NIHRC response on the proposals for an Irish Language Bill

Summary

While recognising that the proposed Bill need not cover all issues under the one statute, the Commission highlights that consideration should be given to the full range of obligations in relation to the protection and promotion of the Irish language. (para 19)

The Commission recommends that the nature of cross-departmental commitment to delivery is made clear in the next stage of the process. (para 21)

The Commission requests that DCAL, in respect of sections where further detail or information is required, address these issues in full either through their response to the consultation or the explanatory memorandum of the Bill. (para 22)

The Commission welcomes the proposals to place the protection of the Irish language on a statutory footing. It further recommends that any Bill should clarify the meaning of ‘official status’ to ensure legal certainty as to the scope of the use of the language. (para 28)

The Commission welcomes the repeal of the Administration of Justice (Language) Act (Ireland) 1737 as a means to remove restrictions on the use of Irish in the courts. However, the Commission notes that the repeal of this legislation lies within the remit of the DoJ and recommends that the nature of the cross-departmental commitment to delivery is made clear in the next stage of the process. (para 34)

In addition, should the 1737 Act be repealed, further consideration will need to be given to the how the use of
Irish in the courts will be facilitated at an operational level, as this detail is missing from the consultation document. The Commission further recommends that the requirement to make statutory texts available in Irish be included. (para 35)

The Commission notes that the proposals for the Bill would promote participation of minorities in political life. In addition, these proposals are in line with the obligations under the ECRML and would meet the recommendations of COMEX. Further consideration may need to be given as to whether legislation is the most appropriate format to introduced these standards to the NI Assembly. (para 39)

The Commission notes that the specific proposals for the Assembly under part 3, and that it will also fall within the section on public authorities under part 4. Notably part 4 omits the specific requirements to treat Irish “on the basis of equality in the conduct of proceedings” (see part 3(a)) and “ensure respect for the use of Irish” (see part 3(e)). This leads to a higher protection for the use of Irish in the Assembly, as opposed to local government. (para 48)

The Commission highlights the need for clarity on the definition of a PFI to ensure that the legislation would cover PFIs in practice. (para 49)

The Commission recognises that affirmative action measures may be permitted by human rights law in order to redress measures of discrimination. The current proposals do not provide any further detail to demonstrate how these measures will operate in terms of their scope or if they are temporary or permanent. Further information is required in order to ascertain whether such measures are human rights compliant. (para 50)

The Commission recalls the obligations on the government to provide for place-names in a minority language; however, noting that these are not restricted to place-names. The Department should ensure that the Bill also makes provision for other topographical indicators. (para 57)

The Commission recognises the financial implications of these proposals and recalls that the ECRML obligations in respect of place names are restricted to where the number of users are sufficient to justify the measures. Therefore, any legislation should be drafted in the language of the treaty and may provide a power to require bilingual names where
the numbers are sufficient to justify such a measure. (para 58)

While welcoming the proposal to place Irish medium education on a statutory footing, there is no detail to describe how this will impact upon the current statutory duty nor is there any reference to consultation or agreement with the DENI. The Commission recommends that the nature of cross-departmental commitment to delivery is made clear in the next stage of the process. (para 66)

The Commission reserves its position to undertake further analysis of compliance with human rights obligations when DCAL provides more detailed information on the content of the proposed Bill. (para 67)
NIHRC response on the proposals for an Irish Language Bill

1. The Northern Ireland Human Rights Commission (‘the Commission’), pursuant to Section 69(1) of the Northern Ireland Act 1998, reviews the adequacy and effectiveness of law and practice relating to the protection of human rights. In accordance with this function the following statutory advice is submitted to the Department of Culture, Arts and Leisure (‘DCAL’) on its consultation on proposals for an Irish Language Bill.

