

**The Implementation of the  
Framework Convention for the Protection of National Minorities  
in Relation to the Irish Language**

**A Briefing Paper  
by POBAL, Umbrella Organisation for the Irish Speaking Community  
in the North of Ireland**

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## **The Framework Convention for the Protection of National Minorities and the Irish Language**

‘Commendable efforts have been made through the devolution process in Scotland, Wales and Northern Ireland, to create the conditions necessary for persons belonging to national minorities to participate effectively in affairs concerning them. Devolution has brought with it increasing awareness and demand for recognition of the identity and in particular the language of national minorities, for which there remains scope for further protection, notably concerning the use of Irish.’

Resolution ResCMN(2002)9  
on the implementation of the Framework Convention for the Protection of National Minorities by the  
United Kingdom  
*(Adopted by the Committee of Ministers on 13 June 2002  
at the 799th meeting of the Ministers' Deputies)*

### **1.0 Introduction**

The Advisory Committee on the Framework Convention said in November 2001 that there remained significant dissatisfaction amongst Irish speakers with the progress being made on language issues in the north of Ireland. In particular, their report makes clear references to the need for greater service provision through Irish, additional action on broadcasting, and they highlight the call by POBAL and others for comprehensive legislation through an Irish Language Act.

The Committee of Ministers noted in June 2002 that the British government should do more on the Irish language in the north.

In January 2004, several members of the Committee of Experts on the Framework Convention visited the North at the request of the NI Human Rights Commission. Once more, representatives of Irish language organisations were pleased to be amongst those who met with them. This document contains further references to this process later on.

It is our view that the UK government have failed to adequately implement both the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. We believe, however, that the drafting and enacting of a comprehensive Irish Language Bill for the north could provide a way forward for the UK government in meeting its commitments. We shall attempt to give some background information to this view in this document.

### **2.0 The case for an Irish Language Act**

#### **2.1 Good Friday Agreement and the Irish Language**

The Good Friday Agreement offered redress for systematic discrimination against the Irish language since the foundation of the state. There are specific promises made in relation to the Irish language in the Good Friday Agreement but POBAL believes that the British government have failed to fulfil these pledges.

## **2.2 ‘Resolute Action to Promote the Irish language’**

### **2.1 European Charter for Regional or Minority Languages**

The British government has taken a minimalist approach to the European Charter for Regional or Minority Language. They have ratified only the minimum number and least significant of clauses and the weakest options for Irish. They have failed to enact the Charter into Westminster, or ‘domestic’ legislation.

The Committee of Experts Report on the Implementation of the Charter by the UK<sup>1</sup>, whilst making some positive comments on the UK government, nonetheless raises a number of significant question marks in almost one third of all the clauses ratified for Irish by the British government. In the case of 11 of the clauses, the British government has either failed to fulfil their commitment or only partly fulfilled it, or else the Experts say they have not been given enough information. In the case of Article 10 of the Charter, which relates to the use of Irish in government departments, local Councils and in public bodies, only half of the clauses ratified have been fulfilled.

In addition, the report directs the attention of government to the Experts’ detailed comments on the way in which the Charter has been implemented. For example, in the case of education, the Experts express great concern in relation to the provision of resources and materials for Irish medium schools. In relation to arts and culture, the Experts call for ‘concrete policies’ instead of ‘ad hoc provision’ and in the case of the newspaper, ‘Lá’ they have high praise for the development of the daily paper, whilst at the same time laying emphasis on the need for substantial funding to be made available to ensure the paper’s continuance.

Significantly, the Experts are concerned about broadcasting provision through Irish and note that the British government has put forward no evidence that it has given ‘public encouragement or assistance’ to private radio stations who broadcast Irish language programmes or who broadcast fully through Irish.

In order to fulfil their commitments to the Irish language under the European Charter for Regional or Minority Languages, the Committee of Ministers make the following recommendation,

‘...that the authorities of the United Kingdom take account of all the observations of the Committee of Experts and, as a matter of priority (...) improve the public service television provision and facilitate the broadcasting of private radio in Irish’

It is a matter of concern to us that two and a half years after the COMEX report of 2001 on the implementation of the Framework Convention, provision is such that the COMEX report on the implementation of the European Charter highlights similar issues.

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<sup>1</sup> COMEX report March 24<sup>th</sup> 2004

## **2.2 Equality and Human Rights Protections**

Internationally, it is recognised that the concept of equality of opportunity is about responding fairly to different needs as opposed to treating everyone in the same way, or spending exactly the same amount of money on people. Women, ethnic minorities, people with disabilities and Irish speakers have suffered in the past, and continue to suffer, disadvantage when compared to men, white people and so on. The principle of equality of opportunity seeks to challenge this legacy and remedy the unequal treatment of the past. International and domestic law provide, and indeed, mandate this concept.

In the north of Ireland, however, a failure at all levels to inform and explain adequately the nature of equality and legal protections has led to a muddying of the waters, specifically around protections for the Irish language. This lack of clarity must be adequately addressed. At present, it contributes to the view that endemic hostility to the Irish language that has been part a history of discrimination and inequality in the north is still a key factor in limiting the legitimate development of the Irish language and in reducing the effect of existing legal protections. Whilst a lack of clarity may be deemed to be disadvantageous to all, it is our view that it has a disproportionate effect on the Irish language and its community.

### **2.2.1 The Equality Commission**

The track record of the Equality Commission has been poor on the rights of Irish speakers and they are currently discussing making no reference at all to language rights in their proposals for the British government on a Single Equality Bill.

