

**Submission from the Committee on the Administration of Justice (CAJ)  
to the Council of Europe Committee of Experts (COMEX)  
on 6th UK periodic report compliance with the  
European Charter for Regional or Minority Languages ('the Charter')**

**Irish and Ulster Scots in Northern Ireland**

**February 2024**

1. The Committee on the Administration of Justice ("CAJ") is an independent human rights organisation with cross community membership in Northern Ireland and beyond. It was established in 1981 and is a member of the International Federation of Human Rights (FIDH).
2. CAJ regularly engages with Council of Europe and United Nations treaty bodies and welcomes the opportunity to engage with COMEX on the UK 6<sup>th</sup> periodic report of 2023.<sup>1</sup> CAJ's most recent previous submission to COMEX was in February 2021<sup>2</sup> in light of the UK response of 5 January 2021<sup>3</sup> to the 5th COMEX evaluation report on the UK of July 2020.<sup>4</sup> A number of the issues relevant to the Charter were also presented in a submission to the Advisory Committee on the Framework Convention for National Minorities in 2022.<sup>5</sup>
3. This response is focused on commentary on the UK's commitments in Northern Ireland (NI) under the Charter, namely to Irish and Ulster Scots. It is notable that there is no information at all in the UK report regarding the Irish language or the Ulster variant of Scots (Scots is reported on for Scotland). Whilst the Northern Ireland Executive collapsed between 2022 and early 2024, the reporting duty under Article 15 of the Charter ultimately falls to the state party.
4. Following an executive summary this submission covers:
  - Legal Framework for implementation of the Charter in Northern Ireland.
  - Compliance with Parts II and III of the Charter in relation to the Irish language.
  - Compliance with Part II of the Charter in relation to Ulster Scots.

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<sup>1</sup> [MIN-LANG \(2023\) PR 8](#) Sixth periodical report of the UK presented to the Secretary General of the Council of Europe in accordance with Article 15 of the Charter. (3/8/23, 'the 6<sup>th</sup> UK report').

<sup>2</sup> CAJ '[Submission responding to the UK's latest update on its compliance with European Charter for Regional or Minority Languages](#)' February 8, 2021

<sup>3</sup> MIN-LANG (2021) IRIA 1, <https://rm.coe.int/ukiria5rev-en/1680a0eef6>

<sup>4</sup> CM(2019)84-final, [https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680948544](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680948544)

<sup>5</sup> CAJ '[Submission on the UK's Fifth State Report under the Framework Convention for the Protection of National Minorities](#)' April 2022.

## Executive Summary

The Committee on the Administration of Justice (“CAJ”) is an independent human rights organisation with cross community membership in Northern Ireland and beyond. This submission to the Committee of Experts (COMEX) relates to the 6th UK periodic report compliance with the European Charter for Regional or Minority Languages (“the Charter”).

### Legal Framework for implementation of the Charter in Northern Ireland.

- The main agreement of the Northern Ireland peace process is the UK-Ireland Belfast/Good Friday Agreement 1988 (GFA). The UK incorporated the ECHR and ratified the Charter further to commitments in the GFA.
- The GFA also provided for a power-sharing NI Executive and legislature (NI Assembly) with competencies over most of the provisions in the Charter. Executive and legislative power in Northern Ireland was to be constrained by an ECHR+ ‘Bill of Rights for Northern Ireland’, which the Human Rights Commission advised should incorporate the Charter. The UK government has however still not introduced the legislation UK Parliament, despite a 2022 report from an Assembly Committee.
- In the absence of the Bill of Rights other mechanisms, some originally intended to protect minority rights, have instead been regularly deployed to thwart and block progress on ECRML and broader commitments to the Irish language:
  - The ‘**St Andrews veto**’ – which requires ‘controversial’ etc decisions by individual NI Ministers to be considered by the full NI Executive. This mechanism has previously been used to prevent progress on the Irish language legislation and strategy.
  - The ‘**Executive Agenda veto**’ – a provision in the Ministerial Code whereby both the First and deputy First Ministers must both agree items for the agenda of the Executive. Court proceedings have revealed this was used over 30 times 2020-2021 to block consideration of the Irish language strategy.
  - The **local government ‘call in’ mechanism**. This was to be a minority rights mechanism at local councils whereby a minority of councillors can require a decision to be taken by an 80% ‘supermajority’ when there is a legal determination the decision would essentially constitute a discriminatory detriment against a section of the community. This mechanism was used in Belfast City Council to block bilingual (English-Irish) signage inside a Council leisure facility. We contested this decision and a Tribunal has just ruled in our favour that the determination cannot be kept confidential.
  - **Equality Impacts Assessments (EQIAs) and the ‘good relations’ duty**. The GFA provided for a statutory public sector equality duty, to compel an impact assessment as to whether policies may constitute a discriminatory detriment. The UK added a second ‘good relations’ limb to this duty, which has been regularly used to block Irish language provision on the grounds it would raise ‘community tensions.’

## Compliance with Parts II and III of the Charter in relation to the Irish language

- There continues to be significant support and growth in the usage and learning of the Irish language, this includes cross-community growth in interest and learning in the language across society and significant demand for Irish language provision.
- However, there continues to be obstruction at a political level of the delivery of key previously agreed commitments to the Irish language. There are also continued examples of hostility and intimidation of Irish speakers.

### *Irish language legislation*

- The 2006 (UK-Ireland) St Andrews Agreement committed the British Government to an Irish Language Act “reflecting on the experience of Wales and Ireland.” The Committee of Ministers (CM) had recommended comprehensive Irish language policy for NI for which the CM preferred option was through legislation that provided statutory rights for Irish speakers.
- Despite being part of a bilateral agreement, the UK did not deliver on this commitment, insisting the obligation had transferred to the NI institutions. The blocking of Irish language legislation contributed to the collapse of the NI Assembly in 2017. A deal was briefly reached between the largest (Irish) nationalist (British) unionist parties (Sinn Féin and the DUP) in 2018 on language legislation, whilst the DUP then withdrew support, it reappeared as part of the 2020 UK-Ireland New Decade New Approach (NDNA) deal to restore the institutions. NDNA provided for the legislation to progress through the Assembly, this did not occur. Ultimately the legislation was passed in the UK Parliament as the *Identity and Language (Northern Ireland) Act 2022*.
- The legislation marks progress in providing for an Irish Language Commissioner issuing Irish Language Standards to NI public authorities. The legislation is however weaker than that committed to in St Andrews. In previous recommendations COMEX had requested that the Bill be amended to make “express provision for specific language rights, such as in the fields of education, access to public services, public signage and cultural activities”. This did not occur.
- There are weaknesses in the legislation that could lead to frustration of the purpose of the Irish Language Commissioner, including provision whereby each Irish language standard will be subject to ministerial approval by both the First and deputy First Ministers, who are also to appoint the Commissioner. There is no apparent legal reason why the First and deputy First Minister need to approve the Commissioners’ standards as they are not secondary legislation (as in Wales). There was recognition of this problem in the Act through the vesting of concurrent powers in the Secretary of State to direct or discharge functions under the Act for NI Ministers. This empowered the Secretary of State to appoint the commissioners in the absence of NI Ministers (following a further collapse of the institutions in 2022). Following passage of the Bill in December 2022, the Secretary of State did not step in to appoint the Commissioner in the absence of NI Ministers. The restoration of the NI institutions in February 2024 means this power may now be exercised by the First and deputy First Ministers. The Secretary of State is also yet to commence the

section of the Act that would repeal the Administration of Justice (Language) Act (Ireland) 1737 to lift the ban on the use of Irish in court papers.

- In addition to implementation of the 2022 Act we concur with COMEX there is still a need for a comprehensive Irish language Act.

### **Irish language strategy**

- The 2006 St Andrews Agreement also placed, through amendments to the Northern Ireland Act 1998, a statutory duty on the NI Executive to adopt a “strategy setting out how it proposes to enhance and protect the development of the Irish”.
- Adoption of the strategy has been repeatedly obstructed with the High Court in Belfast finding now on two occasions (2017 and 2022) that the NI Executive had acted unlawfully in not adopting the strategy.
- There was however considerable progress in the 2020 mandate in the appointment of an Irish Language Strategy Expert Advisory Panel by the Department for Communities. This process conducted in Irish with Irish language experts produced a comprehensive blueprint for the Irish language strategy, published in March 2022.
- In August 2022 the High Court in Belfast, ruled the Executive had acted unlawfully in not adopting the Irish language strategy in a judicial review taken by Conradh na Gaeilge. Among the factors in reaching this decision, the court ruling records that the Department for Communities (DfC) Minister had sought to include on the agenda of the NI Executive a timetable for the strategy but had been thwarted on over 30 occasions with the court concluding “It is difficult to avoid any conclusion other than that the issue was being blocked from substantive consideration at the Executive Committee, notwithstanding the DfC Minister’s concerted efforts to progress the paper and the work which it was to underpin.”
- The duty has now been revived by the formation of a new Executive in 2024. Notably in the context of the considerable work already been done on the strategy, the High Court indicated that there is now a limited timeframe for the new Executive to adopt a strategy before the court could intervene, including against individual ministers blocking a future strategy.

### **Irish Medium Education**

- In 2022 Conradh na Gaeilge and CAJ launched new research on Irish medium education (IME): *Irish education and the ‘Statutory Duty’: From the point of view of rights* by Dr Robbie McVeigh. The bilingual report looks at the effectiveness of the education authorities in relation to delivering on their statutory duty to encourage and facilitate Irish medium education. The research concludes that there should be a legislative strengthening of the statutory duty:

...the key conclusion of this research is that the reset between state and language community has not happened in the manner envisaged in the GFA. The state is now central to the *provision* of a greatly expanded – and growing – IME sector but a further reset is required to finish the commitment to *develop* IME. This reset may well be framed by a legislative strengthening of the statutory duty.

## Bilingual Signage

- The previous COMEX report found that obligations under the ECRML (Article 7.1.c) to take “resolute action to promote Irish” were “not fulfilled”, and obligations (Article 10.2.g) on the use of place names in Irish (alongside English) were partially fulfilled.
- The provision of bilingual signage continues to a touchstone issue for Irish language provision, this section of the report covers the following issues relating to public bilingual signage:
  - **Road Signage:** a monolingual ‘English-only’ policy has been retained. Whilst there was discussion with the Minister who was amenable to change, the matter would be deemed ‘controversial’ by those opposed to bilingual signage. A decision would therefore likely fall to be taken by the full NI Executive.
  - **Review of Local Council and ‘Ward’ Names (and boundaries):** a periodic statutory review of the names of local Councils and municipal electoral wards has taken place. An electoral ward is the smallest administrative division of a Council. This was a key opportunity to officially adopt bilingual place names. However, the Commissioner recommended the retention of an English-only naming policy for the names of all Councils, with limited provision for bilingual names on a small number of wards in the Belfast city area.
  - In relation to **street signage**, the absence of a more codified approach in legislation means the level of provision tends to follow the political makeup of the Council. Our present experience is that:
    - In those Councils whereby there is a majority in favour of Irish language provision (Irish nationalist parties, liberal unionists, centrist/non aligned parties forming a majority) there has been success in progressive bilingual street signage policies being adopted, however administrative mechanisms are still regularly used to seek to thwart the implementation of the policy.
    - In those Councils where there is a more traditional unionist majority opposing bilingual signage, there are attempts regardless of the legislation and Charter to retain *de jure* or *de facto* ‘English-only’ policies for street signage to prevent the addition of Irish. The sector is however beginning to overcome such approaches through litigation in the courts.

## Compliance with Part II of the Charter in relation to Ulster Scots.

- In the previous monitoring cycle, COMEX recommended that the authorities “*Adopt a strategy to promote Ulster Scots in education and other areas of public life.*” reiterating “*this would not require any change in the law.*” The UK has instead taken a different approach in passing legislation rather than a strategy. This was legislated for alongside the Irish language legislation in the context of being pursued as a ‘counterweight’ to Irish rather than something devised to advance the protection and development of Ulster Scots linguistically. Unlike Irish there was no public consultation on the legislation (including with Ulster Scots speakers).
- The approach taken by relevant authorities during the monitoring period has further marginalised Ulster Scots linguistically. Progress has not been made in safeguarding and developing Ulster Scots as a language, with little evidence the current approach

has generated any demand for learning or provision in Ulster Scots. A 2020 report from the Mercator European Research Centre on Multilingualism and Language Learning, found there was limited to no provision for Ulster Scots learning, with the sole university course identified not having any uptake.

- Concerningly the approach by key actors, including the Ulster Scots Agency and UK Government, has been to move away from focus on Ulster Scots speakers as a linguistic minority. Instead, Ulster Scots have been increasingly conceptualised as an ethnic group and been tied to (British) unionism and loyalism politically, leading to concerns from the Framework Convention Advisory Committee that this is further contributing to sectarianising Ulster Scots. The ways in which this pattern has manifest itself are as follows:
  - The languages legislation establishing a commissioner for Ulster Scots has instead established a *Commissioner for the Ulster Scots and Ulster British tradition* with the NI Human Rights Commission, and Advisory Committee FCNM both raising concerns of the conflation of a linguistic minority of Ulster Scots speakers with a distinct political identity.
  - An apparent political side deal under NDNA led to the UK to shift recognition of Ulster Scots *speakers* as a linguistic minority under the Framework Convention to recognition more on the basis of ethnicity ('a distinct people') without any consultation with speakers as to whether they wished to self-identify as such. This risks creating a differential with speakers who are drawn from across the community in areas Scots is spoken.
  - This approach was then compounded by the Ulster Scots Agency, seeking to develop 'cultural markers' for the Ulster Scots National Minority tied specifically to political identity, including affinity to the flag of the former unionist government of Northern Ireland.
  - Attention to the linguistic elements of Ulster Scots were very marginal in the Expert Advisory Group report on the Ulster Scots strategy, confined only to a couple of pages in the 74 page report with vague reasoning. The responsible Department also held no information and would not clarify if the experts behind the report were actually Ulster Scots speakers.
  - In the run up to NDNA, the head of the Ulster Scots Agency (unsuccessfully) sought £140 million GBP in Ulster Scots funding for provision that seemed more focused on unionist and loyalist culture in general rather than initiatives that were specifically Ulster Scots related.
- It is not clear at the time of writing whether this Commissioner dealing with Ulster Scots will be required to be a speaker of Scots (including Ulster Scots).

## Legal Framework for Charter implementation in Northern Ireland

5. The main agreement of the Northern Ireland peace process is the UK-Ireland Belfast/Good Friday Agreement 1988 (GFA). The GFA was approved by referendum and incorporated as a bilateral (UK-Ireland) UN-deposited treaty.<sup>6</sup> The UK ratified the Charter further to a related commitment in the GFA.
6. The GFA also provided a framework to a move away from the from ‘English-only’ type policies of the past, designed to exclude the Irish language, to instead introduce a framework that expressly embraces linguistic diversity. The GFA refers specifically to the Irish language and Ulster Scots speakers as well as migrant languages.<sup>7</sup> The GFA also provides for specific commitments towards the Irish language and included provision for a statutory duty on Irish-medium education.
7. The GFA also led to the establishment of a Language Body as part of the North South Ministerial Council with two autonomous agencies for Foras na Gaeilge for the Irish language and the Ulster-Scots Agency (Tha Boord O Ulstèr-Scotch).<sup>8</sup>
8. The GFA provided for a unicameral legislature in Northern Ireland with a range of transferred powers covering most areas of the Charter. There is a power sharing Northern Ireland Executive, currently consisting of four parties, and led by the largest (Irish) nationalist party, Sinn Féin and the largest (British) unionist party, the DUP, represented by joint First and deputy First Ministers. The Communities ministry, currently held by the DUP, has lead competence for languages.
9. The NI Executive and Assembly were only reestablished in February 2024, for the first time since the May 2022 NI Assembly elections. A previous period of suspension ran from 2017-2020. The 2017 collapse related significantly in part to failure to implement and respect treaty-based commitments to the Irish language.<sup>9</sup>

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<sup>6</sup> Belfast/Good Friday Agreement 1998, UK Treaty Series 51 (2000 Cm 4705), Article 2 of the treaty binds the UK to implement provisions of the annexed Multi-Party Agreement, which correspond to its competency.

