



# International Convention on the Elimination of All Forms of Racial Discrimination

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## Committee on the Elimination of Racial Discrimination

### Concluding observations on the combined twenty-first and twenty-second periodic reports of Norway\*

1. The Committee considered the combined twenty-first and twenty-second periodic reports of Norway (CERD/C/NOR/21-22) at its 2373rd and 2374th meetings (see CERD/C/SR.2373 and 2374), held on 17 and 18 August 2015. At its 2385th and 2386th meetings, held on 25 and 26 August 2015, it adopted the following concluding observations.

#### A. Introduction

2. The Committee welcomes the timely submission of the combined twenty-first to twenty-second periodic reports of the State party, which included responses to the concerns raised by the Committee in its previous concluding observations. The Committee wishes to commend the State party for the regularity with which it submits its periodic reports, which allows for a continuous dialogue on the implementation of the Convention. Also, the Committee welcomes the open and constructive dialogue with the State party's delegation, which included representatives of various bodies, and the responses to the questions asked by Committee members.

#### B. Positive aspects

3. The Committee welcomes the ratification by the State party, in June 2013, of the Convention on the Rights of Persons with Disabilities and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

4. The Committee also welcomes the adoption of the following legislative and policy measures:

- (a) The new Anti-Discrimination Act on Ethnicity, on 13 June 2013;
- (b) The law creating a new national human rights institution, on April 2015;
- (c) The action plan for the period 2013-2016 entitled "We need the skills of immigrants";

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\* Adopted by the Committee at its eighty-seventh session (3-28 August 2015).



(d) The action plan to combat forced marriage, female genital mutilation and severe restrictions on young people's freedom (2013-2016);

(e) The three-year programme entitled "Democratic readiness against anti-Semitism and racism".

5. The Committee further welcomes the facilitation by the State party of the participation of the vibrant and dynamic civil society organizations in the Committee's work, as well as the participation of the national human rights institution of Norway, the equality and anti-discrimination ombudsman, the ombudsman for children and representatives of the Sami Parliament. It welcomes the establishment by the State party of an annual national conference to promote dialogue with minority organizations.

6. The Committee notes with appreciation the apologies expressed by the Prime Minister of the State party to Roma, on the occasion of International Roma Day 2015, for the treatment of Roma by the Government of Norway and its policies towards them before, during and after the Second World War.

## **C. Concerns and recommendations**

### **Statistical data on the ethnic composition of the population**

7. The Committee takes note of the position of the State party with regard to the collection of data based on ethnicity. However, it regrets that the State party's report once again does not contain statistical data on the different groups that compose the population or recent, reliable and comprehensive data on economic and social indicators that could be used, in particular, to assess the extent of the enjoyment of economic, social and cultural rights by Sami, minorities and migrants, as compared to the general population in the State party.

8. **In the light of its general recommendation No. 8 (1990) on identification with a particular racial or ethnic group and paragraphs 10 to 12 of its reporting guidelines (CERD/C/2007/1), the Committee recommends that the State party provide the Committee with all available indicators on the composition of its population, all other information on mother tongues, languages commonly spoken or other indicators of ethnic diversity, together with any information about descent or national or ethnic origin derived from social surveys. In the absence of quantitative information, a qualitative description of the ethnic characteristics of the population should be supplied. Such information, including with regard to national minorities, should be collected in a manner that is voluntary and based on self-identification and anonymity.**

### **Definition of racial discrimination**

9. The Committee is concerned about the absence of the term "race" as a ground for discrimination in the anti-discrimination act adopted in 2013 (art. 2).

10. **The Committee reiterates its recommendation that the State party include in its anti-discrimination legislation all grounds of discrimination specified in article 1 of the Convention or find other effective ways to ensure that all those grounds are taken into account by the authorities.**

### **Status of the Convention in the domestic legal order**

11. While taking note of the explanations provided by the State party, the Committee remains concerned that, unlike other human rights treaties, the Convention has not been

incorporated into the Human Rights Act of 1999, which has precedence over ordinary domestic legislation (art. 2).

**12. The Committee invites the State party to review its position and to consider incorporating the Convention into the domestic legal order at a level that gives the Convention precedence over ordinary domestic legislation, in particular through the Human Rights Act of 1999.**

#### **National human rights institution**

13. The Committee notes with appreciation the adoption by the Parliament, in April 2015, of the law creating a new national human rights institution. However, the Committee notes that the new institution is not yet fully established, as the Director and the Advisory Council have not yet been appointed (art. 2).

**14. The Committee encourages the State party to finalize the process of establishing the newly created national human rights institution, and to provide the institution with support in seeking accreditation before the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights and with the human and financial resources needed for the fulfilment of its mandate, in accordance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles).**

#### **Racist hate speech, including speech on the Internet and incitement to racial hatred**

15. While noting the position of the State party on approaches to combat hate speech, the Committee is concerned about the increase in such speech and xenophobic discourse by politicians, in the media and in other public platforms, including the Internet, which contribute to fuelling racist hatred, intolerance, stereotypes, prejudices and stigmatization of ethnic and national minorities and indigenous peoples, including Sami, non-western European migrants, Roma and asylum seekers. The Committee is also concerned that article 135a of the Criminal Code, which provides for the penalization of discriminatory expressions and hate speech, is not always applied adequately and effectively to prevent and protect against hate speech, in particular with regard to prosecuting those responsible. While noting that some measures have already been taken by the State party, the Committee is concerned about the lack of a long-term strategy aimed at firmly combating hate speech (arts. 2, 4, 5, 6).