The British government has failed to challenge the Equality Commission and the Human Rights Commissions on their inaccurate and damaging advice on the use of the Irish language in the workplace. This advice has resulted in the effective ‘banning’ of the Irish language, either in written or spoken forms, from a number of workplaces by creating a general atmosphere of doubt and anxiety around its use. We enclose copies of correspondence regarding this advice, along with a copy of an Expert Opinion drafted for us by Dr. Fernand de Varennes of the Murdoch University, Australia.

### **2.2.2 A Bill of Rights for NI**

The process towards a Bill of Rights for NI has been beset with problems. POBAL has argued that the original proposals on language from the Commission were minimalist and avoided directly legislating for increased rights for Irish speakers. The proposals departed from the international standard on the treatment of indigenous languages and copperfastened the current dominant position of English. This undermined parity of esteem for those who do not have a British identity and placed linguistic groupings in a potentially competitive environment.

Whilst the Commission has produced some further proposals, it is POBAL’s view that they could be deemed to place the issue of language rights in a negative context, and whilst further legislation for language is mooted as one of the proposals, the

Commission has not taken a sufficiently robust or dynamic stance in support of an Irish Language Act.

### 2.2.3 The Human Rights' Commission and the Framework Convention for the Protection of National Minorities

In January 2004, representatives of the Committee of Experts on the Framework Convention issued written advice following a consultation on a Bill of Rights for NI, initiated by the NI Human Rights' Commission. This written advice makes clear reference to the need to advance the legal protections for the Irish language in the north of Ireland through a Bill of Rights.

POBAL have made significant reference to the experts' document in a formal submission to the NI Human Rights Submission<sup>2</sup>. In addition to these points, we refer to the experts' specific reference to the example of the Swiss Constitution, and its particular provisions in relation to language rights<sup>3</sup>, and later, to the example of Finland in relation to the protection of Swedish.<sup>4</sup> POBAL have argued that whilst the experts advise against the production of a Bill of Rights that would be too detailed, the case of legal protection for the Irish language is a compelling one. We note the recommendation by the experts that a specific clause could be included in the Bill of Rights in order to protect the rights of national minorities<sup>5</sup>, and make reference to the Framework Convention report<sup>6</sup> and to the Committee of Ministers' recommendation that more should be done for the Irish language.<sup>7</sup> In particular, our submission refers to the experts' prior reference to the calls for an Irish Language Act for the north, and points out that the 2004 document notes,

‘...there is nothing to prevent the adoption of legislation providing for higher guarantees than those under the Framework Convention (cf Article 22 of the FCNM)<sup>8</sup>

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<sup>2</sup> In particular, they draw the attention of the NIHRC to the following points in the document, Point 19, pg 6

‘...a bill of rights is a reflection of fundamental values commonly held in the society concerned. This cannot mean, of course, that the choice of rights to be included should depend directly on the degree to which they are respected in that society...It may well mean, however, that certain rights are considered for inclusion in a bill of rights, or formulated in unusual detail, because they are felt to be important in view of the particular history and situation of the society concerned’

Point 20, pg 6

‘...the Belfast (Good Friday) Agreement specifically indicates that the rights (to be considered for inclusion in a Bill of Rights for NI) are “to reflect the particular circumstances of Northern Ireland”. While it is not for the experts to interpret these terms, they note that the approach is by no means unique.’

Heringa, Mailinverni, Marko

<sup>3</sup> point 21, pg 6. *ibid*

<sup>4</sup> point 25, pg 7. *ibid*

<sup>5</sup> They recommend, ‘The law of Northern Ireland shall give effect to the Framework Convention for the Protection of National Minorities’, point 55C), *ibid*

<sup>6</sup> Report of the Committee of Experts on the Implementation of the Framework Convention by the UK, November 2001

<sup>7</sup> Recommendation on the implementation of the Framework Convention by the UK, June 2002, Committee of Ministers, Council of Europe

<sup>8</sup> point 60, pg 13, Heringa, Mailinverni, Marko, *ibid*

### **3.0 Some of POBAL's work on these issues**

- Commissioning and publishing an independent report on the implementation of the European Charter for Regional or Minority Languages
- Meeting with and made written submissions to the Advisory Groups on the European Charter and the Framework Convention for the Protection of National Minorities
- Playing an active role in consultation with the Equality and Human Rights Commissions
- Submitting proposals to the British government regarding comprehensive legislation for Irish
- Carrying out research into the needs of the Irish speaking community
- Taking a pro-active role in consultation processes around policy and the building of a new society
- Organising meetings, seminars, conferences etc with internationally renowned experts in law and in human and linguistic rights

### **6.0 What we are asking the Committee of Experts to do**

Recommend to the British government that they carry out the following actions:

- Draft and enact a comprehensive Irish Language Bill within a three year time scale, whose protections for the Irish language would be commensurate with those of the Official Languages Bill 2002 in the south of Ireland
- In the meantime, to ratify a significant number of additional and stronger clauses for Irish under Part III of the European Charter for Regional or Minority Languages and to,
- Enact the provisions of the Charter into Westminster or 'domestic' legislation
- To ensure that a Bill of Rights for NI and a Single Equality Bill for NI directly legislate for increased protections for the Irish language and the Irish speaking community, in line with the unique circumstances of the Irish language in the north
- To establish an Office of Commissioner for the Irish Language to investigate and resolve complaints

#### **Footnote:**

Established in January 1998, POBAL is an independent democratic partnership of over 50 grassroots organisations in the north of Ireland engaged in Irish-medium work in a range of fields, including, the arts, education, culture, economic regeneration, the media etc.