<sup>7</sup> GFA Economic, Social and Cultural issues, paragraph 3 “All participants recognise the importance of respect, understanding and tolerance in relation to linguistic diversity, including in Northern Ireland, the Irish language, Ulster-Scots and the languages of the various ethnic communities, all of which are part of the cultural wealth of the island of Ireland.”

<sup>8</sup> <https://www.northsouthministerialcouncil.org/language-body>

<sup>9</sup> Failures by both the UK Government to implement previous commitments to legislate in the UK Parliament to protect the Irish language and a series of decisions by DUP ministers that regressed the implementation of the ECRML were factors in causing the collapse of the devolved institutions, and in the failure to reach agreement as to their restoration until January 2020. The ministerial decisions in question, include DUP ministers adopting ‘single language’ (i.e. English only) policies in their Departments, in conflict with Article 7 ECRML, and a decision taken on the eve of Christmas 2016 by the then Communities Minister Paul Givan MLA to cut the modest (around €60k) and much commended Liofa bursary scheme (that allowed the children of low-income families to attend summer schemes in the Irish-speaking Gaeltacht to further language acquisition). The decision itself was reversed under the threat of legal challenge. (A full account of this is provided in the [Equality Coalition report “Sectarianism: Key Facts”](#).) The devolved institutions had, however, fallen into a collapse that would last three years, ostensibly over the allocation of public resources in a renewable energy scheme, but also over the failure to deliver core rights obligations.

10. Under the GFA, the UK Parliament retains competence to legislate in areas devolved to the NI Assembly where required in order to meet treaty-based obligations.<sup>10</sup> The UK Minister for NI also retains powers to direct an NI Minister to take or refrain from taking action to ensure compliance with the UK's international obligations. Such directions are through legally binding Orders.<sup>11</sup> An example of UK Parliament intervention was legislation to ensure implementation of recommendations of the UN CEDAW Optional Protocol inquiry into abortion provision in NI.<sup>12</sup>

*The intended safeguards from the GFA*

11. The GFA provided for core safeguards over the exercise of Executive and Legislative power in NI. The GFA requires the codified incorporation of the European Convention of Human Rights (ECHR) into Northern Ireland law, with 'direct access to the courts' and 'remedies for breach(es)'.<sup>13</sup> This commitment was largely taken forward through the Human Rights Act 1998.
12. In addition, through legislation in the UK Parliament, there was to be a supplementary ECHR+ Bill of Rights for Northern Ireland,<sup>14</sup> the content of which was last advised by the GFA-established NHRI (The Northern Ireland Human Rights Commission) in 2008.<sup>15</sup> The Bill of Rights for Northern Ireland, as advised by the Commission, would have incorporated the ECRML into the domestic legal order and made its provisions enforceable. In the absence of the Bill of Rights, there is also no anti-discrimination legislation covering 'language' as a protected characteristic, save for limited protection under the domestic incorporation of the ECHR.<sup>16</sup>
13. The 2020 'New Decade New Approach' (NDNA) deal, between the UK and Ireland and Northern Ireland parties, restored the Northern Ireland institutions after three years of suspension (2017-2020).<sup>17</sup> The NDNA provided for a new process for progressing the Bill of Rights for Northern Ireland, with an Ad Hoc Committee of the Northern Ireland Assembly. The work of this Committee was impeded but it nevertheless produced a final report.<sup>18</sup> Four of the five parties in the NI Executive stated their support for the Bill of Rights in this process (the exception being the DUP).<sup>19</sup> There is broad cross-community support for the Bill of Rights.<sup>20</sup> Revised

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<sup>10</sup> Paragraph 33(b), Strand 1 GFA, providing that the UK Parliament will: "legislate as necessary to ensure the United Kingdom's international obligations are met in respect of Northern Ireland".

<sup>11</sup> S26 Northern Ireland Act 1998: <https://www.legislation.gov.uk/ukpga/1998/47/section/26>

<sup>12</sup> See legislation here: <https://www.legislation.gov.uk/ukpga/2019/22/section/9/enacted> and CEDAW inquiry here: <https://digitallibrary.un.org/record/1480026?ln=en>

<sup>13</sup> GFA 1998, Rights, Safeguards and Equality of Opportunity Section, paragraph 2: *The British Government will complete incorporation into Northern Ireland law of the European Convention on Human Rights (ECHR), with direct access to the courts, and remedies for breach of the Convention, including power for the courts to overrule Assembly legislation on grounds of inconsistency.*

<sup>14</sup> The GFA-commitment to the Bill of Rights for Northern Ireland is not to be confused with the abandoned UK 'Bill of Rights Bill' the purpose of which was to repeal the Human Rights Act 1998.

<sup>15</sup> <https://nihrc.org/publication/detail/advice-to-the-secretary-of-state-for-northern-ireland>

<sup>16</sup> The domestic incorporation of the ECHR in NI law is provided for through the (UK) Human Rights Act 1998, with Article 14 ECHR encompassing non-discrimination on grounds language, but when parasitic on other ECHR rights. The UK is not party to Protocol 12 ECHR and the free standing right to non discrimination.

<sup>17</sup> [UK-Ireland New Decade New Approach deal](#) 2020

<sup>18</sup> [NIA 156/17-22 Report of the Ad Hoc Committee on a Bill of Rights](#), 14 February 2022

<sup>19</sup> [NIA 156/17-22 Report of the Ad Hoc Committee on a Bill of Rights](#), paragraph 13.

<sup>20</sup> [Polling shows public demand stronger rights protections following Covid-19 | Human Rights Consortium](#)



advice from the Human Rights Commission on the Bill of Rights could better codify and incorporate protections for the Irish language in light of experience to date.

**COMEX may wish to press the UK on progress on the Bill of Rights for Northern Ireland as a vehicle to incorporate the provisions of the Charter, a freestanding right to non-discrimination on grounds of language, and broader recommended legislative protection.**

*The misuse of vetoes to block Charter compliance*

14. In the absence of the Bill of Rights other mechanisms, some originally intended to protect minority rights, have instead been regularly deployed to thwart and block progress on ECRML and broader commitments to the Irish language.
15. This includes the following:
  - The **'St Andrews veto'** – which requires 'controversial' etc decisions by individual NI Ministers to be considered by the full NI Executive – with the DUP previously using this mechanism to prevent progress on Irish language legislation and the strategy.
  - The **'Executive Agenda veto'** – a provision in the Ministerial Code whereby both the First and deputy First Ministers must both agree items for the agenda of the Executive. Court proceedings have revealed this was used over 30 times 2020-2021 to block consideration of the Irish language strategy.
  - The **local government 'call in' mechanism**. This was to be a minority rights mechanism at local councils whereby a minority of councillors can require a decision to be taken by a 80% 'supermajority' if a legal determination the decision would essentially constitute a discriminatory detriment against a section of the community. This mechanism was used in Belfast City Council to block bilingual (English-Irish) signage inside a council leisure facility. We contested this decision and a tribunal has just ruled in our favour that the determination cannot be kept confidential.
  - **Equality Impacts Assessments (EQIAs) and the 'good relations' duty**. The GFA provided for a statutory public sector equality duty, to compel impact assessment as to whether policies constituted a discriminatory detriment. The UK added a second 'good relations' limb to this duty, which has been regularly used to block Irish language provision on the grounds it would raise 'community tensions' in the context of political and sectarian hostility to Irish.

**'St Andrews Veto' at the NI Executive**

16. The St Andrews Agreement 2006 made changes to the GFA including the introduction of new veto over the exercise of powers by individual NI Ministers.
17. The 'St Andrews Veto' augmented the role of the NI Executive to require most ministerial decisions outside the terms of a Programme for Government to instead require a decision by the full Northern Ireland Executive if they were 'controversial' or 'significant'. Three ministers could also require an Executive vote to be taken on a

‘cross community’ basis (in which ‘Other’ Ministers have no vote).<sup>21</sup> The criteria of ‘significant’ or ‘controversial’ do not relate to rights-based thresholds, and indeed include most minority rights issues, given they are politically contested and hence ‘controversial’.

18. In the year following NDNA (when the adoption of a Programme for Government had been prevented) this veto was invoked six times by DUP ministers to veto ministerial decisions. On three occasions it was used to block provision for early medical abortion services (relating to a UN CEDAW ruling); and twice to block public health measures to deal with the coronavirus pandemic. In previous mandates DUP ministers used the veto to block a consultation on same sex equal marriage, but also policy proposals on Irish language legislation and Irish and Ulster Scots strategies.<sup>22</sup>

### **Executive Agenda veto**

19. Another veto at the level of the NI Executive is a provision whereby the inclusion of ministerial proposals on the agenda for the NI Executive must be agreed by both the First and deputy First Minister giving, in practice, either a veto.<sup>23</sup>
20. The 2021 UK report to COMEX makes reference to the blocking from the Executives’ agenda of Ministerial submissions to take forward the Strategies to promote Irish and Ulster Scots.<sup>24</sup>
21. In August 2022 the High Court in Belfast, ruled that the Executive had acted unlawfully in not adopting the Irish language strategy in a judicial review taken by Conradh na Gaeilge. Among the factors in reaching this decision, the court ruling records that the competent minister in the Department for Communities (DfC) had sought to include on the agenda paper a timetable for the strategy. The judgement states that:

The evidence suggests that the Minister and/or the Department sought to have the issue progressed within the Executive Committee at over 30 of its meetings between December 2020 and June 2021.<sup>25</sup>

22. The court observes that notwithstanding this ‘the paper on the Irish language strategy was never included on the Executive Committee agenda’ ruling that:

It is difficult to avoid any conclusion other than that the issue was being blocked from substantive consideration at the Executive Committee, notwithstanding the

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<sup>21</sup> For further information see: <https://caj.org.uk/2020/11/18/stormonts-vetoes-in-the-context-of-a-pandemic-an-equality-coalition-briefing-note/> Members of the Northern Ireland Assembly are to designate on assuming office as ‘nationalist’, ‘unionist’ or ‘other’.

<sup>22</sup> For further detail see [CAJ Written Evidence to the UK Parliament Public Bill Committee: Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill](#)

<sup>23</sup> See paragraph 2.11 of the NI Ministerial Code <https://www.northernireland.gov.uk/topics/your-executive/ministerial-code>

<sup>24</sup> [MIN-LANG \(2021\) IRIA 1, paragraph 176](#). For further examples see [CAJ Written Evidence to the UK Parliament Public Bill Committee: Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill](#)

<sup>25</sup> *Conradh na Gaeilge’s* Application (no 2) [2022] NIQB 56 paragraph 15 <https://www.judiciaryni.uk/judicial-decisions/2022-niqb-56>

DfC Minister's concerted efforts to progress the paper and the work which it was to underpin.<sup>26</sup>

### **'Call in' – Local Government**

23. Following local government reform there has been a 'call in' mechanism in municipal Councils in Northern Ireland since 2014. This mechanism has provided that key decisions by Councils can be 'called in' by 15% of representatives. If a 'call in' meets the criteria, a vote will be reconsidered and only approved if passed by a 'qualified majority' of 80% of municipal representatives. As well as procedural grounds, the criteria for doing this is when the decision in question would:

...disproportionately affect adversely a section of inhabitants' of the local government district.<sup>27</sup>

24. Decision making as to whether this threshold has or has not been met is deferred to a lawyer selected by the Council who produces a legal determination. If the threshold is met, a qualified majority vote of 80%+ is required, otherwise the original decision stands on the basis of a simple majority. Councillors tabling a 'call in' are required to state the nature of the alleged disproportionate adverse impact and which section of the community it impacts.

25. Secondary legislation was presented to the Assembly in 2016 by the competent Minister that would have tied the definition of 'disproportionately affect adversely' to decisions that risked incompatibility with the ECHR, EU law or equality provisions of the Councils' Equality Scheme.<sup>28</sup> Whilst this legislation was supported by four of the five parties (Sinn Féin, UUP, SDLP & Alliance) it was blocked by the DUP tabling a 'Petition of Concern'.<sup>29</sup> Whilst the opportunity to expressly tie the power to human rights standards was therefore missed, the concept of 'adverse impact' is found in NI equality law and relates to discriminatory detriment.<sup>30</sup>

26. The 'Call in' mechanism was used by DUP representatives in Belfast City Council in late 2021 relating to a decision to erect bilingual English - Irish signage in the councils 'Olympia' leisure centre which a public consultation had indicated demand for. The 'Call In' contended the signage would 'disproportionately adversely affect' the 'Protestant community', the 'British community', the 'Northern Irish community' and the community in one of the areas near the leisure centre, citing sentiments expressed at one community meeting for 'English Only signage,' and concerns that 'good community relations' would be damaged by bilingual signage.<sup>31</sup>

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<sup>26</sup> *Conradh na Gaeilge's* Application (no 2) [2022] NIQB 56 paragraph 15 <https://www.judiciaryni.uk/judicial-decisions/2022-niqb-56>

<sup>27</sup> [s41 of the Local Government Act \(Northern Ireland\) 2014](#) and related [regulations](#)

<sup>28</sup> (proposed) The Local Government (Standing Orders) Regulations (Northern Ireland) 2016 <https://www.legislation.gov.uk/nidsr/2016/9780338004468>

<sup>29</sup> Whilst originally envisaged to be tied to the ECHR and Bill of Rights the Petition of Concern has controversially also operated as a sectoral veto within the NI Assembly, with some recent reform. For further detail see CAJ [Submission to the Submission on the UK's Fifth State Report under the Framework Convention for the Protection of National Minorities](#), April 17, 2022

<sup>30</sup> Namely in the public sector equality duty in [Section 75 of the Northern Ireland Act 1998](#).

<sup>31</sup> Belfast City Council 'Call in' requisition form 24 September 2021 '2(f): Consultation on Signage - Andersonstown, Lisnasharragh, Olympia and Templemore Leisure Centres – Options Paper.'

27. The legal determination upheld the ‘Call In’, however the Council declined to release the documentation into the public domain, a decision initially upheld by the Information Commissioner. As a consequence, Conradh na Gaeilge, represented by CAJ, took legal challenge to the Freedom of Information Tribunal. Speaking to the media outside the hearing, CAJ stated that:

It cries out for an explanation how a decision can be reached that having to place Irish on a sign alongside English could constitute discriminatory treatment. That is why we consider it is important that these documents are released for public scrutiny.<sup>32</sup>

28. A hearing was ultimately held on the matter on 15 January 2024 in Belfast and heard from witnesses in the Irish speaking community who introduced themselves in Irish – first Cuisle Nic Liam, of Conradh na Gaeilge; Claire Donnelly, Principal of an Irish-medium primary school; Eoghan Ó Garmaile, a community projects worker from Glór na Móna; and Seán Ó Heacháin head of Irish language at Coláiste Feirste, an Irish language secondary school with nearly a thousand pupils, situated less than a mile from the Olympia leisure centre. In the context of the ban on Irish in court documents under legislation from 1737 (that will now be repealed under the Identity and Language (Northern Ireland) Act 2022) this may have been the first time Irish has been permitted to be spoken in a Belfast court for decades, if not longer.<sup>33</sup>

29. The Tribunal issued a decision on the 1 February 2024, overturning the decision of the Council and Information Commissioner not to disclose the legal determination. The case centred on whether the ‘public interest’ in releasing the documentation outweighed the public interest in not doing so. The court found in our favour including citing the public interest in transparency over issues where compliance duties under the Charter and the Framework Convention were engaged. The ruling states:

31. The concern expressed by a Council of Europe body (Advisory Committee on the Framework Convention for National Minorities) in 2011 ... sets out as a policy objective a public interest in protecting and promoting minority languages and a rejection of the proposition that promoting the Irish Language is discrimination against the majority population. Against that background the Appellant finds it difficult to comprehend the legal and evidential basis for a decision that erecting Irish Language signs in leisure centres would cause a disproportionate adverse effect on a part of the population. While the agreements relating to Minority Languages may not be directly enforceable in UK courts, they are a significant matter of public interest.

