" conduct at football matches a criminal offence punishable with up to five years in prison.

104. Moreover, the Advisory Committee observes that there is an ongoing public debate in the United Kingdom, as in other States Party, on the merits of integration policies and the promotion of multiculturalism in recent decades. While acknowledging that it is important to evaluate these policies regularly, the Advisory Committee believes that the authorities should ensure that this debate does not lead to the abandonment of policies promoting intercultural dialogue, respect for minority rights and cultural diversity<sup>20</sup>.

#### *Recommendations*

105. The Advisory Committee calls on the authorities to continue and step up measures to combat racism and intolerance in society, including in the political sphere, in the media and in sport. Additional, more vigorous and comprehensive measures, including possibly a cross-government task force, should be taken to combat the rise in Islamophobia and anti-Muslim discourse by politicians and through the media.

106. Existing programmes to combat racism among youth and racist bullying at school should be supported and replicated as appropriate (see also remarks under Article 12 below).

107. Particular efforts should be made to combat hostility against Gypsies, Travellers and Roma, especially at the local level and in close cooperation with representatives of these groups. The authorities should encourage dialogue between Gypsies and Travellers and the majority population at the local level (see also remarks under Article 5 above).

### **Role of the media**

#### *Recommendations from the two previous cycles of monitoring*

108. In the previous monitoring cycles, the Advisory Committee highlighted that further resources needed to be directed at raising awareness about, and tackling inaccurate media reporting on, minority ethnic communities, focusing on groups such as Gypsies, Travellers, asylum-seekers and Muslims.

#### *Present situation*

109. The Advisory Committee deplores the fact that some media (newspapers as well as electronic media) in the United Kingdom regularly disseminate prejudices and biased or ill-founded information on persons belonging to groups such as Gypsies and Travellers, Muslims and migrants, such as Eastern European and Roma migrants, and asylum-seekers. They contribute to strengthening stereotypes and inciting racist views. Information brought to the attention of the Committee indicates that media has in some instances played an active role in stirring up hostility against local authorities' plans to deliver sites for Gypsies and Travellers.

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<sup>20</sup> In this context, see also the "Council of Europe White Paper on Intercultural Dialogue" launched in May 2008.

110. Incitement to hatred, particularly against Gypsies and Travellers, seems also to be widespread on the Internet, and particularly on Facebook. Therefore, the Advisory Committee welcomes the authorities' efforts to combat racism on the Internet, for instance through programmes on moderation of blogs and comments' sites on the Internet and support to local authorities in engaging in dialogue with local media.

111. The Advisory Committee acknowledges with satisfaction the work of and results achieved by the Press Complaints Commission in raising awareness of the media on the dissemination of racism and intolerance, including through training sessions involving the participation of persons belonging to minorities. However, it is regrettable that in the Editors Code of Practice, the press agrees to avoid prejudicial or pejorative reference only insofar as this relates to a specific individual and not when it is directed at groups. This limitation prevents a wider use of the Editor's Code to combat the dissemination of racist bias through the media. Although the Advisory Committee understands that the Commission has made use of the accuracy clause<sup>21</sup> in the Editor's Code. The latter obliges newspapers not to publish inaccurate facts, in order to condemn discriminatory statements directed at groups.

### *Recommendations*

112. More resolute efforts should be made to tackle the instigation and dissemination of prejudices and racism through the media, while fully respecting editorial freedom.

113. Particular attention should be paid to combating the dissemination of racism and intolerance on the internet. Such measures should be guided in particular by the principles set forth in the Additional Protocol to the Convention on Cybercrime, concerning the criminalisation of acts of a racist or xenophobic nature committed through computer systems.<sup>22</sup>

## **Hate Crime**

### *Recommendations from the two previous cycles of monitoring*

114. In the previous monitoring cycles, the Advisory Committee called on the authorities in Northern Ireland and Scotland to devote further resources to identifying and prosecuting hate crime. It also invited them to give more attention to religiously motivated incidents including by disaggregating the data for racist and religiously aggravated crime.

115. It also recommended that more efforts be made throughout the United Kingdom to provide police with robust on the job training and support in dealing with hate crime.

### *Present situation*

116. The Advisory Committee is deeply concerned by the attacks against Roma families that took place in Belfast in 2009, and led to 115 of these persons returning to their home country as well as hostile demonstrations against Eastern European migrants in a district of Belfast. In general, it finds it worrying that according to various reports, hostile acts and attacks against migrants and minorities are on the rise in Northern Ireland and are reportedly often caused by paramilitary groups. Official figures indicate a slight decrease in hate crimes committed in 2010-2011, following stark increases since 2007. It is to be hoped that the Unite Against Hate campaign will help raise awareness of hate crime and contribute to changing people's attitudes towards hate and prejudice.

<sup>21</sup> Article 1.i of Editor's Code of Practice: "The Press must take care not to publish inaccurate, misleading or distorted information, including pictures."

<sup>22</sup> CETS No 189, entered into force in 2006. This instrument has not been ratified by the United Kingdom.

117. Furthermore, the Advisory Committee is concerned by reports that a steady rise in hate crimes against Muslims in the United Kingdom, most notably in London, is being fuelled by a negative discourse being held in the media and by some politicians (see remarks in paragraph 109 above). Information and testimonies made available to the Advisory Committee show that these crimes are often motivated by a negative view of Muslims acquired from reports and commentaries in the media.<sup>23</sup> It notes, in general, that reported instances of racially and religiously motivated crime in Scotland, England and Wales has remained steady over a number of years.<sup>24</sup>

118. In this context, the Advisory Committee strongly supports the determination of the authorities to encourage reporting of hate crime and commends the high rate of prosecution of and comprehensive and disaggregated data collection on hate crime. It also appreciates that the authorities acknowledge that a significant number of victims remain unwilling to report hate crimes due to a complex combination of issues such as fear, suspicion and alienation and that further efforts need to be made to increase reporting. Therefore, the Advisory Committee finds it important that the Government has implemented a number of programmes aimed at tackling hate crime such as the Cross-Government Hate-Crime Action Plan, Race for Justice and the All Party Inquiry into anti-Semitism and that, since 2008, the Crown Prosecution Service has published an Annual Hate Crime Report. Laudable measures have also been taken in Wales and Scotland to combat hate crime and tackle under-reporting.

#### *Recommendation*

119. The Advisory Committee urges the authorities to take further resolute measures to prevent hate crime and provide adequate remedies to victims of hate crime. Measures to encourage and facilitate reporting of hate crime by victims should also be continued.

### **Stop and Search**

#### *Recommendations from the two previous cycles of monitoring*

120. In the previous monitoring cycles, the Advisory Committee urged the authorities to review the use of stop and search under the Terrorism Act 2000 and to give additional training to police officers on circumstances in which use of stop and search would be discriminatory.