2. The Commission bases its position on the full range of internationally accepted human rights standards, including the European Convention on Human Rights as incorporated by the Human Rights Act 1998 and the treaty obligations of the Council of Europe and United Nations systems. The relevant international treaties in this context include:

- The European Convention on Human Rights, 1950 (‘ECHR’) [UK ratification 1951];
- The International Covenant on Civil and Political Rights, 1966 (‘ICCPR’) [UK ratification 1976];
- The International Covenant on Economic, Social and Cultural Rights, 1966 (‘ICESCR’) [UK ratification 1976];
- European Charter for Regional and Minority Languages, 1992 (‘the Charter’) [UK ratification 2001];
- Framework Convention for the Protection of National Minorities, 1993 (‘FCNM’) [UK ratification 1998];

3. In addition to these treaty standards there exists a body of ‘soft law’ developed by various human rights bodies. These
declarations and principles are non-binding but provide further guidance in respect of specific topic areas. The relevant standards in this context include:

- United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, 1992;
- The Hague Recommendations Regarding the Education Rights of National Minorities, 1996;
- The Oslo Recommendations Regarding the Linguistic Rights of National Minorities, 1998;
- The Lund Recommendations on the Effective Participation of National Minorities in Public Life, 1999;

UK commitments:

4. The Commission recalls the commitments to the Irish language made by the UK Government under the Belfast (Good Friday) Agreement 1998 which recognised:

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 various ethnic communities, all of which are part of the cultural wealth of the island of Ireland.¹

5. This commitment was reinforced under the Joint Declaration of the British and Irish Governments 2003 requiring the Government to:

... continue to discharge all its commitments under the Agreement in respect of the Irish language. Specifically, in relation to broadcasting, the British Government will take all the necessary steps to secure the establishment as soon as possible, following receipt of the final business case in April, of a fund for financial support for Irish language film and television production. It will also take steps to encourage support to be made available for an Ulster-Scots academy. The two Governments will continue to work with the relevant regulators and broadcasting authorities to address the technical and other barriers with a view to increasing substantially the reception of TG4 in Northern Ireland.²

¹ Belfast (Good Friday) Agreement 1998; Rights, Safeguards and Equality of Opportunity, para 3
² Joint Declaration by the British and Irish Governments 2003, para 30
6. The St. Andrews Agreement 2006 included a commitment upon the British Government to introduce legislation:

The Government will introduce an Irish Language Act reflecting on the experience of Wales and Ireland and work with the incoming Executive to enhance and protect the development of the Irish language.³

7. The commitment in the St. Andrews (Agreement) Act 2006 to the Irish language, however, was only a requirement to adopt a strategy:

(1) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language.⁴

8. The UK government transferred responsibility for the Act to the NI Assembly but previous Ministers for Culture, Arts and Leisure have not introduced legislation.⁵ The UK remains the signatory to the international human rights treaties and so responsibility for compliance ultimately lies with the UK Government.

**Relevant international human rights standards:**

9. The protection of minority languages is found across a number of international human rights treaties. Article 27 ICCPR states:

In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

10. ICESCR also protects the right to take part in cultural life.⁶

The Committee on Economic, Social and Cultural Rights has

---

³ St. Andrews Agreement, 2006, Annex B
⁴ Northern Ireland Act 1998, s.28D(1) (by virtue of s.15 Northern Ireland (St. Andrews (Agreement) Act 2006)
⁵ NIHRC, Parallel Report to the Advisory Committee on the Third Monitoring Report of the UK (2011), para 85
⁶ ICESCR, Article 15(1)(a)
confirmed that language falls within the scope of cultural life.\textsuperscript{7} It also refers to the rights of minorities to:

\begin{quote}
... cultural diversity, traditions, customs, religion, forms of education, languages, communication media (press, radio, television, Internet) and other manifestations of their cultural identity and membership.\textsuperscript{8}
\end{quote}

11. In satisfaction of the right to take part in cultural life, the Committee has identified a number of core obligations which are the “minimum essential levels of each of the rights set out in the [ICESCR]”.\textsuperscript{9} One such obligation, with immediate effect, is the “person’s right to use the language of his or her choice”.\textsuperscript{10}

12. The right to participate in cultural life is subject to progressive realisation and there is recognition that this will impose a financial burden, especially where resources are limited. The right to participate in cultural life is subject to Article 2(1) ICESCR which requires that the State takes steps “to the maximum of its available resources, with a view to achieving progressively the full realisation of the rights recognised in the present Covenant”.