32. The ability and preparedness of UK bodies to explain to their own population how they are (or are not) meeting their aspirations is a substantial matter of public interest far outweighing the public interest of legal privilege and, given the circumstances, doing no harm to that interest.<sup>34</sup>

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<sup>32</sup> <https://www.belfasttelegraph.co.uk/news/courts/legal-advice-which-stalled-erection-of-irish-signs-at-belfast-leisure-centre-should-be-disclosed-in-public-tribunal-hears/a1051840661.html>

<sup>33</sup> [Irish language spoken in Belfast courtroom for first time in 300 years | Hotpress](#)

<sup>34</sup> CONRADH NA GAEILGE (Appellant) and INFORMATION COMMISSIONER + BELFAST CITY COUNCIL [2024] UKFTT 00097 (GRC) Information Rights IC-174101-Q3M4

30. In this context the Tribunal decision, which appendages text from the Advisory Committee and references the Charter, has established further legal effect of these treaty-based obligations as considerations in legal determinations relating to the public interest and transparency in governance. At the time of writing, a 42 day period is to pass before the documentation is released.

### **Equality Impact Assessment (EQIA) and the ‘good relations’ duty**

31. The GFA provided for a statutory Equality Duty on NI public authorities. The primary purpose of the Section 75 statutory equality duty is to prevent ‘adverse impacts’ on equality and to better promote equality across nine protected characteristics (in summary: age, disability, sex, ethnicity, religious belief, political opinion, disability, dependents and sexual orientation).<sup>35</sup>
32. The concept of ‘adverse impacts’ is similar to ‘discriminatory detriment’ on a protected characteristic and should not be misinterpreted as mere political opposition or contention over a policy.<sup>36</sup>
33. The equality duty legislation requires that new or proposed policies are equality tested for equalities impacts on the nine protected characteristics. It requires where such impact assessments identify ‘adverse impacts’ alternative policies or mitigating measures are considered. Most public authorities have adopted a two-stage methodology for this. The first stage is an ‘equality screening’ assessment and if this produces evidence of a possible discriminatory impact of a policy on a protected equality group, a full Equality Impact Assessment (EQIA), including a three month consultation, will be conducted.
34. Public authorities adopt statutory ‘Equality schemes’ setting out their commitments to comply with the duties that are enforceable through a complaint to the Equality Commission or in certain circumstances to the courts.
35. Whilst not provided for in the GFA, the UK added a second ‘good relations’ limb to the equality duty. Whilst the duties to conduct an impact assessment in the legislation do not apply to the good relations duty, many public authorities problematically have committed to conducting ‘good relations’ impact assessments as part of the equality screening process within their equality schemes.
36. There is no definition of ‘good relations’ in the Northern Ireland legislation. The same concept was subsequently legislated for in Great Britain in the Equality Act 2010, which explicitly frames the focus of the duty as “*tackling prejudice and promoting understanding*”.<sup>37</sup> In Northern Ireland however the concept has been interpreted in a lay sense to block policy decisions, including on equality and rights

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<sup>35</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/75>

<sup>36</sup> The national equality body – the Equality Commission for Northern Ireland has produced the following definition of adverse impact: *Adverse impact: Where a Section 75 category has been affected differently by a policy and the effect is less favourable, it is known as adverse impact. If a policy has an adverse impact on a Section 75 category, a public authority must consider whether or not the adverse impact is unlawfully discriminatory. In either case a public authority must take measures to redress the adverse impact, by considering mitigating measures and/or alternative ways of delivering the policy.*” This definition is incorporated into Council equality schemes – see for example

<https://www.belfastcity.gov.uk/Documents/Equality-Scheme-for-Belfast-City-Council#appendix5>

<sup>37</sup> s149 of the Equality Act 2010

provision, on grounds they are politically opposed and hence would lead to 'community tensions' and be 'bad' for good relations. Policies promoting the Irish language have been perhaps those most detrimentally affected by this 'good relations' approach.<sup>38</sup>

37. The Advisory Committee on the Framework Convention has long raised concerns regarding the application of the 'good relations' duty. The Committee raised concerns that a static interpretation of the notion of 'good relations' had prevented reform of equality legislation and hampered efforts to put adequate focus on minority rights. The Committee also noted policy on the Irish language, whilst less sensitive in society, had become a 'hostage' of good relations policy which aims at avoiding tensions. The Committee noted that the 'good relations' duty on occasions appeared to take priority over wider equality and minority rights issues blocked on grounds they would lead to 'community tensions.' Drawing attention to the tight definition of good relations in law in Great Britain,<sup>39</sup> the Committee noted the lack of proper definition in law in Northern Ireland, highlighting that this allows good relations to *"be used rather as a 'tool' to set aside politically contentious issues, such as legislating on the Irish language, and to justify a "do-nothing" attitude, eventually based on 'perceptions' rather than objective criteria"*.<sup>40</sup> A recommendation for immediate action from Advisory Committee urged the Northern Ireland Executive to *"to implement the 'good relations' duty as provided under the Northern Ireland Act 1998 in a manner that does not run counter to the equality duty and that does not prevent access to rights of persons belonging to all national and ethnic minorities."*<sup>41</sup>
38. The European Commission against Racism and Intolerance (ECRI) General Recommendation 2 has provided an authoritative interpretation of how 'good relations' *should* be interpreted:
- Promoting good relations between different groups in society entails fostering mutual respect, understanding and integration while continuing to combat discrimination and intolerance.<sup>42</sup>
39. The Equality Commission for Northern Ireland, which has a statutory function to advise on the Section 75 duties, has also promoted the *'tackling prejudice, promoting understanding'* definition from the Equality Act 2010 in Great Britain. In addition, also drawing on legislation in Britain in guidance to NI Councils, the Equality Commission elaborates that: *"Good relations can be said to exist where there is a*

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<sup>38</sup> A non-Irish language example is provided by Northern Ireland Office proposals to provide abortion services in NI further to a ruling by the UN CEDAW committee, which would have positive equalities impacts for women. In this assessment the Northern Ireland Office had held abortion services would constitute 'adverse impacts' on 'good relations' on grounds of religious belief and political opinion. The decision was reversed following a complaint from CAJ, trade unions and women's rights and LGBT groups. (Screening Decision Review Request on the Provision of a new legal framework for accessing abortion services in NI. submitted on behalf of CAJ, NIPSA, UNISON, NIWEP, Transgender NI, Here NI, Alliance for Choice, NIRWN and ICTU.)

<sup>39</sup> The Equality Act 2010 in Great Britain explicitly frames the focus of the good relations duty as "tackling prejudice and promoting understanding".

<sup>40</sup> ACFC/OP/IV(2016)005 4th Opinion on the UK (adopted on 25 May 2016) paragraphs 7, 11, 84, 85

<sup>41</sup> <https://www.coe.int/en/web/minorities/-/united-kingdom-publication-of-the-4th-advisory-committee-opinion>

<sup>42</sup> [ECRI General Recommendation no 2 \(revised\), explanatory memorandum](#), para graph 21

*high level of dignity, respect and mutual understanding; an absence of prejudice, hatred, hostility or harassment; a fair level of participation in society.”<sup>43</sup>*

40. Whilst some Councils have wisely removed ‘good relations impact assessments’ from the scope of their Equality Schemes, others have not, and they continue to be used to block Irish language provision.
41. For example, in Belfast City Council an otherwise progressive bilingual street signage policy has been limited by a provision that *every* application for a bilingual street sign should be potentially subject to a separate equality screening to ascertain if there are ‘adverse impacts’ on ‘good relations’ from bilingual signage. According to the good relations section of the policy when drafted, this is to accommodate the ‘concerns’ of those ‘who do not support languages other than English’. The mitigating measure proposed is a requirement that bilingual signage “*is supported by the community in that area and is not opposed by a significant proportion of that community.*” We raised concerns that such a process of majority consent would be incompatible with minority rights and constitute a further misuse of the ‘good relations’ duty.<sup>44</sup>
42. In our experience it is unprecedented whereby *every single application* to the Council under a statutory scheme may be subject to an equality screening exercise. (Rather the approach is to *equality screen the overall policy*, not each application, under the policy.) Belfast City Council have confirmed to us that there *are no other applications processes in the Council where equality screening is carried out on each application* to the Council.<sup>45</sup> We consider this entirely differential approach to the Irish language to be in conflict with Article 7 of the Charter.
43. The practical impact of this provision has been recently illustrated by the reversal of a decision to provide to bilingual street signage in three streets in north and south Belfast. A Council report stated that a ‘draft’ screening process had identified that a survey for signage ‘could cause community tension’ and that bilingual signage could cause an ‘adverse impact’ on ‘good relations.’<sup>46</sup> Despite this contention leading to a *decision* within, the Council declined to release a copy of the ‘draft’ screening exercise for public scrutiny.<sup>47</sup>

**COMEX may wish to urge the UK and NI authorities to review the above mechanisms to ensure they cannot operate in a manner which prevents the implementation of duties under the Charter. In particular, COMEX may wish to reiterate that in accordance with Article 7 that the adoption of special measures to promote Irish, in particular bilingual signage, do not constitute ‘discrimination’ against others and urge an end to ‘good relations impact assessments’ on such measures.**

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<sup>43</sup> Equality Commission advice on Good Relations in local Councils’ 2015

<sup>44</sup> For further detail see: Submission to Belfast City Council Equality Impact Assessment (EQIA) of proposed policy on Dual Language Street Signs, February 2022 <https://caj.org.uk/2022/02/25/submission-on-belfast-city-councils-proposed-policy-on-dual-language-street-signs/>

<sup>45</sup> Belfast City Council, correspondence to CAJ, Date: 8 February 2024

<sup>46</sup> <https://belfastmedia.com/irish-signage-request-for-two-north-and-south-belfast-streets-halted-after-council-row>

<sup>47</sup> Belfast City Council, correspondence to CAJ, Date: 8 February 2024



### **Structures to implement the ECRML in NI**

44. The transfer of the language function to the new Department for Communities (DfC) in 2016 coincided with acts of regression.
45. Detailed official Guidance on compliance with the Charter mysteriously disappeared from the departmental website. The Guidance was only reinstated in August 2020, following the post-NDNA reinstatement of the NI Executive.<sup>48</sup>
46. Until 2016, making progress on implementing the Charter had been coordinated in NI by the Interdepartmental Charter Implementation Group. This coordinating group, however, ceased meeting all together following the transfer of the function to the DfC. The previous UK response to COMEX makes reference to the Interdepartmental Charter Implementation Group not having met for several years and seeks to attribute this to resourcing issues.<sup>49</sup> It should be noted, however, that the group did not control a significant budget line.

### **Compliance with Parts II and III of the ECRML in relation to the Irish language**

47. There continues to be significant support and growth in the usage and learning of the Irish language.<sup>50</sup> There has also been significant progress in supportive attitudes and actions towards the language across the community, this includes cross-community growth in interest and learning in the language across society. In short Irish is growing, there is significant demand for Irish language provision, and this bodes well for the safeguarding and development of the language in line with the objectives of the Charter.
  48. However, there continues to be obstruction at a political level of the delivery of key previously agreed commitments to the Irish language. There are also continued examples of hostility and intimidation of Irish speakers.
  49. This is seen in the defacement of Irish on hundreds of bilingual signs erected by some Councils, some of which have been recorded as sectarian incidents.<sup>51</sup>
  50. The first Irish-medium nursery in East Belfast, which is a mainly unionist area, received strong support from a local Primary School and others in the area, with the primary school agreeing to host the facility. However, the nursery, Naíscoil na Seolta was forced to relocate, a statement set out that *“Due to an ongoing social media hate campaign against some individuals and the integrated Naíscoil na Seolta, it is with great sadness that it is choosing to relocate to an alternative location.”*<sup>52</sup>
51. In April 2023, on the 25<sup>th</sup> Anniversary of the GFA, we hosted a seminar on the ongoing ‘chill factor’ faced by civil society, including the ongoing and worsening

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<sup>48</sup> <https://www.communities-ni.gov.uk/publications/guidance-european-charter-regional-or-minority-languages> (accessed February 2024).

<sup>49</sup> MIN-LANG (2021) 3 COMEX evaluation of the UK, paragraph 174.

<sup>50</sup> For further details and statistical indicators, including language profiles by municipality, see part II <https://caj.org.uk/2021/04/30/submission-2021-independent-review-of-local-government-boundaries-and-names/>

<sup>51</sup> See ‘Bilingual signs vandalised 300 times in five years costing councils almost £40,000’

<https://www.belfastlive.co.uk/news/northern-ireland/bilingual-signs-vandalised-300-times-22666841>

<sup>52</sup> <https://www.irishnews.com/news/northernirelandnews/2021/07/28/news/first-irish-language-school-in-east-belfast-to-relocate-after-hate-campaign--2402397/>



intimidation of civil society actors. The findings of this were published in CAJ's *Just News* newsletter. This included a specific article on *'The intimidation faced by Irish language speakers and activists.'* Among other matters this recorded: the sectarian intimidation of the 'Donate4Daithí' organ donation campaign (a high-profile campaign for an opt-out organ donation led by youngster Daithí Mac Gabhann, who has been waiting for a heart transplant, and his parents) on the basis the family are raising their son through Irish. The article argued:

The most concerning element of political unionism's constant public vilification and ridiculing of the language is that it has created an unprecedented climate of hostility, encouraging direct intimidation of Irish speakers and activists. This was evidenced recently when a threatening sign was erected outside a County Down primary school warning it to 'Keep Irish Out'. [Irish Medium Education] research has concluded that Irish-medium schools have faced "ill-disguised sectarianism and anti-Irish bias" from education authorities. Bilingual signs have been vandalised over 300 times in the past five years with a third of those signs destroyed in the past year alone.<sup>53</sup>

52. There is also a legacy of regressive acts conducted in previous mandates including the introduction of 'English-Only' policies in certain ministries, including the Department of Education. There is therefore presently a need for vigilance against regression in the context of the re-establishment of the Northern Ireland Executive.<sup>54</sup>
53. The previous evaluation by COMEX regretted *"that no law or strategy on the Irish language has been adopted. Given the risks of political tension around the Irish language, the Committee of Experts reiterates that efforts should be made to ensure that the promotion of Irish is, as far as possible, depoliticised."*<sup>55</sup> COMEX also stressed the progression of language legislation through the Assembly would be a step in the right direction. It should be noted that groups promoting the Irish language stress its cross-community nature and seek to promote the language across society. The politicisation of the language is driven by hostility and opposition to it. This is

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<sup>53</sup> <https://caj.org.uk/wp-content/uploads/2023/04/JN-Apr-CF-23-FINAL.pdf> pages 8-9.