#### *Present situation*

121. The authorities continue to acknowledge that people from minority ethnic communities are in general subject to significantly higher rates of stop and search than the majority population.<sup>25</sup> The continued disproportionate use of stop and search provisions of the Terrorism Act 2000 on persons belonging to minority ethnic communities is of particular concern to the Advisory Committee. Therefore, it notes with satisfaction the amendments adopted by the authorities of the United Kingdom to Section 44(2) following the judgement of the European Court of Human Rights in *Gillan and Quinton v. United Kingdom*.<sup>26</sup> It is also pleased to learn that the National Policing Improvement Agency has recently launched a pilot programme, *Next*

<sup>23</sup> Islamophobia and Anti-Muslim Hate Crime: UK Case Studies 2010, University of Exeter.

<sup>24</sup> In Scotland, charges of racially-motivated crime were 3,6% fewer in 2010-2011 than in 2009-2010 and consistent since 2006. Charges for religiously-motivated crime increased in 2010-2011 by 9,3% in comparison with the previous year. See Hate Crime in Scotland 2010-2011, Crown Office and Procurator Fiscal Service, Scotland. In England, Wales and Northern Ireland, racially-motivated crime has risen from 39,300 in 2008 to 43,426 in 2009 (data for all five strands of hate crime have been collected only since 2008). Source: Association of Chief Police Officers.

<sup>25</sup> Between 2000 and 2008, 108, 714 people were stopped under Section 44(2) of the Terrorism Act 2000 with approximately 1 in 3 of those stopped of a minority ethnic background.

<sup>26</sup> *Gillan and Quinton v. United Kingdom*, Application number 4158/05; final judgment of 28 June 2010.



*Steps*, with a view to improving data collection relating to stop and search and helping the police to ensure stop and search is used in a non-discriminatory manner.<sup>27</sup>

#### *Recommendation*

122. The Advisory Committee calls on the authorities to monitor closely the use of stop and search powers under the current laws adopted in the fight against terrorism to ensure that these powers are exercised in a reasonable and non-discriminatory manner. The authorities should also continue and step up programmes such as *Next Steps*.

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

#### *Recommendations from the two previous cycles of monitoring*

123. In the previous monitoring cycles, the Advisory Committee welcomed the resumption of power-sharing in the Northern Ireland Assembly and noted positive developments such as the preparation of a *Shared Future* strategy. Nevertheless, concerns were expressed regarding highly segregated housing and schooling in Northern Ireland.

#### *Present situation*

124. The Advisory Committee welcomes the fact that the Northern Ireland Assembly recently completed a full mandate following the resumption of power-sharing between nationalist and unionist parties in May 2007. Furthermore, the devolution of policing and justice powers to the executive, the final piece of the devolution jigsaw, was completed in February 2010. The ongoing cooperation and continuously improving relations between the representatives of the two main communities in the executive offers hope that further important steps can be taken to overcome the divisions of the past. In this context, the Advisory Committee deplores the recent outburst of inter-community violence which took place in Belfast in June 2011. It expects that the authorities will take all the necessary measures to investigate these incidents and prosecute and sanction those responsible for fuelling violence, as well as to prevent re-occurrences.

125. The Advisory Committee notes with interest the initiative launched by the Northern Ireland Assembly to update the *Shared Future* strategy for good relations by launching a consultation paper on a *Programme for Cohesion, Sharing and Integration (CSI)* in July 2010. While the *Shared Future* strategy dealt only with “sectarianism”, the proposed new programme will also provide aspects for delivery of the *Race Equality Strategy*. CSI, along with a proposed new *Racial Equality Strategy*, will likely form the key policy initiative for promoting tolerance and intercultural dialogue in Northern Ireland. Nevertheless, a number of interlocutors have raised serious concerns about the CSI, including that its aspirations are limited to mutual accommodation rather than mutual respect and understanding and that it does not adequately address the concerns of minority ethnic communities.

126. In the absence of a Single Equality Act, and without any progress towards the adoption of a Bill of Rights for Northern Ireland (see remarks under Article 4 above), the Advisory Committee regrets that the CSI Strategy fails to draw on existing human rights standards. Additionally, the Advisory Committee finds the approach in the CSI Strategy to treat sectarianism as a distinct issue rather than as a form of racism problematic, as it allows sectarianism to fall outside the scope of accepted anti-discrimination and human rights protection standards. Similarly, the CSI Strategy has developed the concept of “good relations” apparently to substitute the concept of intercultural dialogue and integration of society. The

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<sup>27</sup> On Stop and Search, European Commission against Racism and Intolerance, 4<sup>th</sup> Report on the United Kingdom, see footnote 7.

Advisory Committee has been informed that, in some instances, the need for keeping good relations has been used as justification for not implementing provisions in favour of persons belonging to minorities, such as the erection of bilingual signs (see remarks under Article 11 below).

127. Additionally, interlocutors of the Advisory Committee deplore the lack of a long-term integration strategy for persons belonging to minority ethnic communities, who remain on the fringe of mainstream society mainly as a result of the ongoing division of society between the two main communities.

#### *Recommendations*

128. The Advisory Committee calls on the authorities to promote the *Cohesion, Sharing and Integration* strategy in a way that encourages interaction and mutual understanding between all communities in Northern Ireland, including persons belonging to minority ethnic communities, in order to ensure progress towards reconciliation and social cohesion across society in Northern Ireland. The authorities responsible for the implementation of the Belfast (Good Friday) Agreement and the St Andrews Agreement should also step up efforts to adopt a Single Equality Act and a Bill of Rights for Northern Ireland.

129. The Advisory Committee urges the authorities to investigate effectively any form of community violence or incitement to violence and to prosecute and sanction adequately those responsible for it, as well as to take measures to prevent such events from re-occurring.

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

#### **Religion**

#### *Recommendations from the two previous cycles of monitoring*

130. In previous monitoring cycles, the Advisory Committee invited the authorities to provide alternative activities to students who do not attend the study of religion or acts of daily worship. It also invited them to give school teachers clearer guidance on the importance of covering non-Christian religions and/or other beliefs in the study of religion.

#### *Present situation*

131. The Advisory Committee welcomes the abolition in England and Wales, through the Criminal Justice and Immigration Act of 2008, of the offences of blasphemy and blasphemous libel.

132. It is also pleased to note that a Religious Education Action Plan was launched in 2007 to improve teaching and learning of religion in schools. It hopes that the new policy of giving schools more freedom to decide on their programmes will not lead to less consideration for the need to provide pupils with religious education that embraces all the major religions, including religions followed by persons belonging to minority ethnic communities.

133. The Advisory Committee is concerned, however, by the fact that in Northern Ireland, no major changes were brought to the curriculum of religious education and that it remains predominantly Christian-centred, despite the increasing participation of pupils from different faiths at school. Additionally, it is informed that a number of schools continue not to provide sufficient information to parents and pupils concerning the possibility to opt out from religious education. The Advisory Committee believes that non-confessional and multi-perspective religious education could be a powerful tool to increase mutual understanding and tolerance in the society of Northern Ireland.