13. The State is required to meet the minimum core obligations of ICESCR obligations which are often identified and interpreted by the Committee on Economic, Social and Cultural rights. The Committee confirms that, in relation to cultural life:

\begin{quote}
States parties must take the necessary steps without delay to guarantee immediately at least the minimum content of the core obligations .... While there may be other steps that require resources, these steps are nevertheless essential to ensure the implementation of that minimum content.\textsuperscript{11}
\end{quote}

14. Where there is a failure to meet the minimum core obligations, the State must be able to demonstrate that every effort has been made with the available resources to satisfy their obligations. Flowing on from the minimum core, the State is then required to progressively realise the rights under

\textsuperscript{7} UN Committee on Economic, Social and Cultural Rights, General Comment 21 on Right of everyone to take part in cultural life (2009) E/C.12/GC/21, para 13
\textsuperscript{8} Ibid, para 32
\textsuperscript{9} Ibid, para 55
\textsuperscript{10} Ibid, para 55(d)
\textsuperscript{11} Ibid, para 67
ICESCR. The concept of progressive realisation recognises that economic, social and cultural rights may not be entirely achieved instantly or even in a short period of time and is tied to the use of maximum available resources which will vary across countries. It requires the avoidance of retrogression, which will be any measure which directly, or indirectly, leads to the backward movement in the enjoyment of rights. Any retrogressive measures would “require the most careful consideration and would need to be fully justified by reference to the totality of the rights provided for in the Covenant and in the context of the full use of the maximum available resources”.

15. The full realisation of economic, social and cultural rights in times of austerity is especially important to ensure that the most vulnerable members of society are protected. There may be a significant additional impact upon specific groups such as women, children or minorities. Where budget cuts lead to the restriction of rights, the government must be able to show that they have sought to use their maximum available resources to avoid loss of enjoyment of rights.

16. Children belonging to a minority also have specific protection under the UNCRC in relation to culture and language. Article 30 UNCRC states:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

17. At the regional European level, the Framework Convention on National Minorities (FCNM) and the European Charter on Regional and Minority Languages (ECRML) are relevant. The ECRML provides the most specific detail of all the international treaties as it is specific to the Irish language. The UK Government has designated Irish a minority language under Parts II and III of the ECRML and accepted 36 paragraphs (of

---

12 UN Committee on Economic, Social and Cultural Rights, General Comment 3 on The nature of States parties’ obligations (1990) E/1991/23, para 9
Part III) in respect of compliance. These will be referred to in more detail as the proposals are discussed.

General points:

18. The Commission recalls that the commitments made to the Irish language under the St Andrews Agreement were by the British Government and not the NI Executive. The question may arise over whether the statutory protection for the Irish language should be introduced at Westminster or in the NI Assembly. The obligations in respect of the Irish language (under the ECRML) are split between the two governments, meaning that only an Act of the Westminster Parliament would be able to cover all aspects.

19. The Commission further notes that cultural activities and facilities and economic and social life are not included within the scope of the consultation document. Each of these is protected under the ECRML and the UK has made undertakings in respect of Irish. While recognising that the proposed Bill need not cover all issues under the one statute, the Commission highlights that consideration should be given to the full range of obligations in relation to the protection and promotion of the Irish language.

20. The Commission welcomes the intent of the consultation proposals; however, in addressing the financial implications of a proposed Bill, the Commission draws attention to the following. As language rights are a minimum core obligation under CESCR, the State has to avoid retrogression and maintain protection to the maximum available resources. In the current environment, where budgetary restrictions are limiting enjoyment of the rights, the government would have to demonstrate that every effort was being made to meet the minimum core obligations. Beyond this, it is also important to note that some of the obligations under the ECRML refer to

---

13 30 paragraphs are the responsibility of the devolved administration and 6 are the responsibility of the UK Government. See http://conventions.coe.int/treaty/Commun/ListeDeclarations.asp?NT=148&CM=1&DF=&CL=ENG&VL=1

14 There is also no mention of the media (Article 11 ECRML), but this remains under the responsibility of the Westminster Government.

15 ECRML, Articles 12 and 13
the requirement that the number of users of regional or minority languages must justify the measures. Thus it is important that DCAL fully considers the nature of the obligations and the language of the treaties in drafting the Bill, as this may assist in determining whether a duty or a power should be introduced.