<sup>54</sup> At the commencement of the 2016 mandate DUP Ministers adopted 'single language policies' ('English-only policies) in their departments. This included the Department of Education which had previously adopted an Irish language policy (last revised in 2009) which contained extensive measures for promotion and bilingual provision, in accordance with international standards. A new Education Minister took office on the 25 May 2016. In June 2016, the Irish language policy was subject to review and an entirely new draft 'languages policy' had been produced. No consultation or equality screening took place, nor does there appear to have been any engagement with Irish language speakers or advisory bodies. No records were kept as to what prompted the sudden review and re-writing of the policy. Department of Education records state that the new policy changed the language for the administration of the department's functions from English and Irish, to 'English only'. It also led to a monolingual logo being adopted and dropping a trilingual (English-Irish-Ulster Scots) logo. The new policy was expeditiously approved by the end of the summer following further interventions by the Minister and his special advisor removing commitments to translate certain documents into Irish, including for Irish Medium Schools. Consequently, a Departmental email states that material that had already been translated into Irish for Irish medium schools (the school omnibus survey) would have 'to go in English only now' due to the new policy. (Information obtained under Freedom of Information requests, for a full narrative of the 'single language policies' see <https://caj.org.uk/2020/02/17/sectarianism-the-key-facts/>)

<sup>55</sup> MIN-LANG (2021) 3 COMEX evaluation of the UK, paragraph 24.

illustrated in that legislation was ultimately not progressed through the Assembly and had to be taken forward in the UK Parliament.

### Irish Language legislation

54. The 2006 (UK-Ireland) St Andrews Agreement committed the British Government to an Irish Language Act “reflecting on the experience of Wales and Ireland.” The Committee of Ministers (CM) had recommended comprehensive Irish language policy for NI for which the CM preferred option was through legislation that provided statutory rights for Irish speakers.<sup>56</sup> The St Andrews commitment to the Irish Language Act (Acht na Gaeilge) could have delivered this CM recommendation.
55. The failure to discharge this commitment to legislate to protect the Irish language became a touchstone issue in relation to negotiations to re-establish the NI institutions following their collapse in 2017. There were regular mass mobilisations by the Irish speaking community, particularly young persons, organised by An Dream Dearg, a group calling for an Acht na Gaeilge Anois (Irish Language Act now).
56. In 2018 a deal was briefly reached between the DUP and Sinn Féin for an Irish Language Act which was to proceed as part of a three bill legislative package, including provisions for Ulster Scots and a broader linguistic and cultural diversity bill. The DUP however quickly withdrew its support and the legislation was not introduced.<sup>57</sup>
57. Ultimately the British and Irish Governments, with the NI Parties, negotiated the *New Decade New Approach* (NDNA) deal to re-establish power sharing in January 2020. Published alongside NDNA was combined draft legislation reflective of the 2018 deal, consisting of three bills, the second was an Irish Language Act, the third of which dealt with Ulster Scots and the other was to ‘establish the Office of Identity and Cultural Expression’.
58. CAJ produced a detailed narrative and critique of the three bills.<sup>58</sup> NDNA committed to the three bills being introduced to the NI Assembly by April 2020, as part of an “integrated package of legislation” that was to pass through the Assembly simultaneously. The (unstated) reasoning behind this was to ensure one bill (the Irish language bill) was not blocked whilst the others proceeded.
59. Whilst there was some understandable initial delay to this timeframe due to the onset of the Covid-19 pandemic, over a year the passed without the legislation being introduced. In late November 2020, the deputy First Minister told the NI Assembly that preparatory work had been undertaken and the intention was to progress the bills during the 2020-21 mandate.<sup>59</sup> However, this did not occur.

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<sup>56</sup> Recommendation CM/RecChL(2014)3 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by the United Kingdom, (Adopted by the Committee of Ministers on 15 January 2014), recommendation 2.

<sup>57</sup> For a full journalistic account of these events see: <https://eamonnmallie.com/2018/02/new-light-shone-draft-agreement-eamonn-mallie/>

<sup>58</sup> Analysis of the draft Legislation published with the New Decade, New Approach document – CAJ January 2020 <https://caj.org.uk/2020/02/04/analysis-of-the-new-decade-new-approach-agreement/>

<sup>59</sup> <http://aims.niassembly.gov.uk/questions/oralsearchresults.aspx?&qf=0&qfv=1&ref=AQO%201201/17-22>

60. In early 2021, the Committee (COMEX) urged the adoption of “*comprehensive law and a strategy on the promotion of Irish in Northern Ireland*” as a recommendation for immediate action. COMEX, whilst welcoming the NDNA commitments including legislation, stated that they would only partially fulfil the UK’s undertakings towards the Irish language in Northern Ireland. Specifically, they did “*not offer the comprehensive approach a law and strategy would provide. For instance, there are no measures foreseen on education, access to public services, or cultural activities, and the majority of the powers of the proposed Irish Language Commissioner focus on communication with public authorities, ...Furthermore, questions remain about how Irish would be protected in practice.*”<sup>60</sup>
61. COMEX stated that even once the NDNA legislation and other commitments were taken forward, there would remain “a need for a comprehensive Irish Language Act” as follows:
- Therefore the Committee of Experts reiterates that an Irish Language Act would provide the basis for comprehensive and structured policy for the promotion of Irish in Northern Ireland, which would enable resolute action on the protection and promotion of Irish, in line with the United Kingdom’s undertakings under the Charter. In this context, the Committee of Experts considers that, even once the measures contained in the January 2020 agreement are enacted, there remains a need for a comprehensive Irish Language Act.<sup>61</sup>
62. In June 2021, the UK Government gave a commitment that if the Irish language and accompanying legislation was not introduced into the NI Assembly by September 2021, it would introduce the legislation in the UK Parliament by October 2021. By November 2021 this had not happened. The UK Government faced fresh calls from over 40 Irish language groups to legislate, but opposition from the DUP.<sup>62</sup> Into 2022, the UK Government reiterated its commitment to legislate in the UK Parliament, but did not set a timetable to do so.<sup>63</sup>
63. Ultimately the UK did introduce the *Identity and Language (Northern Ireland) Bill* into the UK Parliament, first in the upper chamber (House of Lords) on the 25 May 2022. It completed passage there on the 13 July 2022 and consideration initiated in the lower chamber (House of Commons) on 12 October 2022 where it completed passage on the 6 December 2022.
64. The Bill mirrored NDNA and provides for an Irish Language Commissioner taking a ‘Standards-based’ approach, whereby the Commissioner issues Irish Language Standards to NI public authorities. In our view this is a solid model for progress and is similar to the model in Wales, however the framework is much weaker. The Irish language standards are not binding, NI public authorities are only to take them into account (have ‘due regard’). Whilst the Commissioner is to be an independent body,

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<sup>60</sup> MIN-LANG (2021) 3 COMEX evaluation of the UK, Paragraph 25, recommendation 2a.

<sup>61</sup> MIN-LANG (2021) 3 COMEX evaluation of the UK, Paragraph 26.

<sup>62</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-59306740>

<sup>63</sup> <https://www.independent.co.uk/news/uk/uk-government-northern-ireland-stormont-irish-dup-b1990983.html>

Ministers will have a significant role, including a requirement on the First and deputy First Ministers to both approve any standards before they are issued.

65. Our analysis concluded that the Bill would “establish an institutional framework that can function effectively to promote and safeguard the Irish language if it is not frustrated.” Specifically, we stated in our analysis:

It is clear that the Irish language Bill is more limited than the commitment in the St Andrews Agreement to an Irish Language Act shaped by the legal framework in Wales and the Irish State. The Bill also falls short of the Council of Europe Committee of Ministers preferred option for their recommendation on comprehensive Irish language policy for NI, namely that it be taken forward through legislation that provided statutory rights for Irish speakers.<sup>64</sup>

However, the legislation provides a strong and robust institutional model in making provision for a Commissioner and Best Practice Language Standards. The Bill therefore provides an appropriate structure which could be effective if not actively frustrated. There is however a long track record of political obstruction of Irish language measures by the DUP in particular and the provision will test whether there is a ‘new approach’ in this new decade.

66. The proposed legislative package would also progress other areas, including issues previously highlighted by COMEX as incompatible with the Charter. The legislation provides for the repeal of the Administration of Justice (Language) Act (Ireland) 1737 which had the purpose and effect of preventing the use of Irish in any court documents.<sup>65</sup> NDNA also commits for births, marriages and deaths to be registrable through Irish, and for wills to be validly made in Irish, as an option and matter for individual choice.<sup>66</sup>
67. COMEX reiterated to the UK that the Bill was ‘somewhat limited vis-à-vis an Irish Language Act’. COMEX requested “that further consideration be given ... to making express provision for specific language rights, such as in the fields of education, access to public services, public signage and cultural activities”.<sup>67</sup> The UK Government however would not accept amendments to the provisions in the legislation.
68. CAJ had highlighted the weaknesses in the Bill that could lead to frustration of the purpose of the Irish Language Commissioner, including the provision whereby each Irish language standard will be subject to ministerial approval by both the First and deputy First Ministers, who are also to appoint the Commissioner.<sup>68</sup> There is no apparent legal reason why the First and deputy First Minister need to approve the Commissioners’ standards as they are not secondary legislation (as in Wales).<sup>69</sup>

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<sup>64</sup> Recommendation CM/RecChL(2014)3 of the Committee of Ministers on the application of the European Charter for Regional or Minority Languages by the United Kingdom, (Adopted by the Committee of Ministers on 15 January 2014), recommendation 2.

<sup>65</sup> <https://www.legislation.gov.uk/ukpga/2022/45/section/4/enacted>

<sup>66</sup> NDNA Annex E paragraph 5.13,

<sup>67</sup> MIN-LANG (2021) 3 COMEX evaluation of the UK, Paragraph 28.

<sup>68</sup> Clause 2(1), inserting section 78M(2).

<sup>69</sup> <https://www.legislation.gov.uk/mwa/2011/1/part/4/enacted>

69. There was recognition of this problem in the Bill through the vesting of concurrent powers in the Secretary of State to direct or discharge functions under the Act for Northern Ireland Ministers.<sup>70</sup> This empowered the Secretary of State to appoint the commissioners in the absence of NI Ministers (following a further collapse of the institutions in 2022). Following passage of the Bill in December 2022, the Secretary of State did not step in however to appoint the Commissioner in the absence of NI Ministers.
70. One commencement order was tabled coming into force on in May 2023.<sup>71</sup> This led to the legislation being formally incorporated as amendments to the Northern Ireland Act and establishing appointment powers. It did not however fully commence the Act. Notably the provision repealing the Administration of Justice (Language) Act (Ireland) 1737 to permit the use of Irish in court documents has yet to be commenced.<sup>72</sup>
71. On the 12 July 2023 the Council of Europe Committee of Ministers adopted a resolution on the implementation of the Framework Convention for the Protection of National Minorities by the UK, which urged the UK authorities to “ensure the implementation of the Identity and Language (Northern Ireland) Act, and work with representatives of the Irish-speaking community to further develop Irish language policy in Northern Ireland...”<sup>73</sup>
72. The UK authorities however did not take any further steps to commence the Act and appoint the Commissioners between that time and the recent reestablishment of the Northern Ireland Executive in February 2024. The Commissioner has yet to be appointed and the 1737 Act is yet to be repealed.

**COMEX may wish to press for the implementation of the provisions under the 2022 Act and reiterate its call for further comprehensive Irish language legislation.**

### **Irish language strategy**

73. The 2006 St Andrews agreement also placed a statutory duty on the Northern Ireland Executive (‘The Executive Committee’) to adopt an Irish language strategy (as well as a separate Ulster Scots strategy). The duty is framed in the following terms:

The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language.<sup>74</sup>

74. COMEX have urged the adoption of the strategy, most recently in 2021:

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<sup>70</sup> <https://www.legislation.gov.uk/ukpga/2022/45/part/2/enacted>

<sup>71</sup> The Identity and Language (Northern Ireland) Act 2022 (Commencement) Regulations 2023 <https://www.legislation.gov.uk/uksi/2023/566/regulation/2/made>

<sup>72</sup> The provision to repeal the 1737 Act is contained in section 4 of the Identity and Language (Northern Ireland) Act 2022, <https://www.legislation.gov.uk/ukpga/2022/45/section/4/enacted> Section 4 was not brought into force by the first commencement order

<https://www.legislation.gov.uk/uksi/2023/566/regulation/2/made>

<sup>73</sup> Resolution CM/ResCMN(2023)7, paragraph 11

[https://search.coe.int/cm/pages/result\\_details.aspx?objectid=0900001680abeb2c](https://search.coe.int/cm/pages/result_details.aspx?objectid=0900001680abeb2c)

<sup>74</sup> <https://www.legislation.gov.uk/ukpga/1998/47/section/28D>

Concerning an Irish Language Strategy, the Committee of Experts encourages the authorities to adopt this as swiftly as possible. It notes further that the development of an Irish Language Strategy have been committed to in the past, notably under the Northern Ireland Act 1998 and the St Andrew's Agreement of 2006, and as such is a domestic legal requirement as well as an obligation under the Charter. In concrete terms, the strategy should contain goals and milestones, and concrete measures in education, culture and other spheres of public life, along with opportunities for review and periodic monitoring in consultation with Irish speakers.<sup>75</sup>

75. Approaching 20 years since this commitment, the adoption of such an Irish language strategy has been repeatedly thwarted, with the NI Executive having been found twice (in 2017 and 2022) by the courts to have acted unlawfully in not adopting the strategy.
76. In the first NI Executive mandate (2007-2011) following the duty to adopt the Irish language strategy, and the separate Ulster Scots strategy, an approach was taken by DUP Ministers to instead merge the two strategies into one to seek artificial parity between Irish and Ulster Scots. COMEX helpfully raised concerns that such a 'parity' approach in the context of the 'quite different' situations of both would not serve the needs of either the Irish-Speakers or the Ulster-Scots speakers and will hold back the development of both languages.<sup>76</sup> This led to this approach being duly abandoned. No strategy was adopted in this mandate.
77. In the subsequent Executive mandate, in 2012 the new Sinn Féin Minister developed and put out for public consultation Irish and Ulster Scots strategies. Following the closure of public consultation in 2013, and then again in 2014, the strategies were issued to all Ministers in the NI Executive for comment, however only some Ministers responded. The Strategies were then *published and formally launched* in January 2015 both cover the period of 2015-2035.<sup>77</sup> The strategies did not ultimately come before the NI Executive for *adoption* until March 2016, where a vote to adopt them was not carried. There had been previous attempts to include the strategies on the agenda of the meeting but these had not been successful.<sup>78</sup> In March 2017, further to a judicial review application by Conradh Na Gaeilge, the NI High Court found that the NI Executive had acted unlawfully in not adopting an Irish language strategy.<sup>79</sup>
78. Whilst there was no NI Executive between 2017-2020 to adopt a strategy, the forming of an Executive in January 2020 revived the duty. The UK report to COMEX states that a proposed timeline for delivering both the Irish and Ulster Scots Strategies has been issued to the NI Executive but indicated that it had been blocked from consideration from the agenda.<sup>80</sup>

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<sup>75</sup> MIN-LANG (2021) 3, paragraph 27.

<sup>76</sup> COMEX, Application of the Charter in the UK, 3rd monitoring round ECRML (2010), 16, 17, 20, see also paragraph 57 and Finding D.