*Recommendation*

134. The Advisory Committee calls on the authorities, in particular in Northern Ireland, to take further steps to develop curricula that cover the non-confessional and multi-perspective elements in religious education. Moreover, it invites them to ensure that existing practices concerning religious education do not result in imposing a religion on pupils from another faith group.

**Article 9 of the Framework Convention****Irish-language broadcasting in Northern Ireland***Recommendations from the two previous cycles of monitoring*

135. In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that Irish speakers throughout Northern Ireland had adequate access to Irish-language television services and that reception of TG4 would not be negatively affected by the digital switchover in 2012.

*Present situation*

136. The Advisory Committee welcomes the conclusion in February 2010 of a Memorandum of Understanding between the Irish and United Kingdom Governments with a view to ensuring adequate cooperation during the digital switchover (planned for end 2012) and the provision of Irish language services in digital form. It is also pleased to note that funding for the Irish-language television TG4 was extended by £12 million through this Memorandum of Understanding. It expects that these measures will ensure that viewers of Irish-language programmes are not deprived of access to TG4 as a consequence of digitalisation.

137. However, it understands from representatives of the Irish-speaking minority that funding for TG4 has only been guaranteed for three years. This is not conducive to ensuring stability of broadcasting in Irish in the long-term. Additionally, the Advisory Committee notes with concern that broadcasting in the Irish-language on the BBC is very limited.

*Recommendation*

138. The Advisory Committee invites the authorities to pursue measures to ensure that persons belonging to the Irish-speaking community continue to have sufficient access to radio and TV programmes in their language that are broadcast from Ireland. It also encourages them to consider supporting the development of Irish-language radio and TV programmes produced domestically, in order to meet the needs of persons belonging to the Irish-speaking community more effectively.

**Scottish Gaelic broadcasting***Recommendations from the two previous cycles of monitoring*

139. In the previous monitoring cycles, the Advisory Committee urged the authorities to ensure that the Gaelic Media Service and its new digital television channel receive appropriate support.

*Present situation*

140. The Advisory Committee is pleased to note that a new digital TV channel in Gaelic (BBC Alba) was launched in 2008, with financial support from the Scottish authorities, which

contributed to substantially increasing the media offer in Gaelic. However, interlocutors of the Advisory Committee are concerned that financial support is not sufficient to ensure regular production of an adequate range of programmes in Gaelic.

*Recommendation*

141. The Advisory Committee invites the authorities to continue to support the development of media in Gaelic and to ensure that they will be able to continue providing high-quality programmes on a regular basis.

### **Broadcasting in Welsh**

*Present situation*

142. The Advisory Committee notes with satisfaction that there is a substantial offer of radio and TV programmes in Welsh, notably through the public television channel S4C and Radio Cymru. It also welcomes the fact that the BBC is providing around 20 hours of programmes in Welsh per week and that funds are provided by the authorities to support Welsh-language radio programming.

143. However, the Advisory Committee was informed of the decision to reduce Government funding for S4C by 25% and to modify its statute. According to interlocutors of the Advisory Committee, this is likely to reduce the editorial independence of the channel and to result in less funds for programming in Welsh.

*Recommendation*

144. The Advisory Committee invites the authorities to continue supporting the development of media in Welsh and to ensure that they will be able to continue to provide high-quality programmes on a regular basis. They should in particular ensure that financial cuts and the restructuring of S4C do not affect its editorial independence and capacity to provide quality programming in Welsh.

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

#### **Minority language policies in Northern Ireland**

*Recommendations from the two previous cycles of monitoring*

145. In the previous monitoring cycles, the Advisory Committee encouraged the authorities in Northern Ireland to ensure that the process of adopting the Irish Language Act is not dominated by political considerations and adequately reflects the needs of the Irish-speaking population. It also invited them to adopt as a priority strategies to enhance and protect the Irish and Ulster Scots languages, in accordance with the commitment expressed in the St Andrews Agreement of 2006.

*Present situation*

146. The Advisory Committee is deeply concerned by the failure to adopt legislation on the Irish language due to a lack of political consensus in the Northern Ireland Assembly, notwithstanding the fact that this was a commitment taken by the Parties to the St Andrews Agreement of 2006. It also finds it worrying that some of the authorities in Northern Ireland have expressed their opposition to the preparation of a bill on the Irish language or of an overall strategy to promote the use of the Irish language, invoking a potentially harmful effect on community relations and budgetary considerations (see also remarks under Article 6).

147. Moreover, the Advisory Committee regrets that, in addition to a lack of clear legal guarantees for the use of the Irish language, there is a lack of promotion of the Irish language and culture. It understands that, in practice, very little is done to promote the use of Irish in the public sphere and that, although some Irish language officers have been appointed in a few municipalities, the possibilities to use this language in relations with local administrative authorities remain limited. It is also concerned that the overall climate in Northern Ireland does not encourage Irish speakers to use and develop their language freely.<sup>28</sup> The Advisory Committee was disconcerted to hear that some representatives of the authorities consider that promoting the use of the Irish language is discriminating against persons belonging to the majority population. Such statements are not in line with the principles of the Framework Convention, and in particular with the provisions of Article 10. It also reiterates that, in line with Article 4.2 and Article 4.3 of the Framework Convention, implementation of minority rights protected under the Framework Convention are not be considered as discriminating against other persons (see remarks under Article 4).

148. The Advisory Committee regrets that the authorities of the United Kingdom, as a Party to the St Andrews Agreement, have until now not taken any measures to compensate for the lack of action from the authorities in Northern Ireland in this field.

#### *Recommendation*

149. The Advisory Committee urges the responsible authorities at all levels to take resolute measures to protect and implement more effectively the language rights of persons belonging to the Irish-speaking community. To this effect, they should develop new, comprehensive legislation, in line with the commitments taken in the St Andrews Agreement and their obligations under the Framework Convention.

### **Use of minority languages in the public sphere in Scotland and Wales**

#### *Recommendations from the two previous cycles of monitoring*

150. In the previous monitoring cycles, the Advisory Committee encouraged the Scottish authorities to ensure proper and timely development of language plans in areas of high concentration of Gaelic speakers. It also encouraged them to back up with concrete actions the commitment expressed by the authorities to recognise, respect and celebrate Scots as an important part of Scotland's heritage.

#### *Present situation*

151. The Advisory Committee notes with satisfaction that progress has been achieved in Scotland since the adoption in 2005 of the Gaelic Language Act. A Gaelic statutory board was set up and Gaelic language plans were prepared by a number of local authorities as well as by the Scottish Government. However, the Advisory Committee regrets that local plans are reportedly not always consistent and that the measures taken concern mainly the written language whereas a majority of speakers of Gaelic use it orally rather than in writing. Additionally, it seems that not all plans are being adequately implemented.

152. The Advisory Committee welcomes measures taken by the authorities to promote better the rights of speakers of the Scots language, in particular the setting up in December 2010 of a task force to promote this language, the allocation of public funding for its development, and the

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<sup>28</sup> See for instance the Administration of Justice (Language) Act 1737 which has been interpreted so as to ban the use of Irish language in courts.

launching of a survey on public attitudes to Scots. It expects that these measures will contribute to developing a more positive climate for the use of this language.