21. The Commission notes that the proposals venture outside the remit of the DCAL and into that of the Departments of Justice (DoJ) and Education (DENI). **The Commission recommends that the nature of cross-departmental commitment to delivery is made clear in the next stage of the process.**

22. The consultation document is lacking in sufficient detail for a full analysis in respect of human rights compliance to be conducted. **The Commission requests that DCAL, in respect of sections where further detail or information is required, address these issues in full either through their response to the consultation or the explanatory memorandum of the Bill.**

**Consultation proposals:**

**Official status of the Irish language**

23. The Commission recalls the commitment made in the St. Andrews Agreement which was to provide a legislative basis to protect the development of the Irish language.\(^{16}\)

24. In addition, a number of international human rights bodies have also commented on the need for legislation. The Committee on Economic, Social and Cultural Rights has commented on the need for a legislative basis for protection of the Irish language. In its most recent concluding observations, the Committee recommended:

> ...that the State party, or the devolved administration in Northern Ireland, adopt an Irish Language Act, with a view to preserving and promoting minority languages and cultural heritage...\(^{17}\)

---

\(^{16}\) St Andrews Agreement, 2006, Annex B

25. The Committee of Experts of the European Charter for Regional or Minority Languages (COMEX), in its 2014 report, recommended that the UK Government:

...adopt and implement a comprehensive Irish language policy, preferably through the adoption of legislation providing statutory rights for the Irish speakers.\textsuperscript{18}

26. This reinforces the recommendation for “a comprehensive Irish language policy, preferably through the adoption of legislation” made by COMEX in 2010.\textsuperscript{19}

27. Where there is to be more than one official language, the OSCE Ljubljana Guidelines recommend that “the equal status or different scope of the use of official languages in various spheres must be clearly determined”.\textsuperscript{20}

28. The Commission welcomes the proposals to place the protection of the Irish language on a statutory footing. It further recommends that any Bill should clarify the meaning of ‘official status’ to ensure legal certainty as to the scope of the use of the language.

Irish in the Courts

29. In respect of the use of the Irish language in the Courts, the Commission recalls Article 7(2) ECRML which requires the removal of unjustified restrictions to minority languages. This is also dealt with under the GFA, committing to remove “restrictions which would discourage or work against the maintenance or development of [Irish]”.\textsuperscript{21}

30. COMEX has specifically considered the Administration of Justice (Language) Act (Ireland) 1737 under Article 7(2), and in its third report stated that:

... the prohibition of the use of Irish in courts in Northern Ireland by the 1737 Act is an unjustified restriction relating to the use of Irish, endangering the development of the language.\textsuperscript{22}

\textsuperscript{18} COMEX, CM/RecChL(2014)3, Recommendation 2
\textsuperscript{19} COMEX, Rec/ChL(2010)4, Recommendation 2
\textsuperscript{20} OSCE, Ljubljana Guidelines, para 42, pg 53
\textsuperscript{21} Belfast (Good Friday) Agreement, 1998, Rights, Safeguards and Equality of Opportunity, para 4
\textsuperscript{22} COMEX, Application of the Charter in the United Kingdom, 3\textsuperscript{rd} Monitoring Cycle ECRML (2010) 4, para 121
31. The Oslo Recommendations note that States should “give due consideration to the feasibility of conducting all judicial proceedings affecting [national minorities] in the language of the minority”. They further note that the availability of such measures for national minorities “renders access to justice more direct and easy”. It is notable that the UK has not committed itself under Article 9 ECRML to provide any access of this nature.

32. The proposals for the Bill do not mention any commitment to the provision of legal statutory texts in Irish. The Commission recalls Article 9(3) ECRML, which states:

The Parties undertake to make available in those regional or minority languages the most important statutory texts and those relating particularly to users of these languages, unless they are otherwise provided.

33. COMEX has made comment on the availability of statutory texts in Irish, noting the lack of information provided in the UK’s fourth monitoring round and relying on information from NGOs, that no further texts were available. This led to the conclusion that the undertaking, under Article 9(3), is currently “not fulfilled”.

34. The Commission welcomes the repeal of the Administration of Justice (Language) Act (Ireland) 1737 as a means to remove restrictions on the use of Irish in the courts. However, the Commission notes that the repeal of this legislation lies within the remit of the DoJ and recommends that the nature of the cross-departmental commitment to delivery is made clear in the next stage of the process.