<sup>77</sup> Ulster Scots: <https://www.communities-ni.gov.uk/publications/ulster-scots-language-heritage-and-culture-strategy-2015-2035> Irish: <https://www.communities-ni.gov.uk/publications/irish-language-strategy-2015-2035>

<sup>78</sup> See paragraph 16 of Application by [Conradh Na Gaeilge for Judicial Review](#), [2017] NIQB 27.

<sup>79</sup> Application by Conradh Na Gaeilge for Judicial Review, [2017] NIQB 27.

<sup>80</sup> MIN-LANG (2021) IRIA 1, paragraph 176.



79. There was progress however in the appointment of an Irish Language Strategy Expert Advisory Panel by the Department of Communities. This process, conducted in Irish with Irish language experts, has produced a comprehensive blueprint for the Irish language strategy. In March 2022 the Department of Communities published this in an Irish Language Strategy Expert Advisory Panel Recommendation Report.<sup>81</sup>
80. In August 2022 the High Court in Belfast, ruled the Executive had acted unlawfully in not adopting the Irish language strategy in a new judicial review taken by Conradh na Gaeilge. Among the factors in reaching this decision, the court ruling records that the Communities Minister had sought to include on the agenda of the NI Executive a paper on a timetable for the strategy but had been thwarted. The judgement states:
- The evidence suggests that the Minister and/or the Department sought to have the issue progressed within the Executive Committee at over 30 of its meetings between December 2020 and June 2021.<sup>82</sup>
81. The court observes that notwithstanding this ‘the paper on the Irish language strategy was never included on the Executive Committee agenda’ ruling that:
- It is difficult to avoid any conclusion other than that the issue was being blocked from substantive consideration at the Executive Committee, notwithstanding the DfC Minister’s concerted efforts to progress the paper and the work which it was to underpin.<sup>83</sup>
82. The then First Ministers’ resignation in 2022 prevented the adoption of a strategy at that point. Following the May 2022 elections no Executive was formed until February 2024. It is notable however that the High Court has set out, in the context that the work has already been done on the strategy, that there is a limited timeframe for the new Executive to adopt a strategy, and that individual ministers blocking a future strategy could be held liable. The court stated:
- [When a new Executive is formed] ...the time available to it to adopt a strategy before it is in breach of its statutory obligation will have to be assessed against the then prevailing circumstances. Nonetheless, the fact that the duty has been unfulfilled for such a lengthy period, resulting in two High Court declarations to that effect, will be a powerful consideration tending towards the need for expedition.<sup>84</sup>
- [For future breaches a court order] ..could be directed in substance and/or form to each member of the Executive and, in the case of non-compliance, only those shown to be thwarting the order might be sanctioned, provided this could be clearly determined...In appropriate cases, the courts may be required to use their coercive powers where ministers simply fail to comply with their legal obligations.<sup>85</sup>

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<sup>81</sup> <https://www.communities-ni.gov.uk/publications/irish-language-strategy-expert-advisory-panel-recommendation-report>

<sup>82</sup> *Conradh na Gaeilge’s* Application (no 2) [2022] NIQB 56 paragraph 15 <https://www.judiciaryni.uk/judicial-decisions/2022-niqb-56>

<sup>83</sup> *Conradh na Gaeilge’s* Application (no 2) [2022] NIQB 56 paragraph 15

<sup>84</sup> *Conradh na Gaeilge’s* Application (no 2) [2022] NIQB 56 paragraph 50.

<sup>85</sup> *Conradh na Gaeilge’s* Application (no 2) [2022] NIQB 56 paragraph 47.

**COMEX may wish to press the NI Department of Communities and NI Executive for the expeditious implementation of the Irish language strategy reflective of the blueprint produced by the Expert Advisory Panel.**

## **Education**

83. In 2022 Conradh na Gaeilge and CAJ launched new research on Irish medium education (IME): *Irish education and the 'Statutory Duty': From the point of view of rights*. Authored by Dr Robbie McVeigh, the report looks at the effectiveness of the Department of Education (DE) and the Education Authority (EA) in relation to delivering on their statutory duty to encourage and facilitate Irish medium education. The report, published in Irish and English, looks at what (limited) progress has been made and documents obstacles still faced by those within the Irish Medium Education sector.<sup>86</sup>

84. The report assesses the delivery of Irish Medium Education (IME) against the domestic legal framework and international standards, including the Charter. The report states:

The Good Friday Agreement made a key commitment to, 'place a statutory duty on the Department of Education to encourage and facilitate Irish-medium education in line with current provision for integrated education'. Article 89 of the *Education (Northern Ireland) Order 1998* gave effect to this commitment as a new 'statutory duty': 'It shall be the duty of the Department to encourage and facilitate the development of Irish-medium education'.

[This] analysis situates the status of the Irish language within human rights discourse on language rights including international standards and the domestic NI legal framework. Human rights standards range from banning the suppression of minority languages to more proactive positive duties codified in the *European Charter for Regional or Minority Languages* (ECRML) - the European convention for the protection and promotion of minoritised languages. The UK government commitment to the ECRML was one of the key rights gains of the GFA.<sup>87</sup>

85. The report assesses that:

The situation of IME has changed significantly since the statutory duty was introduced. The sector had a very small existing base. Since then, IME has undergone significant growth. It remains the fastest growing educational sector with a plurality of new schools formed in last 20 years. IME now constitutes an expanding – albeit still relatively small – established sector with schools right across the six counties. Crucially, IME remains profoundly different from existing education sectors. The centrality of *bilingualism* and *immersion* to IME presents a whole set of additional challenges. Alongside

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<sup>86</sup> Gaeloideachas / Irish Medium Education and the Statutory Duty (CAJ/ CnG: 2022) <https://caj.org.uk/publications/reports/irish-education-and-the-statutory-duty-from-the-point-of-view-of-rights/>

<sup>87</sup> As above, page 3, summary.



this reality, IME has continued to face a level of hostility and political opposition.<sup>88</sup>

86. The research ‘documents obstacles faced by IME across several key areas: planning and development of new schools; teacher training and capacity; special educational needs; resources; and secondary level IME’ stating:

The research identifies a widespread sense of fatigue across the sector and reflects a wider sense of dissatisfaction with the implementation of the statutory duty. The conclusion is that the relationship between the statutory education section and the IME sector is not working to *develop* IME.<sup>89</sup>

The analysis suggests that there continues to be a profound gap in understandings of the meaning of statutory duty. For most people in the IME community – and in wider Irish language community – the statutory duty *should* have reset the relationship between the Northern Ireland state and IME. Moreover, the 2011 [High Court ruling on school transport relating to the IME statutory duty] made it clear that the duty *should* have ‘practical consequences and legislative significance’. The statutory duty *was* intended to reset the relationship between the Northern Ireland state and IME. It was assumed that the duty would ‘normalise’ this relationship and that the state would now take a key pro-active role in *developing* IME.<sup>90</sup>

87. The report concludes that whilst ‘significant progress *has* been made with the framework of the statutory duty’ and the whole education sector is facing challenges that:

Nevertheless, the key conclusion of this research is that the reset between state and language community has not happened in the manner envisaged in the GFA. The state is now central to the *provision* of a greatly expanded – and growing – IME sector but a further reset is required to finish the commitment to *develop* IME. This reset may well be framed by a legislative strengthening of the statutory duty. The research concludes that the ‘New Brunswick model’ provides a useful practical example of how this might be achieved in the context of wider language rights.<sup>91</sup>

88. A key conclusion of the report is therefore that a strengthening of the statutory duty on Irish Medium Education is required.

**COMEX may wish to recommend that the Department of Education consider legislation to strengthen the statutory duty on Irish Medium Education.**

#### **Bilingual signage and placenames.**

89. The previous COMEX report found that obligations under the ECRML (Article 7.1.c) to take “resolute action to promote Irish” were “not fulfilled”, and obligations (Article 10.2.g) on the use of place names in Irish (alongside English) were only partially

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<sup>88</sup> As above, page 3, summary.

<sup>89</sup> As above, page 3, summary.

<sup>90</sup> As above, page 3, summary.

<sup>91</sup> As above, page 3, summary.

fulfilled.<sup>92</sup> The issue of bilingual street signs (competence of local government) and road signage (competence of NI Department of Infrastructure) have remained an area of focus.

90. In its Fourth Opinion on the UK (2016) the Advisory Committee to the FCNM noted that local councils had limited powers to erect bilingual street signs with ‘patchy’ implementation and some councils having very restrictive policies making it ‘virtually impossible’ to erect bilingual signage. It also was noted it remains a criminal offence to erect an unofficial Irish street sign. The Committee noted there was no provision for bilingual signage for roads and other placenames. The Committee stressed “*the use of bilingualism on signage and other public displays should be promoted where possible as a positive tool of integration to convey the message that a given territory is shared*” and recommended closer dialogue on signage among government and local authorities.<sup>93</sup>
91. The vast majority of placenames in Northern Ireland are derived from the Irish language, with a number of placenames also derived from Scots. Many placename signs in the jurisdiction are simply English transliterations from the original place name in Irish. Academic research has mapped placename origins.<sup>94</sup>
92. The following section covers three issues relating to public bilingual signage:
  - **Road Signage:** a monolingual ‘English-only’ policy has been retained. Whilst there was discussion with the roads Minister who was amenable to change, the matter would be deemed ‘controversial’ by those opposed to bilingual signage. A decision would therefore likely fall to be taken by the full NI Executive.
  - **Review of Local Council and ‘Ward’ Names (and boundaries):** a periodic statutory review of the names of local Councils and municipal electoral wards has taken place. An electoral ward is the smallest administrative division of a council. This was a key opportunity to officially adopt bilingual place names. However, the Commissioner recommended the retention of an English-only naming policy for the names of all Councils, with limited provision for bilingual names on a small number wards in the Belfast city area.
  - **Street signage:** there continues to be mixed progress: a number of Council’s have adopted progressive bilingual policies in line with international standards, albeit as set out in the earlier section, implementation in practice faces significant obstacles; other Councils have sought to retain processes that retain a *de facto* ‘English-Only’ approach.

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<sup>92</sup> Article 10(2)(g) of the Charter (as applied to Irish in the UK) provides for “...*the use or adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in Irish.*”

<sup>93</sup> ACFC/OP/IV(2016)005 4th Opinion on the UK, paragraphs 111-2. Article 11(3) of the Framework Convention providing for the display of “traditional local names, street names and other topographical indications intended for the public also in the minority language when there is a sufficient demand for such indications”,

<sup>94</sup> The Northern Ireland Place-Names (NIPN) project at Queens University Belfast in association with Land and Property Services, the Arts and Humanities Research Council and Foras na Gaeilge, has for some time researched the linguistic origins of NI place names in Irish and Scots and has built up a detailed database. <http://www.placenamesni.org/>

## Bilingual Road signs

93. Roads and road signage in Northern Ireland is in the remit of the Department and Minister for Infrastructure. There is no provision for bilingual signage. Placenames on road signs continue to be largely English transliterations of the original placename in Irish, with the traditional and correct form of the placename in Irish not provided. This contrasts with the situation in the rest of Ireland, Wales and parts of Scotland where bilingual road signage is provided.
94. In 2022 we met with the then Infrastructure Minister on provision for bilingual signage with a focus on adding the original form of placenames when they were derived from Irish or Ulster Scots. The Minister was sympathetic to considering change. However, as set out in the earlier ‘Legal Framework for implementation of the Charter in NI’ section of this submission, the ‘St Andrews Veto’ can prevent competent Ministers from taking decisions deemed ‘controversial’, which are instead to be taken at the full NI Executive. Three Ministers can then require such votes to only pass if there is both a unionist and nationalist majority. In the current context these structures are likely to prevent progress on this issue, as any proposal from the competent Minister would likely be vetoed.
95. The Department last consulted on a change of policy in 2011, proposing a limited scheme for Irish and Ulster Scots to be added to some road signs. This proposal was ultimately not proceeded with, and faced legally untenable claims that such signs would constitute ‘discrimination’ or an ‘adverse impact’ on ‘good relations.’<sup>95</sup>

## Local Government Boundaries and Naming Review

96. Legislation provides for the appointment of a Local Government Boundaries Commissioner to review and make recommendations as to the *names* of NI district Councils and Wards (as well as their boundaries and number).<sup>96</sup> The most recent review opened in February 2021 with a consultation in June 2021. Final proposals were consulted on in early 2022, with Final Recommendations produced in mid-2022.
97. This review presented an opportunity for the official bilingual adoption of the names of local Councils (all of whom contain Irish-originated placenames) and small electoral districts (wards) many of which are derived from Irish. CAJ and representatives of Irish speakers Conradh na Gaeilge put forward the proposal to the Commissioner that “*traditional and correct forms of placenames in Irish (and Scots where applicable), are provided alongside the English language names of districts and wards.*” We put in joint submission focusing on the broad legal framework, largely derived from treaty-based standards and detailed statistics providing evidence of growing usage and demand in relation to the Irish language.<sup>97</sup>
98. The Commissioner’s subsequent *Revised Recommendations* stated that the responses to the consultation dealt extensively with the language issue. This includes

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<sup>95</sup> Relevant extracts of the Advisory Committees Critique of this issue are cited in: <https://www.communities-ni.gov.uk/publications/guidance-european-charter-regional-or-minority-languages>

<sup>96</sup> Part IV of the Local Government Act (Northern Ireland) 1972

<sup>97</sup> <https://caj.org.uk/2021/04/30/submission-2021-independent-review-of-local-government-boundaries-and-names/>

respondents who expressed ‘strong support’ for the use of bilingual Irish-English names and also respondents who advocated strongly ‘against the use of any language other than English.’<sup>98</sup> The official body for the promotion of Irish, Foras na Gaeilge, provided a written submission supporting the use of Irish across all local council areas.

99. The *Revised Recommendations* reject this overall proposal for the official recording of names in Irish (alongside English) across all local government districts.<sup>99</sup> Instead, in general the *Revised Recommendations* advocate continuing an overarching ‘English only’ policy for district and ward names. The rationale presented by the Commissioner for this was that any change should first await NDNA and the establishment of the Irish Language Commissioner. In the absence of NDNA implementation the *Revised Recommendations* cite a line from an unrelated court case that English remains the majority language in Northern Ireland as the appropriate starting point for consideration of the issue. We found these reasons unconvincing, not least as the local government review Commissioner is not among the bodies that would fall under the remit of the proposed Irish Language Commissioner.<sup>100</sup>
100. The Belfast City Council area report from an Assistant Commissioner recommends the adoption of bilingual English-Irish names for seven listed wards due to cited evidence of bilingualism within the locality. The consultation also recorded opposition from a section of respondents to bilingual English-Irish naming on grounds it would create “unrest”, be “divisive” and that the “proposed bilingual languages are dead”.<sup>101</sup> The Commissioner in her report agreed there was merit in the bilingual naming of the seven wards and sought further views.<sup>102</sup>
101. The Final Recommendations of the 2021-22 review were published in English and Irish on the 28 June 2022.<sup>103</sup> The Final Recommendations make reference to the ‘comprehensive submission’ from the statutory agency to promote the Irish language, Foras na Gaeilge, on taking a bilingual approach to naming. The Commissioner rejected the approach, citing her legislative remit on naming being linked to boundaries and that “in law, English is the general language of public administration in Northern Ireland”, albeit with reference to the Irish language legislation the Commissioner does allude to possible change in this position. The Commissioner argues in detailed reasoning that the current legal framework does not provide for broad bilingual naming, and queries full information being available

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<sup>98</sup> [Revised Recommendations](#), paragraphs 4.6-7.

<sup>99</sup> Revised Recommendations paragraph 5.9: ‘Foras na Gaeilge provided a written submission to my Provisional Recommendations in support of the use of names in Irish across all local government districts.’