153. In Wales, the Advisory Committee is pleased to note that important steps have been taken to promote the use of the Welsh language in public life, following the devolution of legislative competences on Welsh language-related issues from the National Parliament of the United Kingdom to the National Assembly for Wales. It welcomes in particular the adoption in December 2010 of the Welsh Language Measure, which confirms the official status of the Welsh language, which can *inter alia* be used in relations with the authorities, as well as the publication of a Welsh Language Strategy communication document. The adoption of this Measure also requires the setting up of a post of Commissioner for the Welsh Language, of a Welsh Language Tribunal and of a Welsh Language Partnership Council to advise the authorities on language-related issues. Moreover, all communication of the Welsh Assembly Government to the public, including Government press releases, are bilingual, which increases substantially the visibility of the Welsh language. The Advisory Committee notes with interest that the Assembly Government can also impose new duties regarding the use of the Welsh language on organisations providing public services. Public services and local authorities are provided with guidance on the delivery of bilingual services through Welsh language schemes and have to report on their implementation.

154. However, the Advisory Committee is informed that despite all these substantial steps forward, there remain gaps and inconsistencies in the use of Welsh by local administrative authorities and not all schemes have been adequately implemented at the local level.

#### *Recommendations*

155. The Advisory Committee invites the Scottish authorities to design and implement further measures to encourage speakers of minority languages to use their languages in the public sphere and in relations with local administrative authorities. These measures should be based on needs assessment and drawn up in close consultation with representatives of the groups concerned.

156. The Advisory Committee invites the Welsh authorities to ensure that gaps and inconsistencies in the use of the Welsh language in relations with local authorities are eliminated and that Welsh language schemes are adequately implemented at local level.

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

#### **Bilingual signposting in Northern Ireland, Scotland and Wales**

##### *Recommendations from the two previous cycles of monitoring*

157. In the previous monitoring cycles, the Advisory Committee encouraged the Scottish authorities to develop a more proactive approach to bilingual signposting and road signs, especially where a demand for such signs has been expressed by the local authorities.

##### *Present situation*

158. In Northern Ireland, the Advisory Committee regrets that only limited progress has been made regarding the erection of bilingual signposting and topographical indications, particularly road signs, despite the fact that there is, reportedly, a demand for this in a number of municipalities. Additionally, it finds it problematic that the official policy is to limit the erection of such signs to certain areas where the issue would not raise controversies. The Advisory Committee regrets the decision by Belfast City Council to reject in March 2011 a proposal to

erect bilingual signs in this city (in English and Irish or Ulster Scots). The Advisory Committee is concerned that this approach is not in line with the spirit of the Framework Convention and, in particular, the provisions of Article 11, the aim of which is to value the use of minority languages, including through the setting up of bilingual signposting, with a view to promoting more tolerance and intercultural dialogue in society. It is of the opinion that comprehensive legislation on the use of the Irish language, including on signposting and other topographical indications, could improve the situation by providing clear legal guarantees on the use of minority languages.

159. In Scotland, the Advisory Committee welcomes the recent placing of bilingual place names, in Gaelic and English, across the rail network. However, information brought to its attention concerning bilingual road signs indicate that the current policy remains inconsistent<sup>29</sup> and that not much progress was achieved in this field, even in places where the authorities were willing to place bilingual road signs. The authorities have, reportedly, sometimes opposed for safety reasons the erection of bilingual road signs.

160. In Wales, the Advisory Committee notes with satisfaction that bilingual signposting, including road signs, appears to be well developed.

### *Recommendations*

161. The Advisory Committee reiterates that the authorities should elaborate, as a matter of priority, comprehensive legislation on the use of the Irish language in Northern Ireland, including for signposting and other topographical indications, which adequately covers rights protected under Article 11 of the Framework Convention. It is also important to raise awareness of the linguistic rights of persons belonging to minorities and the contribution of respect for linguistic diversity to building tolerance in society.

162. The Advisory Committee also invites the Scottish authorities to develop a more consistent policy for bilingual signposting, including road signs and topographical indications, as part of their overall policy of promotion of the use of minority languages, in close cooperation with the groups concerned and in line with the provisions of Article 11.

## **Article 12 of the Framework Convention**

### **Promoting equality and diversity at school**

#### *Recommendations from the two previous cycles of monitoring*

163. In the previous monitoring cycles, the Advisory Committee invited the authorities to step up efforts in taking forward the requirements of the Race Relations (Amendment) Act 2000. It also called on the authorities to provide clearer guidance on how schools should teach Citizenship.

#### *Present situation*

164. The Advisory Committee notes with satisfaction that, according to various sources, the gaps in participation and achievements in education between students from minority ethnic communities and from the majority are slowly narrowing at all levels of education,<sup>30</sup> although

<sup>29</sup> Bilingual road signs can be erected on the roads leading directly to ferry ports serving Gaelic speaking islands, but only in areas inhabited by at least 10% of Gaelic speakers.

<sup>30</sup> According to figures presented by the Equality and Human Rights Commission (in: Triennial Review 2010: How fair is Britain?), students from some minority ethnic communities, such as the Chinese and Indian communities, perform better on average than majority students.

there is still a shortage of data in certain areas. However, it is concerned that pupils belonging to some minority ethnic communities continue to have markedly lower achievement rates and higher exclusion rates, notably Black students and Afro-Caribbeans.<sup>31</sup> Minority ethnic communities continue to be in general under-represented in higher education. The attainment gaps seem to be widening for one particular group, namely the Gypsies and Travellers (see remarks in paragraphs 172 to 176 below), which is a worrying development.

165. The Advisory Committee takes note of the new approach which has been adopted in England with regard to the promotion of equality and diversity at schools. It understands that, as in other areas, it is now up to local communities and schools to decide on how they want to spend the available funds, including those which were until recently earmarked for pupils from minority ethnic communities (such as the Ethnic Minority Achievement Grant). The Advisory Committee is worried that the lifting of the ring-fencing on a number of the funds previously set aside for students from minority ethnic communities might have a negative impact on progress achieved in recent years in promoting equal opportunities for these students. Additionally, the authorities informed the Advisory Committee that the development of guidelines on how schools should deal with diversity, on teaching of cultural diversity and the promotion of tolerance, or on the launching of pilot-projects in this field, would no longer be centrally-driven but instead would be left to local authorities and schools. While acknowledging that this new approach can allow for a response better suited to local needs, the Advisory Committee is concerned that the lack of central supervision and monitoring of progress, based on systematic data collection, could lead to less attention being paid to the problems faced by students belonging to disadvantaged minority ethnic communities.