35. In addition, should the 1737 Act be repealed, further consideration will need to be given to the how the use of Irish in the courts will be facilitated at an operational level, as this detail is missing from the consultation document. The Commission further recommends that

---

23 OSCE, Oslo Recommendations, Recommendation 19
24 OSCE, Oslo Recommendations, Explanatory Note, para 19
25 COMEX, Application of the Charter in the United Kingdom, 4th Monitoring Cycle ECRML (2014) 1, para 225
the requirement to make statutory texts available in Irish be included.

The Assembly

36. The ECRML permits the use by a regional authority of “minority languages in debates in their assemblies” 26 so long as it is not exclusive of the official language of the State. The ECRML further provides that in order to give effect to this, translation or interpretation may be required. 27

37. The use of “hostile and disparaging remarks” towards the Irish language was noted by COMEX in 2014, and it has continued to emphasise the “crucial importance of the continued freedom to use Irish within the democratic framework of Northern Ireland”. 28 COMEX concluded that the use of regional or minority language in the Assembly is only partly fulfilled. It calls upon the relevant authorities to “introduce a system of simultaneous translation which facilities the full use of Irish in the Northern Ireland Assembly”. 29

38. The concept of the effective participation of minorities in public affairs is also related to the use of Irish in the Assembly. Article 15 FCNM requires the creation of the “conditions necessary for the effective participation of minorities in cultural, social and economic life and in public affairs, particularly those affecting them.” The Oslo Recommendations note that these provisions “imply a dynamic participatory relationship wherein the language of the minority may be a fully-fledged vehicle of communication in local political life”. 30

39. The Commission notes that the proposals for the Bill would promote participation of minorities in political life. In addition, these proposals are in line with the obligations under the ECRML and would meet the recommendations of COMEX. Further consideration may

---

26 ECRML, Article 10(2)(e)
27 ECRML, Article 10(4)(a)
28 COMEX, Application of the Charter in the United Kingdom, 4th Monitoring Cycle ECRML (2014) 1, para 235
29 Ibid, para 238
30 OSCE, Oslo Recommendations, Explanatory note, para 14/15/16
need to be given as to whether legislation is the most appropriate format to introduce these standards to the NI Assembly.

Public Bodies

40. The ECRML provides a range of obligations for the use of regional or minority languages in administrative or public services. Article 10 ECRML permits users of regional or minority languages to submit oral or written applications to administrative authorities\(^{31}\) or local and regional authorities\(^{32}\) in their own language. It also empowers administrative authorities to draft documents in a regional or minority language.\(^{33}\) In respect of public services, the ECRML requires that users of regional or minority languages are able to submit requests in their own language.\(^{34}\) For the purposes of giving effect to the above rights, translation or interpretation may be required.\(^{35}\)

41. COMEX has deemed that the undertakings under Article 10 ECRML were only partly fulfilled in its most recent report; referring to the absence of information provided by the authorities, and the inconsistent response to Irish across council areas, departments and other public services.\(^{36}\)

42. The FCNM further provides that (public) authorities “shall endeavour to ensure, as far as possible, the conditions which would make it possible to use the minority language in relations between those persons and the administrative authorities”.\(^{37}\) States are also obligated under the FCNM to ensure that persons belonging to national minorities are able to effectively participate in public affairs.\(^{38}\)

43. The ECRML also states, at Article 7(2):

---

\(^{31}\) ECRML, Article 10(1)(a)(iv)
\(^{32}\) ECRML, Article 10 (2)(b)
\(^{33}\) ECRML, Article 10(1)(c)
\(^{34}\) ECRML, Article 10(3)(c)
\(^{35}\) ECRML, Article 10(4)(a)
\(^{36}\) COMEX, Application of the Charter in the United Kingdom, 4th Monitoring Cycle ECRML (2014) 1, paras 226-252
\(^{37}\) FCNM, Article 10(2)
\(^{38}\) FCNM, Article 15
The adoption of special measures in favour of regional or minority languages aimed at promoting equality between the users of these languages and the rest of the population or which take due account of their specific conditions in not considered to be an act of discrimination against the users of more widely-used languages.

44. The OSCE Lund Recommendations on the Effective Participation of National Minorities in Public Life require States to ensure that there are opportunities for minorities to have an effective voice at the level of the central government, through "special arrangements as necessary". One such example is through “special measures for minority participation in the civil service as well as the provision of public services in the language of the national minority”.