<sup>100</sup> See <https://caj.org.uk/2022/03/03/response-to-consultation-on-the-revised-recommendations-of-the-local-government-boundaries-commissioner/>

<sup>101</sup> Report of the Assistant Local Government Boundaries Commissioner for the Proposed District of Belfast City, Brendan Patterson, Assistant Local Boundaries Commissioner, November 2021, para 4.6.

<sup>102</sup> For further detail see: <https://caj.org.uk/2022/03/03/response-to-consultation-on-the-revised-recommendations-of-the-local-government-boundaries-commissioner/>

<sup>103</sup> <https://www.lgbc-ni.org.uk/node/54>

for bilingual naming. The Commissioner does then recommend six wards in Belfast being named bilingually.<sup>104</sup>

102. The arguments of the Commissioner are an example of whereby an institution, in the context of political contestation, does not take a stronger position on bilingualism on the basis of treaty-based obligations, such as those provided by the Charter, but rather implies that such a position would be taken if it was provided for by domestic legislation. This further illustrates the need for broader Irish language legislation.
103. Now the final report has been submitted the Department of Communities to table the report before the Assembly, with the draft of an Order to give effect to the recommendations contained in the report.<sup>105</sup> The Minister may modify the recommendations. The formation of a new Executive in February 2024 prompts the initiation of this process.

### **Street Signage**

104. Local councils have the competence to provide street signage. Legislation from the era of the former unionist governments (1921-72) which banned Irish in street signage was repealed in the early stage of the peace process and replaced with legislation that provides a general permissive power to Councils to provide bilingual signage subject to the views of residents in a street.<sup>106</sup> A decade ago, in 2014, NI councils were reformed into 11 new councils.
105. The absence of a more codified approach in legislation means the level of provision tends to follow the political makeup of the Council. Our present experience is that:
  - In those Councils whereby there is a majority in favour of Irish language provision (Irish nationalist parties, liberal unionists, centrist/non-aligned parties forming a majority) there has been success in progressive bilingual street signage policies being adopted, however administrative mechanisms are still regularly used to seek to thwart the implementation of the policy.
  - In those Councils where there is a more traditional unionist majority opposing bilingual signage, there are attempts regardless of the legislation to retain de jure or de facto 'English-only' policies for street signage to prevent the addition of Irish. We are however beginning to overcome such approaches through litigation in the courts.
106. In 2016, one year on from the reorganisation of local government in NI, CAJ and Conradh Na Gaeilge issued a joint report covering the status of compliance by Councils at that point.<sup>107</sup> This report included analysis of Belfast City Council's policy which at the time which had very high thresholds for bilingual signage.<sup>108</sup>

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<sup>104</sup> [LGBC: Final Recommendations 2021-2022 Review](#) Published 31st May 2022, paragraphs 5.7.1-12.

<sup>105</sup> Section 50(7) Local Government Act (Northern Ireland) 1972

<https://www.legislation.gov.uk/apni/1972/9/part/IV>

<sup>106</sup> Article 11 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1995

<sup>107</sup> <https://caj.org.uk/2019/03/15/local-councils-obligations-and-the-irish-language-a-framework-for-compliance/>

<sup>108</sup> The Council retained overriding discretion on the provision of a bilingual sign but each application required:  
- An initial petition needed with one-third of persons on electoral register in street;

107. Since that time, however, Belfast City Council adopted a progressive draft policy on Street Signage.<sup>109</sup> The new policy for a bilingual sign can be triggered by a single resident with a subsequent threshold of 15% support from residents of the street to require approval. The welcome aim of the policy is to *“To promote regional and minority language rights, and to benefit and enhance the diverse linguistic communities within the city, through the adoption of dual language street signs as and where appropriate.”* Although the policy has been adopted, it has faced many obstacles in its limitation, including the (mis) use of mechanisms which were to protect minority rights to seek to obstruct signage.<sup>110</sup>
108. A number of other NI Councils have also adopted progressive bilingual street signage policies including Derry City and Strabane District Council, Mid Ulster District Council Fermanagh and Omagh District Council, and Newry Mourne and Down District Council.<sup>111</sup>
109. Other Councils continue to make no provision or have extremely restrictive policies, designed to retain a de jure or de facto ‘English-only’ policy despite this neither being in line with the legislation or the Charter.
110. An example is provided by Antrim and Newtownabbey Borough Council. In recent years this Council took the following actions:
- On the 26 February 2018, in response to a request for five English-Irish bilingual street signs, the Council voted to reinstate an ‘English only’ street signage policy.
  - CAJ and Conradh na Gaeilge advised the Council that this policy was unlawful. The Council maintained its actions were lawful until Judicial Review proceedings in September 2018 when the Council rescinded the policy, agreed to pay the applicants costs, and stated that a “new, more detailed policy would be drafted for the Council to consider”.
  - In June 2019 the Council used legislation designed to regulate commercial advertisements to threaten to prosecute an 85-year-old woman for the presence of a small Irish sign on her property.<sup>112</sup>
  - Following the media coverage of this issue, a draft policy was presented to a Council committee in September 2019. However, the proposal appeared designed to make it virtually impossible to obtain a bilingual sign. It would have required 50% plus of all residents to sign a petition to trigger a process of a council survey requiring a two thirds majority, with all persons not responding automatically assumed to be *opposed* to bilingual signage. Even when these thresholds were met, the Council could still veto the request. If any bilingual sign was produced, the policy required the Irish text to be smaller than the English

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- A postal survey will then be conducted requiring a two thirds majority, any forms not returned will be categorised as opposed to bilingual signage.

<sup>109</sup> See <https://caj.org.uk/2022/02/25/submission-on-belfast-city-councils-proposed-policy-on-dual-language-street-signs/>

<sup>110</sup> For further detail see the initial section of this submission on the use of vetoes to block provision.

<sup>111</sup> For details see appendix of: <https://caj.org.uk/2022/03/14/submission-to-antrim-and-newtownabbey-borough-council-consultation-on-dual-language-street-signage/>

<sup>112</sup> <https://www.irishnews.com/news/northernirelandnews/2019/06/18/news/council-threatens-to-prosecute-85-year-old-woman-over-irish-language-street-sign-1644039/>

text, with the apparent reason being that this was “to avoid any risk of confusion to the emergency services”. The Council did not proceed with this.

- In January 2022, in light of further applications for bilingual street signs, the Council commenced consultation on a new proposed policy. The main elements of this were as follows:
  - Process can only be triggered by a Petition from one third of streets residents; Council can then canvass views of resident by post. A two thirds majority is required.
  - The full Council will then take a decision on the application at its apparent discretion. Beyond the legal requirements on the views of residents, no further criteria are set out for a Council decision.
  - The Council retains power to unilaterally depart from and change its criteria at any point including after an application has been submitted.
  - There is a limit of three applications to Council per month and residents who are refused a bilingual sign are precluded from then reapplying for three years.<sup>113</sup>
- The Council ultimately did adopt such a policy. Despite this very high threshold intended to make it very difficult to erect bilingual signage, the threshold has been met in some cases and in January 2024 the Council took its first decision to authorise bilingual signage in three streets in its district.<sup>114</sup>

111. Another Council attempting a de facto ‘English only’ policy is the Armagh City, Banbridge and Craigavon Borough Council, which following challenge adopted a policy also with a very high two thirds threshold, with non-respondents automatically considered as a ‘no’ to signage. Recently however, when residents in a street managed to reach the threshold, the Council adopted an alternative process to its own policy and refused to erect the sign. At the time of writing, this decision is being challenged by way of judicial review.<sup>115</sup>
112. There is therefore a significant contrast between a number of Councils with relatively progressive policies (albeit facing barriers in their implementation) and Councils – like Armagh City Banbridge and Craigavon Borough Council who have never to date erected a single bilingual street sign.

**COMEX may wish to urge the roads (Infrastructure) Minister to initiate a policy providing for bilingual road signage with the addition of the traditional and correct forms of placenames; express a view on the limited provision of bilingual naming of local government districts; and suggest a uniform approach to bilingual street signage in line with the best practice already put in place by a number of Councils.**

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<sup>113</sup> <https://caj.org.uk/2022/03/14/submission-to-antrim-and-newtownabbey-borough-council-consultation-on-dual-language-street-signage/>

<sup>114</sup> <https://www.irishnews.com/news/first-irish-street-signs-to-be-erected-in-antrim-and-newtownabbey-council-area-BP6VNDYHPZJBLJEPRICMWRTI2U/>

<sup>115</sup> <https://www.irishnews.com/news/northern-ireland/not-a-single-bilingual-signs-erected-in-abc-council-area-IBQBAZHREZGNHA6OTHAQ2FIA2I/>



## Compliance with Part II of the Charter in relation to Ulster Scots

113. In the previous monitoring cycle, COMEX recommended that the authorities “*Adopt a strategy to promote Ulster Scots in education and other areas of public life.*” COMEX regretted that the strategy had not been developed, reiterating ‘this would not require any change in the law’ and that the strategy should at least cover education and fields of public life (culture, media) and provide opportunities for review and monitoring in consultation with speakers of Ulster Scots, concluding:

The Committee of Experts asks that the authorities take steps to expedite the development and publication of an Ulster Scots Language strategy, covering education, culture and an additional field of public life, along with time scales and milestones, and regular opportunities for review in consultation with speakers of Ulster Scots.<sup>116</sup>

114. The UK has instead taken a different approach. The UK has pursued legislation rather than a strategy. This was legislated for alongside the Irish language legislation in the context of being pursued as a ‘counterweight’ to Irish rather than something devised to advance the protection and development of Ulster Scots linguistically. There was no consultation on the legislation. No strategy has been adopted.
115. The approach taken by relevant authorities during the monitoring period has further marginalised Ulster Scots linguistically. No progress has been made in safeguarding and developing Ulster Scots as a language, with little evidence that the current approach has generated any demand for learning or provision in Ulster Scots.
116. A 2020 Mercator report from the European Research Centre on Multilingualism and Language Learning, on ‘the Ulster Scots Language in Education in Northern Ireland’ found there was limited to no provision for Ulster Scots, with the sole university course identified not having any uptake:

Queen’s University [Belfast] offers a Level 1 evening class in Ulster Scots in its Language Centre. As yet, there has been no uptake. Some ad hoc classes run from time to time at venues such as the Linenhall Library (facilitated by a private individual) and in local community halls (facilitated by a member of staff of the Ulster-Scots Community Network) or as one-off talks to community groups. There is no organised programme of language learning available for adults.<sup>117</sup>

117. Most concerningly, the approach by key actors, including the Ulster Scots Agency and UK Government has been (without any consultation or evidence of buy in from Ulster Scots *speakers*) to move away from focus on Ulster Scots speakers as a linguistic minority. Instead, Ulster Scots have been increasingly conceptualised as an ethnic group tied to (British) unionism and loyalism politically, leading to concerns from the Framework Convention Advisory Committee that this is further contributing to sectarianising Ulster Scots. In summary, the ways in which this pattern has manifested itself are as follows:

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<sup>116</sup> Fifth report of the Committee of Experts in respect of the United Kingdom, CM(2019)84I Paragraph 58,59.

<sup>117</sup> Mercator ‘The Ulster Scots Language in Education in Northern Ireland’ 2020, page 31.



- The languages legislation establishing a commissioner for Ulster Scots has instead established a “Commissioner for the Ulster Scots and Ulster British tradition” with the NI Human Rights Commission, and Advisory Committee FCNM both raising concerns of the conflation of a hitherto linguistic minority of Ulster Scots speakers with a distinct political identity.
  - An apparent political side deal under NDNA led to the UK to shift recognition of Ulster Scots speakers as a linguistic minority under the Framework Convention to recognition more on the basis of ethnicity (‘a distinct people’) without any consultation with speakers as to whether they wished to self-identify as such. This risks creating a differential with speakers who are drawn from across the community in areas Scots is spoken.
  - This was then compounded by the Ulster Scots Agency, seeking to develop ‘cultural markers’ for the Ulster Scots National Minority tied specifically to political identity, including the flag of the former unionist government.
  - Attention to the linguistic elements of Ulster Scots were very marginal in the Expert Advisory Group report on the Ulster Scots strategy, confined only to a couple of pages in the report with vague reasoning. The responsible Department also held no information and would not clarify if the experts behind the report were actually Ulster Scots speakers.
  - In the run up to NDNA, the head of the Ulster Scots Agency also sought £140 million GBP in Ulster Scots funding for provision that seemed more focused on unionist and loyalist culture in general rather than initiatives that were specifically Ulster Scots related.
118. In the context of shifting recognition, it should be noted that Ulster Scots speakers have been drawn from across the community in areas Ulster Scots is spoken. The Northern Ireland Human Rights Commission, in its official advice on the languages legislation highlights that the Ulster Scots Agency itself has stated that “*Ulster-Scots language is spoken in different areas of Ireland by both Protestants and Roman Catholics alike*” and that the “*Ulster-Scots Language Society highlights that its constitution stipulates that it is ‘non-political and non-sectarian’.*”<sup>118</sup>
119. It is against this context that the Framework Convention Advisory Committee raised its concerns that the official actions taken regarding Ulster Scots “further contribute to the sectarianism surrounding cultural questions” singling out that “the naming of a commissioner for Ulster Scots as for the Ulster Scots and the Ulster British Tradition unnecessarily conflates this minority identity with a distinct political one.”<sup>119</sup> Similar concerns, further detailed below, were raised by the Northern Ireland Human Rights Commission.
120. There are broader indications of an approach whereby ‘Ulster Scots’ is conceptualised, not as Ulster Scots speakers, but as a proxy for the hitherto dominant group and political tradition. An example of this, revealed in information

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<sup>118</sup> NIHRC ‘Advice on the Ulster Scots/Ulster British Provisions of the Northern Ireland Act 1998 (Amendment No 3), May 2020, paragraph 2.14-6. <https://www.nihrc.org/publication/detail/ulster-scots-ulster-british-provisions-of-the-northern-ireland-act-1998-amendment-no-3>

<sup>119</sup> ACFC/OP/V(2022)003, Fifth Opinion on UK, 2022, paragraph 11

passed to the media (see Sam McBride ‘*Leak shows DUP man’s proposal for £140m in Ulster Scots funding*’),<sup>120</sup> relates to a submission made by the head of the Ulster Scots Agency seeking an additional £140 million GBP in funding for Ulster Scots.<sup>121</sup> The detailed proposal was described as covering funding “*for everything from Highland dance to public art and marching bands.*” The proposals included seeking core funding for activities that were expressly associated with Protestant/ (British) unionist/loyalist culture, rather than specifically with Ulster Scots.<sup>122</sup>

121. The funding bid reportedly grounded its request on the contention that there had been ‘discrimination’ in public funding of Ulster Scots when compared to the Irish language. The £140 million GBP sought reflected a calculation of the amount previously spent on Irish. However, the vast majority of the money spent on the Irish language relates to the provision of Irish-medium education. This is a false cost analysis concerning the public purse, in the sense that the same children if not educated through Irish would be going to school anyway at the same or similar costs through the medium of English. The contention of ‘discrimination’ if there is not an artificial parity between Irish and Ulster Scots is not new and has been previously dealt with by COMEX. The recent Expert Panel Report on the Ulster Scots Strategy in its section on public resources appears to revive this contention, also referring to ‘equity’ in both funding and broader provision.<sup>123</sup>
122. The Mercator report also notes that whilst the Ulster Scots Agency had “provided some language tuition in the past” its “main focus currently is on the culture and history aspects of its remit.”<sup>124</sup>

### **The move to recognise Ulster Scots as an ethnic group under the Framework Convention**

123. The UK recognised Ulster Scots in the linguistic diversity provisions of the 1998 Belfast/Good Friday Agreement (GFA). The GFA implementation treaty for the North South Ministerial Council included the establishment of a Language Body with two agencies, the second of which was the Ulster-Scots Agency (Tha Boord O Ulstèr-Scotch). This bilateral treaty defines Ulster Scots as “*the variety of the Scots language traditionally found in parts of Northern Ireland and Donegal*”.<sup>125</sup>
124. The NI Human Rights Commission has set out that Scots, including the Ulster variant, is a largely spoken language from the Germanic language group that is on a linguistic continuum with English. There is some level of mutual comprehension with English,

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<sup>120</sup> <https://inews.co.uk/news/uk/leak-shows-dup-proposal-140m-ulster-scots-funding-86475>

<sup>121</sup> As above, 22 August 2017;

<sup>122</sup> For example 2.2 million is in relation to marching bands to allow the Ulster Scots Agency to provide core funding to the Confederation of Ulster Bands (which [describes itself](#) as “an umbrella body comprised of bands forums from across Ulster, emanating from the Protestant, Unionist or Loyalist traditions”) and for the Ulster Scots Agency to take over the administration from the Department of Communities of an annual marching bands fund.