166. In Scotland, the Advisory Committee is informed that although a new “Curriculum for Excellence”<sup>32</sup> was introduced in 2009 which aims at improving the attainments of all pupils, irrespective of their ethnic or social background, there is still a reported lack of education on tolerance and in general, on human rights, and of teacher training on these issues. In Wales, the Advisory Committee notes that guidance is available for schools to promote equality and diversity. While commending these ongoing efforts, the Advisory Committee regrets that in all the regions it visited, there seems still to be a general lack of support for teaching on human rights and respect for diversity, and that the decision to take a proactive attitude in this regard is too often left to the willingness of local authorities and schools. It also finds worrying the information brought to its attention by the authorities on bullying at school, in particular of pupils belonging to minority ethnic communities (see also remarks under Article 6 above).

167. Most of the problems mentioned above facing pupils from minority ethnic communities, including Travellers, are also to be found in Northern Ireland. Nevertheless, the Advisory Committee notes with satisfaction that more “integrated” schools attended by pupils from both the Catholic and Protestant (and other) communities have been opened. However, they cater only for around 5% of all pupils in Northern Ireland. The Advisory Committee finds that these schools should be strongly supported as they represent an effective way of progressively putting an end to separation between various communities.

### *Recommendations*

168. The Advisory Committee calls on the authorities to continue and intensify efforts to combat indirect discrimination by bridging the attainment gaps in education between pupils belonging to various minority ethnic communities and the majority population, based on regular data collection and monitoring. More vigorous measures should be taken, including awareness-

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<sup>31</sup> Ibid.

<sup>32</sup> Learning and Teaching, Scotland [www.ltscotland.org.uk](http://www.ltscotland.org.uk)



raising among pupils from the majority population, to prevent and combat bullying of pupils belonging to minority ethnic communities at school.

169. Additional steps should be taken to develop teaching of respect for diversity, mutual understanding and, in general, human rights at school, including through curricula developments and teacher training.

170. In Northern Ireland, the authorities should take all the necessary measures to promote the development of integrated schools, where pupils from different communities can study together.

### **Gypsies, Travellers and Roma in education**

#### *Recommendations from the two previous cycles of monitoring*

171. In the previous monitoring cycles, the Advisory Committee called on the authorities to step up their efforts to support the educational needs of Gypsies and Travellers, including through the allocation of specific funding. It also urged the authorities to combat firmly bullying and racist intimidation of these pupils in schools.

#### *Present situation*

172. The Advisory Committee notes with concern that attainment and achievement of Gypsy and Traveller pupils at school have not improved since the adoption of its second Opinion, although attendance rates have reportedly gone up in some regions, for instance in Wales. Despite the launching of various projects, ranging from on-site learning to E-learning and programmes for “interrupted learning” (in Scotland), low attendance, high drop-out, low achievement and a lack of continuation beyond primary level continue to be the main problems facing Gypsy and Traveller children at school. Moreover, the Advisory Committee is deeply concerned by the high levels of racist bullying these children are experiencing. It also regrets that the education system in all regions still lacks cultural sensitivity for the specific background and needs of Gypsies and Travellers and that this “neutral” approach is sometimes still perceived as a way of ensuring equality of all pupils. In practice, it often results in difficult communication between the school and the parents and a lack of guidance for principals and teachers working with Gypsy and Traveller pupils.

173. As far as Roma pupils are concerned, the Advisory Committee is informed that a number of schools have carried out outreach work and provided specific support to Roma pupils from families who immigrated from Central and Eastern Europe. The Travellers Education Support Services and the Ethnic Minority Achievement Grant have reportedly been instrumental in improving their access to and integration in the education system. However, it seems that there is still a lack of data and information on this group, which hampers the delivery of more targeted services. Additionally, the Advisory Committee received disconcerting information according to which many Roma pupils do not attend school regularly and that they experience high drop out rates from secondary education, sometimes connected with destitution of their families (see also remarks under Article 4 above).

174. The Advisory Committee welcomes the availability of specific funds in Northern Ireland (the Travellers Education Fund) and in Wales and the continued backing given in recent years to Travellers Education Support Services, even though this support is considered insufficient in many circumstances. The Advisory Committee is therefore concerned by various reports indicating that ongoing support for Gypsies, Travellers and Roma, notably Travellers Education Support Services is shrinking, and that this is particularly worrying in England. Moreover, in line with the new Government policy on localism, decisions on the allocation of funds are now left to local communities and schools (see also paragraph 165 above). This can, in the opinion of

the Advisory Committee, have a very detrimental effect on educational support provided to Gypsies, Travellers and Roma in England and their equal access to education as the allocation of specific support will depend on the willingness of the local authorities and the attitude of the majority population.

175. Various interlocutors of the Advisory Committee also underlined the lack of overall strategies to deal with all the education-related difficulties facing Gypsies and Travellers and the lack of mainstreaming of successful local projects. Therefore, the Advisory Committee notes with interest the elaboration of a National Strategy for Gypsies and Travellers in Wales (see also paragraph 93 above), which includes a comprehensive chapter on education. Additionally, it notes with satisfaction that a Travellers Education Task Force was set up in Northern Ireland in 2008, including Travellers representatives, with a view to tackling educational problems in a comprehensive manner. Nonetheless, the Advisory Committee considers that more efforts should be made to develop comprehensive strategies and systemic approaches, in close consultation with representatives of the Gypsies and Travellers.

#### *Recommendations*

176. The Advisory Committee urges the authorities to continue to support, including financially, projects and measures addressing difficulties faced by Gypsy, Traveller and Roma pupils at school. It is particularly important to ensure that Travellers Education Support Services are able to continue to carry out their tasks. The possible impact of the shift of responsibilities in this field to local authorities should also be carefully monitored so as to avoid widening existing inequalities (see also remarks in paragraph 12 above).

177. Additionally, the authorities should develop more comprehensive approaches to the education of Gypsies, Travellers and Roma, in close cooperation with representatives of the groups concerned. It is essential to develop teacher training on the history, culture and specific needs of Gypsies, Travellers and Roma and to ensure that schools are more sensitive to their cultures.

### **Article 14 of the Framework Convention**

#### **Teaching in and of minority languages in Northern Ireland, Scotland and Wales**

##### *Recommendations from the two previous cycles of monitoring*

178. In the previous monitoring cycles, the Advisory Committee encouraged the relevant authorities in Northern Ireland and Scotland to continue expanding the availability of Gaelic and Irish medium education and to consider requests for Scots-medium classes in Scotland and Ulster-Scots in Northern Ireland.

##### *Present situation*

179. In Northern Ireland, the Advisory Committee is pleased to note that progress has been recorded since the adoption of its second Opinion in the provision of Irish-medium education. It is, however, informed that there are still gaps, in particular as regards the continuity of education. Moreover, it is concerned by the reported absence of a bussing system to schools providing teaching in Irish.

180. In Scotland, the provision of Gaelic-medium education has also improved at all levels of education. However, the Advisory Committee is aware that it remains an issue for local schools to decide upon and the availability of teaching is therefore not consistent throughout Scotland. Moreover, it is reportedly often one of the first subjects considered when proposing budgetary

cuts. As far as the Scots language is concerned, recent efforts to promote this language have seemingly resulted in an increased presence of this language at school. The Advisory Committee welcomes the adoption in 2007 of a strategy to recruit and train more teachers of Gaelic and Scots and to develop curricula for the teaching of these languages. It is also informed by the authorities that the availability and quality of textbooks in these languages have improved. It regrets, therefore, that the availability of teaching in/of Gaelic remains insufficient.