45. The Oslo Recommendations note that:

In regions and localities where persons belonging to national minority are present in significant numbers, the State shall take measures to ensure that elected members of regional and local governmental bodies can use also the language of the national minority during activities relating to these bodies.

46. The use of affirmative action policies has been upheld by various human rights treaty bodies. The UN Human Rights Committee (HRC) noted that “the principle of equality sometimes requires States to take affirmative action in order to diminish or eliminate conditions which cause or help to perpetuate discrimination”. The HRC also notes that, in relation to Article 27 ICCPR:

... positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practise their religion, in community with the other members of the group. In this connection, it has to be observed that such positive measures must respect the provisions of articles 2.1 and 26 of the Covenant both as regards the treatment between different minorities and the treatment between the persons belonging to them and the remaining part of the population. However, as long as those measures are aimed at correcting conditions which prevent

---

39 OSCE, Lund Recommendations, Recommendation 6
40 OSCE, Oslo Recommendations, Recommendation 15
41 UN Human Rights Committee, General Comment 18 on Non-discrimination (1989) para 10
or impair the enjoyment of the rights guaranteed under article 27, they may constitute a legitimate differentiation under the Covenant, provided that they are based on reasonable and objective criteria.  

47. The Committee on Economic, Social and Cultural Rights has recognised that language barriers can impact upon the enjoyment of cultural rights and, therefore:

... information about public services and goods, for example, should also be available, as far as possible, in languages spoken by minorities, and States parties should ensure that any language requirements relating to employment and education are based on reasonable and objective criteria.  

48. The Commission notes that the specific proposals for the Assembly under part 3, and that it will also fall within the section on public authorities under part 4. Notably part 4 omits the specific requirements to treat Irish “on the basis of equality in the conduct of proceedings” (see part 3(a)) and “ensure respect for the use of Irish” (see part 3(e)). This leads to a higher protection for the use of Irish in the Assembly, as opposed to local government.

49. The Commission notes the reference in this section to private finance initiatives (PFIs). There is a lack of clarity as to what constitutes a PFI for the purposes of this consultation and therefore, whether it falls within the definition of a public authority. Private institutions which exercise a public function would still fall within the definition of a public authority under the Human Rights Act 1998. The Commission further understands that in Wales, provisions are extended to the private sector, partly on a voluntary basis and partly not.  

The Commission highlights the need for clarity on the definition of a PFI to ensure that the legislation would cover PFIs in practice.

---

42 UN Human Rights Committee, General Comment 23 on The Rights of Minorities (1994) UN Doc. CCPR/C/21/Rev.1/Add.5, para 6.2  
43 UN Committee on Economic, Social and Cultural Rights, General Comment 20 on Non-discrimination in economic, social and cultural rights (2009) UN Doc. E/C.12/GC/20, para 21  
44 Welsh Language (Wales) Measure 2011, Schedules 6-8
50. The Commission recognises that affirmative action measures may be permitted by human rights law in order to redress measures of discrimination. The current proposals do not provide any further detail to demonstrate how these measures will operate in terms of their scope or if they are temporary or permanent. Further information is required in order to ascertain whether such measures are human rights compliant.

Place-names

51. The inclusion of place-names in a minority language is referred to in the ECRML and FCNM and OSCE guidelines, alongside other topographical indications such as inscriptions or local names. The ECRML requires, for Irish:

... the use of adoption, if necessary in conjunction with the name in the official language(s), of traditional and correct forms of place-names in regional or minority languages.  

52. It does circumscribe this by reference to the “number of residents who are users of the regional or minority language is such to justify the measures.”

53. COMEX notes the “persisting difficulties” and “delay and obstruction” in dealing with requests for bilingual street names by local councils and the refusals by the Northern Ireland Tourist Board (NITB). It concludes that the undertaking under this article is only partly fulfilled and notes the decision by the Minister for the Department of Regional Development and NITB not to introduce bilingual signage may be an infringement of the Charter.