<sup>123</sup> Recommendations for an Ulster-Scots Language, Heritage & Culture Strategy // Report of the Expert Advisory Panel, February 2022, p17. “Where public resources are being allocated, then each of our cultural traditions should be treated on the basis of equity and this is about more than money. As well as public funding, it is about such things as access to the media and inclusion in the education system because education and the media are especially important in affirming and promoting cultural traditions.”

<sup>124</sup> Mercator ‘The Ulster Scots Language in Education in Northern Ireland’ 2020, page 31.

<sup>125</sup> [Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing implementation bodies](#), Part 5: 1.7.

save in more maximumly differentiated forms. The Commission notes that Ulster Scots is mainly found in certain parts of Northern Ireland where there was Scottish settlement, but that “*its use is not confined to those of Scottish descent, and it is spoken by both Catholics and Protestants.*”<sup>126</sup> Research by the Ulster Scots Academy maps four distinct dialect areas in the north of Ireland where Ulster Scots is spoken today.<sup>127</sup> Following the GFA, the UK registered Scots for Scotland and Ulster Scots for Northern Ireland under Part II of the Charter. COMEX did question the separate registration of Scots and Ulster Scots, when they are the same language.<sup>128</sup>

125. In a section of the New Decade New Approach deal, separate to the provision on the language bills, there is an undertaking made that the UK government will:

Recognise Ulster Scots as a national minority under the Framework Convention for the Protection of National Minorities.<sup>129</sup>

126. At face value this seemed an odd statement as Scots (including Ulster Scots) *speakers* have already long been recognised as a linguistic minority by the UK not least through UK registration in the Charter, but also as such with the FCNM.<sup>130</sup>
127. It subsequently became apparent that the intention was different. Freedom of Information requests revealed the UK Government held no documents on the background to the NDNA commitment, which is presumed to have been the result of a political side-deal between the UK and DUP.<sup>131</sup> Records from the Ulster Scots Agency however set out an understanding the original ‘political intent’ of the NDNA commitment was to move away from language, with the head of the Ulster Scots Agency indicating a preference to instead designate Ulster Scots as an ethnic minority.<sup>132</sup>
128. A particular issue that arises in this context is that the community encompassed by recognition of Ulster Scots as an *ethnic group* would likely be different to that of

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<sup>126</sup> NIHRC ‘Minority Language Rights: The Irish language and Ulster Scots, Briefing paper on the implications of the European Charter for Regional or Minority Languages, European Convention on Human Rights and other instruments, June 2010, paragraph 1.3.

<sup>127</sup> The Mapping of Ulster-Scots, Philip Robinson: “The colonisation of Ulster was undertaken by the English and by lowland Scots settlers in a competitive manner which often enabled the two groups to retain their national identities in different districts. The spread of Presbyterianism in Ulster had by the late 17th century resulted in the formation of many Presbyterian congregations throughout the major areas of Scottish settlement. The distribution of these earliest congregations conforms closely to the notion that there were four core areas where Scottish settlers were dominant (and even equate to the four distinct dialect areas of spoken Ulster-Scots today): north Down, east and mid Antrim, the ‘Route’ area of north Antrim and north-east Londonderry, and the ‘Laggan’ area of the Foyle basin in north-east Donegal and north-west Tyrone.”  
<http://www.ulsterscotsacademy.com/research/gregg/mapping-ulster-scots.php>

<sup>128</sup> See Santiago-José Castella Surribas and Miquel Strubell ‘The Catalan language and monitoring the ECRML in Spain’ in *The ECRML: Legal Challenges and Opportunities* (Council of Europe publishing Regional or Minority Languages No 5), page 144.

<sup>129</sup> NDNA, Annex A: UK Government Commitments to Northern Ireland, paragraph 24.

<sup>130</sup> See for example ACFC/OP/IV(2016)005 4<sup>th</sup> Opinion on the UK (adopted on 25 May 2016) paragraph 103 and ACFC/SR/IV(2015)004 rev (4<sup>th</sup> Report by UK) Framework Convention, 2015, Page 40.

<sup>131</sup> NIO FOI/20/89, 16 June 2020. In the first instance the NIO relied upon the FOI exemption under section 35(1)(a) relating to the formulation of government policy. On appeal (AP/20/04, of 16 July 2020) the NIO clarified that no documents were held for the period of NDNA negotiations from April 2019-January 2020, beyond one internal email string.

<sup>132</sup> Ulster Scots Agency note of meeting with NIHRC, 21 March 2021.

*Ulster Scots speakers*. Speakers are drawn from across the community in areas of NI where Scots is spoken. The parameters of Ulster Scots as an ethnic group are likely to encompass ethnic indicators of British nationality and national identity along with ethnic and national origin of Scottish descent and of Protestant religion. This would hence align Ulster Scots to a section of the community in a way that was not presently the case. Whilst language can also be an ethnic indicator, the above indicators would encompass persons who are not Ulster Scots speakers.

129. In this context, the recognition of Ulster Scots as an ethnic group risks a differential with Ulster Scots speakers that could divert support and attention away from resolute action to promote Ulster Scots linguistically in order to safeguard it. A switch of focus away from Ulster Scots linguistically may also make it more difficult to progress the current COMEX recommendation on Ulster Scots to “Establish cultural relations with other linguistic groups.”<sup>133</sup>
130. Article 7(4) of the Charter, as applied to Ulster Scots in Northern Ireland, contains a commitment that “In determining its policy with regard to Ulster-Scots, the United Kingdom shall take into consideration the needs and wishes expressed by the groups which use Ulster-Scots”. There was however no consultation with Ulster Scots speakers prior to the making of the NDNA commitment or its implementation by UK Ministers on the same day the languages legislation was introduced into the UK Parliament.
131. Shortly after NDNA, a Parliamentary Question from a DUP MP indicated that the UK intended to implement the commitment ‘before the end of 2020’.<sup>134</sup> The UK did not elaborate on what form this would take. CAJ in August 2020 provided a detailed working paper on the implications of the UK’s NDNA commitment to recognise Ulster Scots as a national minority.<sup>135</sup> The UK authorities appear to have done further work on the matter in 2020 and records from the Ulster Scots Agency in March 2021 show that according to officials in the NI Department for Communities, the UK Government had at the time taken the position that Ulster Scots designation under the Framework Convention only applied to language.<sup>136</sup>
132. In May 2021, a further question on the NDNA commitment to the UK Parliament from the cross-community Alliance party sought confirmation that it remained UK Government policy to continue to recognise Ulster Scots speakers as a linguistic minority. The response from the UK Minister was limited to stating that Government was continuing to work on delivering the NDNA commitment.<sup>137</sup>
133. Despite this, the subsequent UK State Report to the Advisory Committee on the Framework Convention made no reference at all to the NDNA commitment on Framework Convention Recognition. In relation to Ulster Scots, references are

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<sup>133</sup> CM(2019)84-final, para 2.6.2

[https://search.coe.int/cm/Pages/result\\_details.aspx?ObjectId=0900001680948544](https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=0900001680948544)

<sup>134</sup> WPQ HC 48671 <https://www.parliament.uk/business/publications/written-questions-answers-statements/written-question/Commons/2020-05-18/48671/>

<sup>135</sup> <https://caj.org.uk/2021/02/08/submission-responding-to-uk-ecrml-update/>

<sup>136</sup> Note of Ulster Scots Agency Meeting with NIHRC, 8 March 2021.

<sup>137</sup> <https://questions-statements.parliament.uk/written-questions/detail/2021-05-11/555>

limited to other elements of the NDNA package and aspects of UK Government support to Ulster Scots linguistically.<sup>138</sup>

134. The draft 2015-2035 Ulster Scots Strategy made no reference to Framework Convention recognition. The commitment was referenced in the recent new expert advisory panel report published in February 2022. Two members of the five strong panel, including the current head of the Ulster Scots Agency, are former DUP elected representatives and served as special advisors to DUP Ministers and may have particular insight into the original political intent of the NDNA commitment. The February 2022 panel report references the recognition of the “linguistic part of our Ulster-Scots identity” under the GFA and European Charter, and states that NDNA contained the next substantive steps forward for rights protection on cultural identity and Ulster Scots in particular. In relation to Ulster Scots as a National Minority, it references the NDNA commitment as the “first recognition of the [Ulster Scots] identity in its entirety (not just limited to language)” and recommends the UK implement the commitment within six months.<sup>139</sup>
135. Ultimately, on the 25 May 2023, the Secretary of State for Northern Ireland in a Written Ministerial Statement to the UK Parliament announced the UK was now officially recognising Ulster Scots as a national minority under the Framework Convention. The NIO statement also makes reference to deferring to the courts as to whether the Ulster Scots will be protected as a racial group under the Equality Act 2010 – legislation that does not apply in Northern Ireland.<sup>140</sup> The Minister in the upper chamber, Lord Caine set out that in light of the Governments’ new recognition of Ulster Scots as an ethnic group (specifically in his words a ‘distinct people’) the title of the Commissioner in the Bill was accordingly being amended to be the Commissioner for ‘the Ulster Scots’ and the Ulster British Tradition.<sup>141</sup>
136. Following the NDNA commitment, the Ulster Scots Agency subsequently developed proposed ‘cultural markers’ for Ulster Scots as a group in light of the Framework Convention commitment, which had an openly political element to them. The markers include ‘political outlook’ as an indicator of Ulster Scots as well as elements more conventionally associated with indicators of ethnicity and attendant culture.<sup>142</sup>
137. The tying of Ulster Scots to a particular political constituency of unionism and loyalism is most notable in the Agency agreeing that affinity to the Ulster Banner (the flag adopted by the former 1921-1972 unionist government) should be included as a ‘cultural marker’ of Ulster Scots. The Minutes of the meeting record a proposal from the chair that:

“...in light of the significance of the Ulster Banner to the Ulster-Scots community and the extent to which we proposed to rely on it and the Arms of the NI Parliament from which it is derived in the marking of the NI

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<sup>138</sup> ACFC/SR/V(2021)009 Fifth Report submitted by the United Kingdom Pursuant to Article 25, paragraph 2 of the Framework Convention for the Protection of National Minorities. 4 November 2021

<sup>139</sup> Recommendations for an Ulster-Scots Language, Heritage & Culture Strategy // Report of the Expert Advisory Panel, February 2022, p 58-59, 63.

<sup>140</sup> <https://questions-statements.parliament.uk/written-statements/detail/2022-05-25/hcws56>

<sup>141</sup> [HL Hansard Volume 823: debated on Wednesday 6 July 2022](#)

<sup>142</sup> The full list is: Scottish Origin; Language/Literature; Religion; Philosophy and Political Outlook; Festivals; Music; Dance; Sport and Food. *Minutes of Board Meeting of the Ulster Scots Agency, 30 June 2020, item 9.*

Centenary, that it should be included on the list of cultural markers [for an Ulster Scot]. This was unanimously agreed.”<sup>143</sup>

138. The Ulster Scots Agency initially declined to release the above information to CAJ under Freedom of Information legislation. A special board meeting of the Agency was held to consider the request. Concerns were expressed about sharing the above information with a third-party organisation “*ahead of concluding a consultation exercise with the wider Ulster-Scots community.*” Reference was made to “*difficult conversations which had already been had amongst the Board on this matter and the need to have similarly frank discussions within the community in order to reach a broad consensus.*”<sup>144</sup> The information was released on appeal. In the context of obligation under equality law, the Agency did then agree it would have to conduct a public rather than closed consultation. By December 2021, the Agency appeared however to have abandoned the exercise.<sup>145</sup>
139. The attempts to conflate Ulster Scots with a specific political identity were also manifest in the legislation for the Ulster Scots Commissioner.

### **The Ulster Scots and Ulster British Commissioner**

140. The NDNA-derived Identity and Language (Northern Ireland) Act, which proceeded through the UK Parliament, made provision for a “*Commissioner to enhance and develop the language, arts and literature associated with the Ulster Scots and Ulster British tradition in Northern Ireland.*”
141. The Commissioner’s Ulster Scots functions are to increase awareness of Ulster Scots services; provide advice/guidance to NI public authorities on language arts and literature within its remit, along with advice on the effect of the ECRML, FCNM and UN CRC. This latter function appears to overlap considerably with the role of the NHRI, the Northern Ireland Human Rights Commission (NIHRC).
142. A contextual concern is that the presentation of the legislative package is underpinned by the political imperative of providing a ‘counterweight’ to the Irish language Bill, rather than thought through tailored measures designed to safeguard and develop Ulster Scots. Unlike the Irish language Bill, there was no prior official consultation on the proposal for an Ulster Scots and Ulster British Commissioner that Ulster Scots speakers could input into. At their request, CAJ delivered information sessions to a range of Ulster Scots groups who had been unsighted on the proposals until their publication in NDNA.
143. The legislation also places a statutory duty on the NI Department of Education “*to encourage and facilitate the use and understanding of Ulster Scots in the education system.*” This provision could assist in progressing duties under Article 7(1)(f-g) of ECRML and the CM recommendation, provided it ultimately relates to the teaching of Scots *as a language*.
144. The Human Rights Commission has been highly critical of the conflation of Ulster Scots and Ulster Britishness in the proposed bill. With Ulster Scots speakers drawn

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<sup>143</sup> Minutes of Board Meeting of the Ulster Scots Agency, 30 June 2020, item 9.