181. In Wales, numerous laudable steps have been taken to promote teaching in and of Welsh. The Advisory Committee notes that the Welsh language is now a compulsory subject for all pupils from 5 to 16 years old. It also understands that progress has been made in the production of textbooks and teacher training. Although it is aware that there are still some gaps, for instance in the continuity of teaching between primary and secondary education, the Advisory Committee strongly welcomes the efforts made by the authorities to anchor the Welsh language in the general education system.

#### *Recommendation*

182. The Advisory Committee invites the authorities to continue improving opportunities to learn minority languages in Northern Ireland, Scotland and Wales or to receive education in these languages. Particular emphasis should be placed on the need to ensure consistency and continuity in the delivery of teaching.

### **Languages of minority ethnic communities and teaching of English**

#### *Recommendations from the two previous cycles of monitoring*

183. In the previous monitoring cycles, the Advisory Committee invited the authorities to make concerted efforts to promote bilingual and multilingual education, and to take a proactive approach in encouraging schools to expand the provision of minority languages.

#### *Present situation*

184. The Advisory Committee regrets that, in general, only limited efforts are made throughout the United Kingdom to help persons belonging to minority ethnic communities learn and develop proficiency in their minority language. Nevertheless, it notes with satisfaction that guidelines have been prepared by the Welsh authorities for schools to help pupils from minority ethnic communities with a migrant background to retain their first language and that, since 2008, the curriculum for modern languages in England allows for the teaching of languages other than European, based on local needs. While understanding that more emphasis is placed on providing classes of English for immigrants (see below), it is of the opinion that it is also important to support the preservation of minority languages of these persons, not only as a personal asset for the persons concerned but also in order to value their culture.

185. Concerning teaching of English to persons belonging to minority ethnic communities, in particular among recent immigrants, the Advisory Committee is concerned that, according to various representatives of minorities, budgetary cuts have already had a negative impact on the availability of English courses for immigrants. In particular, free places for English Courses for Speakers of Other Languages will henceforth only be available to economically “active” persons. This measure will have a significant detrimental effect on new immigrants and people from minority ethnic communities, especially women, many of whom are not eligible for “active” benefits or are enrolled as students. The lack of knowledge of English has a far-reaching, detrimental impact on equality of opportunities for these persons as it is an obstacle to their integration in society.

*Recommendations*

186. Further efforts should be made to support persons belonging to minority ethnic communities to learn or develop proficiency in their languages, in particular as part of the mainstream education system. It is important to evaluate and disseminate good practices that have been implemented in some regions.

187. The Advisory Committee calls on the authorities to assess carefully the impact of budgetary cuts on the provision of English language classes on the integration of migrants belonging to minority ethnic communities, in particular migrant women, and to ensure that they continue to have access to affordable and quality opportunities to learn English.

**Article 15 of the Framework Convention**

**Effective participation in public affairs**

*Recommendations from the two previous cycles of monitoring*

188. In the previous monitoring cycles, the Advisory Committee urged the authorities to identify, in close cooperation with minority representatives, ways of encouraging greater participation of persons from minority ethnic community backgrounds in electoral processes at all levels.

189. The Advisory Committee invited the authorities to keep their project-based approach to consultation under review and to ensure that the closure of standing consultative structures has no detrimental impact on the opportunities for minority ethnic communities to participate in public life. It also urged them to engage with the full spectrum of opinions when they consult with minority ethnic communities and to step up communication with a wide range of representatives of Muslim communities in order to ensure their inclusion in decision-making.

*Present situation*

190. The Advisory Committee is pleased to note that the number of Members of Parliament from a minority ethnic community background that were elected in the 2010 legislative elections doubled in comparison with previous elections.<sup>33</sup> It also welcomes the initiatives taken by the authorities in recent years to promote a better representation of minorities in elected bodies, such as the commitment taken by the Government for 2008-2011 to increase the overall representation of women and persons belonging to minorities, the creation in England of a taskforce to support an increase in the number of councillors from minority ethnic communities, as well as funding by the Scottish Executive of leadership training among these groups. The Advisory Committee observes with satisfaction that these initiatives indicate a strategic government policy approach aimed at achieving a systemic breakthrough in the participation of minority ethnic communities in public affairs.

191. Despite these efforts, which have already yielded some results in the last few years, the Advisory Committee notes with concern that persons belonging to minority ethnic communities remain under-represented in all the elected bodies, particularly at national level. Besides, representatives of minority ethnic communities have underlined their particularly weak representation in elected bodies in Northern Ireland, as well as in Scotland where they feel that much progress is needed. The Advisory Committee deplores that Gypsies and Travellers are virtually absent from elected bodies at all levels.

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<sup>33</sup> It went from 14 MP's with a minority ethnic background elected in Westminster in 2005 to 27 in 2010.

192. Interlocutors of the Advisory Committee, including representatives of the authorities, have acknowledged that there is a gap regarding regular, effective communication with persons belonging to minority ethnic communities, and that communication channels with the authorities should be developed at all levels. While taking note of positive initiatives such as the setting up of a National Muslim Women's Advisory Group and of a Youth Advisory Group to strengthen dialogue with Muslim communities, the Advisory Committee finds that there is a need for more structural consultative bodies in order to ensure regular communication between the authorities (especially at the level of central and devolved executives) and various interlocutors from minority ethnic communities. The Advisory Committee welcomes the fact that in areas where there are planning concerns, consultations between the local authorities and the Gypsy and Traveller groups concerned are taking place<sup>34</sup>, although they reportedly not always result in effective engagement of persons belonging to the Gypsy and Traveller communities in decisions affecting them. This has a negative impact on issues of planning for Gypsy and Traveller sites.

193. Commendable initiatives that resulted in effective empowerment and participation of persons belonging to minorities were brought to the attention of the Advisory Committee, for instance the All-Ireland Health Strategy<sup>35</sup> through which Gypsy and Traveller were trained to carry out research work and now act as community health workers. Such an experience could be analysed and replicated in other regions and other areas of work. The Advisory Committee is also pleased to learn that the draft National Strategy for Gypsies and Travellers in Wales was prepared based on extensive consultation with Gypsies and Travellers.

#### *Recommendations*

194. The Advisory Committee encourages the authorities to continue promoting effective participation of persons belonging to national minorities in elected bodies at all levels. Particular measures should be taken to step up participation in local councils of under-represented groups, such as Gypsies and Travellers.

195. The Advisory Committee calls on the authorities to establish consultative mechanisms to develop communication between the authorities and representatives of minority ethnic communities on a regular basis, in order to ensure their regular and effective engagement in policy-making.