54. The FCNM also refers to areas traditionally inhabited by substantial numbers of persons belonging to a national minority, that the state should endeavour “to display 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.\textsuperscript{49}

55. The OSCE guidelines also comment on the use of place, and other names, in a minority language. The Oslo Recommendation states that in:

\begin{quote}
... areas inhabited by significant numbers of persons belonging to a national minority and when there is sufficient demand, public authorities shall make provision for the display, also in the minority language, of local names, street names and other topographical indications intended for the public.\textsuperscript{50}
\end{quote}

56. In addition, the Ljubljana Guidelines suggest that States should ensure support for the development of linguistic identities. One manner in which minority or regional languages can be supported in public, is with “inscriptions, place names, street names and other topographical indication in the minority language or bilingually”.\textsuperscript{51}

57. The Commission recalls the obligations on the government to provide for place-names in a minority language; however, noting that these are not restricted to place-names. The Department should ensure that the Bill also makes provision for other topographical indicators.

58. The Commission recognises the financial implications of these proposals and recalls that the ECRML obligations in respect of place-names are restricted to where the number of users are sufficient to justify the measures. Therefore, any legislation should be drafted in the language of the treaty and may provide a power to require bilingual names where the numbers are sufficient to justify such a measure.

**Education**

59. The commitments to minority language education under Article 8 ECRML require the state to make same available where families make such a request and where the numbers

\begin{footnotes}
\item[49] FCNM, Article 11(3)
\item[50] OSCE, Oslo Recommendations, Recommendation 3
\item[51] OSCE, Ljubljana Guidelines, pg 53
\end{footnotes}
are sufficient. This applies to pre-school,\textsuperscript{52} primary,\textsuperscript{53} secondary,\textsuperscript{54} and technical and vocational education.\textsuperscript{55} The UK undertakings for Irish language education require the State to either make available Irish language education, make available a substantial part of that education in Irish language or to provide the teaching of Irish as an integral part of the curriculum.\textsuperscript{56}

60. The most recent COMEX report, the undertakings with respect to the provision of Irish medium education, at all levels, was only partly fulfilled.\textsuperscript{57}

61. Under the FCNM, the State is required to take measures in the field of education to:

\begin{quote}
... foster knowledge of the culture, history, language and religion of their national minorities and of the majority.\textsuperscript{58}
\end{quote}

62. This may entail providing opportunities for teacher training and access to textbooks and the contact between students of different communities.\textsuperscript{59}

63. In addition, under the FCNM, persons belonging to a national minority have the right to learn their minority language.\textsuperscript{60} Where there is sufficient demand, persons from a minority should, within the education system:

\begin{quote}
... have adequate opportunities for being taught the minority language or for receiving instruction in this language.\textsuperscript{61}
\end{quote}

64. The Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, Article 4(4):

\begin{quote}
States should, where appropriate, takes measures in the field of education, in order to encourage knowledge of the history,
\end{quote}

\textsuperscript{52} ECRLM, Article 8(1)(a)(iii)
\textsuperscript{53} ECRLM, Article 8(1)(b)(iv)
\textsuperscript{54} ECRLM, Article 8(1)(c)(iv)
\textsuperscript{55} ECRLM, Article 8(1)(d)(iv)
\textsuperscript{56} This undertaking does not apply to pre-school education.
\textsuperscript{57} COMEX, Application of the Charter in the United Kingdom, 4th Monitoring Cycle ECRLM (2014) 1, paras 208, 211, 214, 219
\textsuperscript{58} FCNM, Article 12(1)
\textsuperscript{59} FCNM, Article 12(2)
\textsuperscript{60} FCNM, Article 14(1)
\textsuperscript{61} FCNM, Article 14(2)
traditional, language and culture of the minorities existing within their territory...

65. The OSCE Hague Recommendations on the Education Rights of National Minorities recommends that at primary school level, the curriculum should be taught in the minority language. At secondary level, a substantial part of the curriculum should be taught through the medium of the minority language. It further recognises that both the minority and state language should be taught as a subject on a regular basis.

66. The Commission notes the requirement under international human rights law to provide education, or a substantial part thereof, in a minority language. The Commission further recalls the present duty on the Department of Education under the Education (NI) Order 1998 to “encourage and facilitate the development of Irish-medium education.”

While welcoming the proposal to place Irish medium education on a statutory footing, there is no detail to describe how this will impact upon the current statutory duty nor is there any reference to consultation or agreement with the DENI. The Commission recommends that the nature of cross-departmental commitment to delivery is made clear in the next stage of the process.

67. The Commission reserves its position to undertake further analysis of compliance with human rights obligations when DCAL provides more detailed information on the content of the proposed Bill.