<sup>144</sup> Ulster Scots Agency Board - Special Meeting to consider Freedom of Information Request 11/05/21

<sup>145</sup> Email to CAJ 9/12/22 from Ulster Scots Agency which confirms “Work has not been progressed in this area due other business pressures”

from across the community, the Commission raised concerns that the extension risked tying Ulster Scots to a particular political affiliation. The Commission warned that whilst Ulster Scots is a recognised linguistic minority:

...‘Ulster British’ is not a term or a linguistic/national minority group presently recognised by human rights treaty bodies. It appears that Ulster Scots culture is at risk of being conflated with a distinct political identity. This may have unintended consequences.<sup>146</sup>

145. The Commission states that “*whilst Ulster Scots language may be commonly associated with the Unionist/Protestant community*” it should not be assumed that all Ulster Scots speakers may associate with Ulster Britishness. As alluded to above the Commission highlights that the Ulster Scots Agency had previously emphasised that: “*Ulster-Scots language is spoken in different areas of Ireland by both Protestants and Roman Catholics alike*” and that the “*Ulster-Scots Language Society highlights that its constitution stipulates that it is ‘non-political and non-sectarian’.*” The Commission grounds its concerns that conflating Ulster Scots and Ulster British in the context of the proposed Commissioner “*could undermine developments in respect of Ulster Scots language and culture*”.<sup>147</sup>
146. The Advisory Committee on the Framework Convention stated:
- Bringing forward legislation on the two languages simultaneously may have its merits, but it also risks further entrenching the ‘tit-for-tat’ approach to them which has characterised recent developments in Northern Ireland. Authorities should rather work towards the consensual solution of issues relation to language policy in Northern Ireland; the languages are spoken across communities, and the instrumentalisation of the languages for political ends results only in persons belonging to national minorities across Northern Ireland having no effective access to their rights and deepening existing sectarian divides. On the contrary, the fact that both languages are spoken across communities in Northern Ireland offers the possibility for these languages to be tools of integration, rather than division. Furthermore, and in spite of the authorities’ intentions to the contrary, the legislative conflation of Ulster Scots and Ulster British may unnecessarily provoke instrumentalisation of this group for political ends in the context of Northern Ireland.<sup>148</sup>
147. The 2021 COMEX report considers issues in the alignment of the mandates of the Irish language and Ulster Scots/Ulster British Commissioner. This can be traced back to the submission by the NIHRC and relates to two issues. The first is that the mandate of the Irish Language Commissioner is to “protect and enhance” compared to the duty to “enhance and develop” given to the Ulster Scots/British Commissioner. The NHRI recommends alignment of a “promote and protect” formulation for both. The second is that the NHRI queries why the Ulster Scots

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<sup>146</sup> NIHRC ‘Ulster Scots/Ulster British Provisions of the Northern Ireland Act 1998 (Amendment No 3), May 2020, paragraph 2.14.

<sup>147</sup> As above paragraphs 2.15-6.

<sup>148</sup> ACFC/OP/V(2022)003, Fifth Opinion on UK, 2022, paragraph 158.



Commissioner function of advising on the Framework Convention and other treaties is not also vested in the Irish Language Commissioner.<sup>149</sup>

148. As referenced above the UK Government ultimately agreed to bring the legislation through the UK Parliament, there was a delay however in doing so. Reportedly, it appears that part of the delay in doing so relates to the question of whether the UK Government would follow the recommendation of the NHRI and remove the linking of Ulster Scots to 'Ulster British.' According to a BBC report, there is agreement from Sinn Féin for the Commissioner only to focus on Ulster Scots, whereas the DUP wished to instead name the office as the Ulster British Commissioner.<sup>150</sup>
149. In the UK Parliament, DUP representatives went further when debating the Bill with Lord Morrow during the Second Reading of the Bill in the House of Lords, stating that the Irish Language Commissioner and Ulster Scots/Ulster British Commissioner, should be conceptualised as a nationalist and unionist commissioners, with each focusing on the 'interests' of the unionist and nationalist community respectively.<sup>151</sup>
150. It is not even clear at the time of writing whether this Commissioner dealing with Ulster Scots will be required to actually be a speaker of Scots (including Ulster Scots).

### **Ulster Scots Strategy**

151. Further to the (UK-Ireland) 2006 St Andrews Agreement, which ended the then suspension of the power-sharing institutions, legislation placed a statutory duty on the Northern Ireland Executive to adopt a strategy to "*enhance and develop the Ulster Scots language, heritage and culture.*"<sup>152</sup>
152. To date no Ulster Scots strategy has ever been formally adopted.
153. Initially the commitment fell to DUP culture ministers. Its implementation, however, was held back by an intention to instead merge the Ulster Scots strategy with the counterpart strategy for the Irish language with the express purpose of seeking artificial parity for Ulster Scots with Irish. COMEX were highly critical of this approach stating that:

*... The St Andrews Agreement Act 2006 places a statutory duty on the NI Executive to adopt a strategy to enhance and protect the Irish language. So far no strategy has been adopted. However, the Minister for Culture Arts and Leisure (DCAL) intends to bring forward one strategy entitled "A Strategy for Indigenous or Regional Minority Languages", which is intended to be a single strategy for Irish and Ulster Scots. The Committee of Experts is concerned that the strategy will strive towards parity between the two languages and*

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<sup>149</sup> NIHRC [Submission to the Committee of Experts on the European Charter for Regional and Minority Languages on the Interim Report of the United Kingdom of Great Britain and Northern Ireland February 2021](#), paragraphs 19-22.

<sup>150</sup> <https://www.bbc.co.uk/news/uk-northern-ireland-60317736>

<sup>151</sup> HL Hansard Volume 822: cIn 1114 debated on Tuesday 7 June 2022 [https://hansard.parliament.uk//lords/2022-06-07/debates/3AA07DD8-C905-4F1E-A7EE-C95D314E01FB/IdentityAndLanguage\(NorthernIreland\)Bill\(HL\)#contribution-9FBF3A27-8BEB-455A-BB55-428CCA0F5049](https://hansard.parliament.uk//lords/2022-06-07/debates/3AA07DD8-C905-4F1E-A7EE-C95D314E01FB/IdentityAndLanguage(NorthernIreland)Bill(HL)#contribution-9FBF3A27-8BEB-455A-BB55-428CCA0F5049)

<sup>152</sup> Section 28D(2) Northern Ireland Act 1998 inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 15, 27(4)(5)



*therefore not serve the needs of either the Irish-Speakers or the Ulster-Scots speakers and will hold back the development of both languages.*<sup>153</sup>

154. COMEX had previously raised concerns that *“inappropriate claims for parity of treatment between Irish and Ulster Scots in a number of instances led to the result that no measures were taken for either language, since it was not practically possible to apply the same measures to Ulster Scots”*. COMEX reiterated that each be treated in accordance with its own ‘quite different’ specific situation and calling for measures “specifically directed towards each language” to ensure protection and promotion in accordance with their specific needs.<sup>154</sup> Concurrently the FCNM Advisory Committee also raised concerns that “some representatives of the authorities” considered that promoting the Irish language discriminated against persons belonging to the majority population.<sup>155</sup>
155. Following these interventions by the treaty bodies the proposals for such a merged single strategy were dropped. In the subsequent mandate, in 2012, the new Sinn Féin Culture Minister did develop and put out for public consultation separate Irish and Ulster Scots strategies. Following the closure of public consultation in 2013, and then again in 2014, the strategies were issued to all Ministers in the NI Executive for comment, however only some Ministers responded.<sup>156</sup> The *Strategy to Enhance and Develop the Ulster Scots Language, Heritage and Culture 2015 – 2035*’ was then published and formally launched in January 2015 (alongside the Irish language strategy).<sup>157</sup>
156. However, opposition to formally adopting an Irish language strategy also led to the Ulster Scots strategy falling. Following publication in 2015 the strategies were prevented from being placed on agenda of the NI Executive until 2016 when they were voted down.<sup>158</sup>

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<sup>153</sup> COMEX, Application of the Charter in the UK, 3rd monitoring round ECRML (2010), 16, 17, 20, see also paragraph 57 and Finding D. See also the comments of the Advisory Committee on the FCNM that “The treaty body to the Council of Europe’s Framework Convention for National Minorities (FCNM) has stated: 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 4.39 of the Framework Convention, implementation of minority rights protected under the Framework Convention are not be [sic] considered as discriminating against other persons. Council of Europe (2011) Advisory Committee on the Framework Convention for National Minorities (Third Opinion on the UK) ACFC/OP/III(2011)006 (adopted 30 June 2011), para. 147.

<sup>154</sup> As above, with reference to both the 3<sup>rd</sup> and 2<sup>nd</sup> monitoring round.

<sup>155</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 4.39 of the Framework Convention, implementation of minority rights protected under the Framework Convention are not be [sic] considered as discriminating against other persons. Council of Europe (2011) Advisory Committee on the Framework Convention for National Minorities (Third Opinion on the UK) ACFC/OP/III(2011)006 (adopted 30 June 2011), para. 147.

<sup>156</sup> See paragraph 16 of Application by [Conradh Na Gaeilge for Judicial Review](#), [2017] NIQB 27.

<sup>157</sup> Ulster Scots: <https://www.communities-ni.gov.uk/publications/ulster-scots-language-heritage-and-culture-strategy-2015-2035> Irish: <https://www.communities-ni.gov.uk/publications/irish-language-strategy-2015-2035>

<sup>158</sup> See paragraph 16 of Application by [Conradh Na Gaeilge for Judicial Review](#), [2017] NIQB 27.

157. The NI Executive then collapsed in 2017. It did not resume until the NDNA deal in early 2020. As alluded to above the UK report to COMEX in 2021 stated that a proposed timeline for delivering both the Irish and Ulster Scots Strategies has been issued to the NI Executive but that the NI Executive has not agreed yet to include it on its agenda for consideration.<sup>159</sup>
158. Into 2022 an expert advisory panel report was produced on the Ulster Scots Strategy and opened for a short consultation.<sup>160</sup> CAJ issued a response to this consultation.<sup>161</sup> We also sought confirmation from the Department as to how many members of the Expert Advisory Panel were Ulster Scots speakers. Whilst this would have been straightforward to clarify, the Department treated this as a Freedom of Information request and stated they held no information on the matter.
159. The panel report runs to 74 pages – however only two pages (p31-32) are specifically focused on Ulster Scots as a language. Elsewhere in the document, the Panel do rightly stress that the language has suffered neglect. It is argued in general terms that development of culture and heritage will assist in creating the environment for language revival, with the Panel Report stating that Ulster Scots linguistically:
- ...is like a shoal of fish trying to survive in a shrinking and polluted lake. Without expanding and restoring the lake then the fish will not flourish. The development of our culture and heritage will clean the water, refill the lake and our work on the language will restock and return the shoal to full size. The impact of this work will not be limited to Ulster-Scots – the restoration of the lake will mean Ulster-Scots’ value is recognised beyond it and contributes to the broader societal and cultural ‘ecosystem’<sup>162</sup>
160. The Panel Report proposes the establishment of a ‘Language Institution’. There is little detail on this as regards proposed format, location and remit. In general, it is stated the Language Institution will “*take forward the language research and language development programme with an associated publishing programme*”.<sup>163</sup> In terms of research, another section of the Panel Report includes a line that there should be speaker-driven research on Ulster-Scots language corpus and language planning. The languages section itself does not elaborate on the remit of the proposed language institution. Rather, it starts by arguing that standardisation of spelling in Ulster-Scots should not be a prerequisite to it being included in the (schools) curriculum.
161. The main focus of the languages section is then on significant differences regarding how language measures should be progressed. The Panel Report makes reference to ‘distrust and relationships’ between Ulster Scots groups being ‘deeply harmed by past events and behaviour’. This is quite cryptic, as there is no elaboration as to what these issues are. The Panel Report states that ‘The Panel is convinced that to allow

<sup>159</sup> MIN-LANG (2021) IRIA 1, paragraph 176.

<sup>160</sup> <https://www.communities-ni.gov.uk/consultations/consultation-expert-advisory-panels-recommendations-report-ulster-scots-language-heritage-culture>

<sup>161</sup> <https://caj.org.uk/publications/submissions-and-briefings/submission-in-response-to-the-ulster-scots-language-heritage-and-culture-strategy-expert-advisory-panel-recommendation-report/>

<sup>162</sup> Panel Report, page 20.

<sup>163</sup> Panel Report, page 27 and other places.

this situation to remain would be an act of self-harm’ and proposes a ‘formal professional mediation process’, for six months with unnamed individuals and organisations ‘to take the language institution forward’.

162. The Panel Report however also seems to pre-determine the outcome of the process. The Panel states that in the absence of a ‘successful outcome’ to mediation, the proposed language institution work will progress regardless. In quite odd language for an officially commissioned report, the Panel Report elaborates that “*The Panel does not believe it needs to waste a lot of time for no reason on what needs done*” and argues that “*The issues identified in the Ulster-Scots Language Strategy (July 2000) remain the same. The plans developed by the Ulster-Scots Academy Implementation Group (and then prevented from progressing) are what must be advanced*”.<sup>164</sup>
163. As is common with other sections of the advisory panel report, no references or links to documents are provided to the Academy Implementation plan or the strategy and neither appears available online. It is therefore impossible to make a meaningful assessment of these proposals against the statutory aims of the strategy to enhance and develop Ulster Scots and human rights standards.
164. The Panel Report also states: “The belief that the Frisian Academy model is the most appropriate for Ulster-Scots remains true”. The sole footnote in the Panel Report is then provided for this, which sets out what the Frisian Academy is, but no further information is provided as to what this model is, nor is there any reference or link to any assessment as to why it is argued to be the most appropriate model to safeguard Ulster Scots.
165. CAJ is aware of different views on advancing Ulster Scots linguistically in the past. This has included unorthodox positions that Ulster Scots was not related to Scots itself or that the two should diverge. This position appeared grounded more in political than language preservation considerations. The separate development or even intentional divergence of the Ulster variant of Scots from Scots risks damaging the safeguarding of Ulster Scots. Enhancing and developing Ulster Scots constitutes a more difficult challenge when done in isolation from the broader body of work on Scots *per se*. There have been concerns that some Ulster Scots initiatives have not integrated with broader developments by Scots or even have sought separate development. There have also been observations that written forms of Ulster Scots have diverged from spoken variants in a rush to standardise a distinct written form.<sup>165</sup>

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<sup>164</sup> Panel Report, p31-2.

<sup>165</sup> There is some related discussion on this issue in relation to the Ulster Scots Roadmap Ulster Scots Academy Implementation Group Partnership Board developed to seek the acceleration of Ulster Scots to Part III status under the ECRML, but not supported by government departments. See NIHR ‘ECRML: Supplementary memorandum to the Commission’s Parallel Report to the Committee of Experts on the Third Periodical Report of the United Kingdom’ (October 2009) paragraph 7 citing Correspondence from Linda Wilson, Chair of ICIG to Dr Philip Robinson, Chair USAIG Partnership Board, 5 Nov 2008; Ulster-Scots roadmap and assessment; Ulster-Scots and Part III of the ECRML: Ó Riagáin, Dónall, *A response to the Assessment of the Paper presented to the ICIG and the USAIG*, April 2008. See also: Dunbar, Robert ‘Implications of the European Charter for Regional or Minority Languages for British linguistic minorities’ (2000) 25 Supp (Human rights survey) European Law

166. The framework of the Charter and FCNM provide for resolute action to safeguard and develop minoritised languages. Such objectives can be adversely affected by any artificial separation of the Ulster variant from Scots in general.
167. The reestablishment of the NI Executive and the appointment of a Communities minister means that the strategy should now be developed and adopted. On the basis of the current Expert Advisory report – which unlike the Irish language strategy report, departs from rather than builds on the previous work on a strategy, there would be considerable concern regarding this as a blueprint to ‘enhance and develop the Ulster Scots language’ as the statutory duty requires.

**In relation to compliance with duties towards Ulster Scots under Part II of the Charter, COMEX may wish to:**

- **Seek clarification if the new Commissioner for Ulster Scots will need to be a speaker of Scots/Ulster Scots, and whether the education duty under the legislation will or will not focus on language teaching.**
- **Echo the concerns of the FCNM Advisory Committee regarding the current approach further sectarianising Ulster Scots, reflecting on the implications for Ulster Scots speakers as a linguistic minority.**
- **Seek revision of the proposed Ulster Scots Strategy, clarification as to why the current blueprint departs so significantly from the previously published and consulted on, and emphasise the duty to consult with persons who speak Ulster Scots in developing Ulster Scots policy.**

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