### **Participation in social and economic life**

#### *Recommendations from the two previous cycles of monitoring*

196. In the previous monitoring cycles, the Advisory Committee invited public authorities to continue taking measures to implement their specific duties concerning recruitment, retention and progression under the Race Relations (2000) Act and to give attention to the need for reforms to the appointment process of the judiciary. It also invited the Police Service of Northern Ireland to continue its efforts to achieve a balanced representation of Catholic and Protestant officers.

#### *Present situation*

197. The Advisory Committee welcomes the fact that the authorities have continued to monitor regularly the implementation of their duty to promote recruitment and retention of

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<sup>34</sup> The Advisory Committee was, for instance, informed that in the case of Dale Farm, the local authorities carried out some consultations with representatives of local Travellers regarding their possible eviction and alternative accommodation. However, no alternative solution had been found at the time of adoption of this Opinion.

<sup>35</sup> Covering the Republic of Ireland and Northern Ireland. See: All Ireland Traveller Study, Our Geel, September 2010.

persons belonging to minority ethnic communities. It is also pleased by the progress achieved in certain areas. It highlights in particular the significant progress achieved towards a more balanced representation in the Northern Ireland Police Service. Currently around 30% of the police officers are Catholics compared with 8.3% in 1999 when the 50:50 recruitment system was established as a result of the Belfast (Good Friday) Agreement (see also remarks under Article 4 above). It expects that, following the ending of the 50:50 recruitment scheme in April 2011, the authorities will continue to monitor carefully the situation in the Police Service in order to ensure that recruitment and retention of police officers will continue to be guided by the need to guarantee effective equality and ensure that there will be no regression in progress achieved in the last ten years. The Advisory Committee regrets, however, that the percentage of policemen belonging to minority ethnic communities remains negligible.

198. Information provided to the Advisory Committee indicate that, since its second Opinion, the recruitment of persons belonging to minority ethnic communities in Great Britain has increased to the police and the Crown Prosecution Service, including for the latter to senior positions. This is a development in the positive direction. The Advisory Committee notes nonetheless that further progress is needed in order to achieve the goal of a truly multiethnic force. In the judiciary, official figures show only a limited improvement in the situation, despite the existence of a duty to promote minority representation in the judiciary.

199. In the fields of employment, housing and health, monitoring of equality outcomes for persons belonging to minority ethnic communities has also continued, although it remains difficult to obtain consistent data in all of these areas. As regards employment, the Advisory Committee notes with satisfaction that between 2006 and 2008, employment rates among persons belonging to various minority ethnic communities have steadily increased, although there remain strong inequalities between different groups as well as occupational segregation. It also notes with interest the continued work of the Ethnic Minority Employment Task Force, which coordinates the action of the Government in the field of promotion of ethnic minority employment. The Advisory Committee also notes that a new policy in this respect was launched in 2010, which involves mainstreaming of the specific needs and difficulties of persons belonging to ethnic minority communities, rather than providing targeted services.

200. In the field of housing, the Advisory Committee notes with concern that despite improvements, especially in the availability of social housing, persons belonging to minority ethnic communities continue to be more likely to live in overcrowded accommodation and to face the risk of homelessness.<sup>36</sup> Information brought to its attention from various sources highlights the particularly difficult situation facing many recent migrants and asylum-seekers belonging to minority ethnic communities who often suffer from destitution and live in substandard housing (see also remarks under Article 4 above). Additionally, the reform of the system of housing benefits that is being implemented to decrease the allocations made to tenants in the private sector could have a disproportionate impact on persons belonging to the most deprived minority ethnic communities.

201. As regards health care, the Advisory Committee notes that in this area, progress has also been achieved since its second Opinion was adopted. This includes a positive change in the approach to persons from different ethnic background as well as the inclusion of race equality issues throughout the National Health Service. It welcomes the commitment of the authorities to continue paying attention to health inequalities among persons from different ethnic backgrounds in the future. However, it is concerned by persisting inequalities affecting particular minority groups, such as Bangladeshi and Pakistani women and Gypsies and

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<sup>36</sup> A quarter of Bangladeshi households are, for instance, overcrowded. See Equality and Human Rights Commission: Triennial Review 2010: How fair is Britain?, Ibid.

Travellers, who have a much lower life expectancy and face mental health problems much more frequently than persons belonging to the majority.<sup>37</sup> Various sources indicate that persons belonging to these groups often consider that the response of the health services to their needs remains inadequate. Gypsies and Travellers report that they often find it difficult to register with a general practitioner.

### *Recommendations*

202. The Advisory Committee invites the authorities to continue promoting increased participation of persons belonging to minority ethnic communities in public services, particularly as far as the police and the judiciary are concerned. In Northern Ireland, the Advisory Committee calls on the authorities to monitor carefully recruitments in the Police Service and to take effective measures, as appropriate, to ensure that equality between the two main communities, as well as with other minority ethnic communities, continues to be a guiding principle.

203. The authorities should continue to monitor the situation of persons belonging to various minority ethnic communities in the fields of employment, housing and health, through regular data collection. The Advisory Committee also urges them to carry out impact assessments of the new policy measures taken since 2010 in the areas of employment and housing on persons belonging to disadvantaged minority ethnic communities.

204. Efforts to reduce inequalities in health care between persons from different minority ethnic communities and the majority population must continue, with particular emphasis on accessibility of health care to persons belonging to disadvantaged minority ethnic communities.

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

### **Cooperation with Ireland**

#### *Recommendations from the two previous cycles of monitoring*

205. In the previous monitoring cycles, the Advisory Committee encouraged the Government of the United Kingdom to continue its close cooperation with Ireland on matters relevant to the protection of human rights in Northern Ireland and to continue promoting trans-frontier contacts between persons living in Ireland and Northern Ireland.

#### *Present situation*

206. The Advisory Committee strongly welcomes the continued cooperation on minority-related issues between Northern Ireland and Ireland. It is informed that cross border cooperation is particularly intense and fruitful in the field of programmes to improve the situation of Gypsies and Travellers. It notes in particular that the All-Ireland Traveller Health Study, which is the result of joint work across the border, has yielded important results (see also remarks under Article 15 above). Nevertheless, it also takes note of concerns expressed with regard to immigration controls at Northern Ireland ports and airports and along the border with Ireland on passengers travelling within the Common Travel Area and allegations of racial profiling as part of these controls (see also remarks under Article 4 above).

207. The Advisory Committee is also pleased that close cooperation between the Governments of the United Kingdom and Ireland continues in the field of protection of human rights, as part of the process of promotion of peace and stability in Northern Ireland which

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<sup>37</sup> See the All-Ireland Traveller Health Study, *ibid.* and Triennial Report of the EHRC, *Ibid.*

started with the Belfast (Good Friday) Agreement of 1998. It hopes that this process will not be hampered by financial restrictions, which are likely to have an impact also in the field of cross border institutions, projects and activities (see remarks in respect of Article 5 above).

*Recommendations*

208. The Advisory Committee encourages the Government of the United Kingdom to continue to cooperate with Ireland on human rights issues, including minority rights protection, in Northern Ireland. Sufficient resources should be allocated to support the continuation of cross-border projects between persons living in Northern Ireland and in Ireland.

209. The authorities should review the manner in which immigration controls are carried out in ports, airports and along the border with Ireland, so as to avoid any racial profiling of persons belonging to some minority groups (see also recommendation under Article 4 above).



### III. CONCLUSIONS

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

#### **Positive developments following two cycles of monitoring**

211. The United Kingdom has continued to take measures to combat discrimination and advance equality in society. In particular, a new comprehensive Equality Act was adopted in 2010 which comprises innovative approaches and provisions that pave the way for further improvements in the field of equality and human rights, including protection of minority ethnic communities. This act could prove a milestone and set new standards in combating discrimination.

212. The authorities have continued to collect an extensive range of data on the situation of persons belonging to minority ethnic communities in various areas of life, as a means to evaluate better the needs of these persons and improve policies and measures to combat both direct and indirect discrimination.

213. Efforts to combat all forms of intolerance and racism have also been pursued by the Government and the devolved administrations. Particular emphasis has been placed on combating hate crime and increasing hate crime reporting.

214. Efforts to achieve reconciliation and reinforce social cohesion in Northern Ireland have been pursued, including through governmental and non-governmental cooperation with Ireland.

215. New schemes to promote the use in public life of languages such as Gaelic and Scots in Scotland have been developed and some progress was achieved. Further steps were also taken to improve teaching of these languages at school. The Welsh authorities have continued to take substantial measures to reinforce the use and presence of the Welsh language in all areas of public life.

216. Additional measures were taken in the field of education to narrow the gap in attainment and achievement between students belonging to some minority ethnic communities and the majority. Pilot projects to improve access to education and equality in education for Gypsy and Traveller pupils were carried out.

217. Participation in elected bodies of persons belonging to minority ethnic communities has increased following recent elections. Important achievements have also been made in reducing inequalities in the fields of employment, housing and health care, although not for all minority groups.

#### **Issues of concern following two cycles of monitoring**

218. Inequalities and discriminatory practices in various areas of life, although gradually decreasing, persist, in particular with regard to persons belonging to groups such as Gypsies and Travellers, Afro-Caribbeans and Pakistani and Bangladeshi. Some migrants and asylum-seekers belonging to minority ethnic communities are particularly vulnerable to destitution.

219. Racial profiling and “stop and search” measures, including during controls at ports, airport and on the border with Ireland, have a disproportionate and discriminatory impact on persons belonging to minority ethnic communities.

220. Efforts to design comprehensive anti-discrimination legislation in Northern Ireland, as well as a Bill of Rights for Northern Ireland, as foreseen in the St Andrews Agreement of 2006, have so far not yielded results. Consequently, there are significant discrepancies between anti-discrimination provisions in force in Northern Ireland and those in force in Great Britain.

221. Recent important budgetary cuts to activities can have a disproportionate impact on the support provided to persons belonging to minority ethnic communities in various areas of life. There seems to be at present a lack of assessment of this impact. Moreover, while localism can allow for responses that better meet local needs, it is important to ensure that it does not result in less support being provided to persons belonging to minority ethnic communities.

222. The situation of Gypsies and Travellers, particularly in the field of access to accommodation, is of particular concern. There is a persistent shortage of sites and some reluctance from local authorities in many places to provide or refurbish sites. Gypsies and Travellers also frequently face difficulties when requesting planning permission, resulting in frequent evictions and illegal encampment. This situation also generates tensions between Gypsies and Travellers and the majority population, sometimes fuelled by politicians and the media.

223. Instances of hate crime are not diminishing. Although high numbers are undoubtedly connected to increasing reporting of these crimes by victims, they also indicate worrying levels of intolerance in some parts of society against groups such as Gypsies and Travellers, Muslims and some migrants and asylum-seekers. Certain media are fuelling and disseminating prejudices and biased information on persons belonging to minority ethnic groups.

224. The authorities have failed to adopt comprehensive legislation on the Irish language in Northern Ireland and to promote the use of this language in the public sphere. Further efforts must be made to install bilingual signs in Irish, Gaelic and Scots, respectively in Northern Ireland and Scotland.

225. In the field of education, more resolute measures should be taken to tackle the difficulties facing Gypsies, Travellers and Roma in the education system, including low rates of enrolment, high drop out rates, the lack of training for teachers working with pupils from these minorities and the general lack of preparation of schools to integrate Gypsy, Traveller and Roma pupils.

226. Persons belonging to minority ethnic communities continue to be under-represented in public services, including the police and the judiciary, despite measures taken to improve their participation since the second Opinion. There is a lack of permanent consultative structures for persons belonging to minority ethnic communities to participate effectively in policy-making on issues of relevance to them.

## **Recommendations**

In addition to the measures to be taken to implement the detailed recommendations contained in Sections 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:

### **Issues for immediate action<sup>38</sup>**

- **Take measures to ensure that budgetary cuts are kept at a minimum and do not have a disproportionately negative impact on the situation of persons belonging to minority ethnic communities, by means of impact assessments of ongoing and**

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<sup>38</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

**planned cuts and careful monitoring;**

- **take more vigorous measures to meet the accommodation needs of Gypsies and Travellers; increase the delivery of sites, including by improving the coordination of the different levels of authorities involved in sites delivery; ensure that local authorities comply with their responsibilities in sites delivery and find adequate solutions to the accommodation needs of Gypsies and Travellers;**
- **develop comprehensive legislation on the Irish language in Northern Ireland and take resolute measures to protect and implement more effectively the language rights of persons belonging to the Irish-speaking community;**

**Further recommendations<sup>39</sup>**

- promote the full and effective implementation of the new Equality Act, as well as monitoring of its implementation and continue to implement strategies to combat discrimination and promote equality in all areas of life; ensure that the Equality and Human Rights Commission has all the necessary resources to carry out its functions effectively and independently;
- step up efforts to adopt a comprehensive and human rights-based anti-discrimination and equality legislation for Northern Ireland;
- take measures to ensure that the granting of planning permission and development of caravan sites are done in a way that duly takes into account the specific needs of Gypsies and Travellers, by means of effective consultation with their representatives;
- take more resolute measures to combat the instigation and dissemination of prejudices and intolerance through the media and in the political arena; take further steps to combat Islamophobia and other manifestation of racism and intolerance; continue to pursue a proactive approach in combating hate crime;
- ensure that “stop and search” powers are exercised in a reasonable and non-discriminatory manner, including at all border crossings, ports and airports;
- continue to design and implement measures to encourage speakers of minority languages to use their language in the public sphere and in relations with local administrative authorities;
- continue to support, including financially, projects and measures tackling difficulties faced by Gypsy, Traveller and Roma pupils at school; develop more comprehensive and culturally-sensitive approaches to their education, in close cooperation with representatives of the groups concerned;
- establish consultative mechanisms to develop communication between the authorities and representatives of national minorities on a regular basis, with a view to developing their effective and regular engagement in policy-making; continue promoting increased participation of persons belonging to minority ethnic communities in public services, particularly in the police and the judiciary.

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<sup>39</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.