**16. In the light of its general recommendations No. 7 (1985) and No. 15 (1993) relating to the implementation of article 4 of the Convention and its general recommendation No. 30 (2004) on discrimination against non-citizens, and recalling its general recommendation No. 35 (2013) on combating racist hate speech, the Committee reminds the State party of the importance of safeguarding the rights of vulnerable groups in need of protection against racist hate speech and recommends that it take appropriate measures to:**

(a) **Strongly condemn and distance itself from racist hate speech and xenophobic discourse emanating from certain politicians and media professionals and call upon politicians and media professionals to ensure that their public statements do not contribute to fuelling intolerance, stigmatization and incitement to hatred;**

(b) **Ensure that hate speech is investigated effectively under the Criminal Code, and that the persons responsible are prosecuted adequately, and, if found guilty, punished;**

(c) **Collect and make available statistics on the number of hate-speech cases reported, the number of cases brought to court and the outcome of those cases;**

(d) **Conduct awareness-raising campaigns to counter hate speech, develop a long-term strategy to combat hate speech adequately and encourage follow-up to the report of the Media Responsibility Committee issued in 2011;**

(e) **Conduct research on the prevalence and harmful effects of hate speech and include such information in school curricula and teaching materials.**

#### **Hate crimes**

17. While noting with appreciation the work of the Oslo Police District with respect to hate crimes, the Committee is concerned about the lack of a clear definition of hate crime in the Criminal Code, the lack of a coordinated system for the registration of hate crimes by the police across all police districts of the State party, the low number of hate crimes reported to the police and brought to domestic courts, the absence of statistical data on hate crimes with regard to investigations, prosecutions, convictions and sanctions, the absence of a clear and comprehensive national strategy to combat hate crime and the lack of awareness among the population on the hate-crime phenomenon and its harmful effects (arts. 4 and 6).

18. **In the light of its general recommendation No. 7, the Committee recommends that the State party:**

(a) **Adopt a clear definition of hate crime in its Criminal Code to enable the police to address such crime adequately;**

(b) **Develop a national system for registering hate crime, with clear standards and guidelines to ensure uniform registration, and provide adequate training to police officers and all law enforcement officers on how to address hate crime;**

(c) **Address the significant underreporting of hate crime by conducting awareness-raising campaigns as well as research on the causes and harmful effects of hate crime;**

(d) **Investigate all instances of hate crime, prosecute those responsible and, if they are convicted, punish them with appropriate penalties;**

(e) **Provide the Committee with statistical data on complaints, investigations, convictions and sanctions for acts of hate crime;**

(f) **Develop a comprehensive national strategy, including training programmes to raise the awareness of the judiciary, to firmly combat hate crime.**

#### **Prohibition of organizations that promote racial discrimination**

19. While taking note of the State party's approach of penalizing conduct by individuals belonging to organizations that promote and incite racial discrimination, the Committee remains concerned that the State party has not yet included in its criminal legislation provisions declaring such organizations illegal, in conformity with article 4 (b) of the Convention (art. 4).

20. **Recalling its general recommendation No. 1 (1972), concerning States parties' obligations, and general recommendations No. 7, No. 15 and No. 35, which state that the provisions of article 4 of the Convention are of a preventive and mandatory nature, the Committee recommends that the State party adopt specific legislation to implement all aspects of article 4 of the Convention, including the provisions that organizations which promote and incite racial discrimination should be declared illegal and prohibited.**

### **Discrimination in access to the labour market**

21. The Committee is concerned about the high unemployment rate of persons belonging to ethnic minorities or with a migrant background. It is particularly concerned at reports that such persons face barriers to access to the labour market, both in the public and private sectors, owing to prejudices based on stereotypes of their ethnic or national origin and to their level of Norwegian language skills. The Committee is also concerned about the low level of compliance with the activity and reporting duties set out in the anti-discrimination act, which require employers to make active, targeted and systematic efforts to promote equality irrespective of the ethnic or national origin of the applicants. Moreover, it is concerned about the low impact the action plan to promote equality and prevent discrimination (2009-2013) has had on preventing discrimination in the labour market (arts. 2 and 5).

22. **Recalling its general recommendation No. 30, the Committee recommends that the State party, as a matter of priority, adopt more concrete and preventive measures to combat racial discrimination in the labour market against ethnic minorities and persons with a migrant background. It recommends that the State party ensure follow-up measures on the activity and reporting duties set out in the anti-discrimination act and implement measures to guarantee equal recruitment processes in the public and private sectors, irrespective of the ethnic background of the applicants. It also recommends that the State party ensure the effective application of its anti-discrimination legislation, consider adding a penalty for non-compliance with the activity and reporting duties, specify more clearly the content of those duties, and monitor effectively the implementation of the action plan entitled “We need the skills of immigrants”. Moreover, the Committee recommends that the State party continue to develop integration measures and ensure that migrants are able to acquire Norwegian language skills without facing unnecessary barriers.**

### **Norwegian companies operating abroad**

23. While noting that the State party has issued a white paper entitled “Active ownership: Norwegian State ownership in a global economy”, the Committee is concerned that the State party has not yet adopted measures with regard to companies registered in Norway whose activities, in particular with respect to mining, negatively affect the human rights of local communities, in particular those of indigenous peoples and minority groups, outside Norway (art. 5).

24. **The Committee recommends that the State party take appropriate legislative measures to prevent companies registered in Norway from carrying out activities that negatively affect the enjoyment of human rights of local communities, in particular the rights of indigenous peoples and minority groups, outside Norway, and hold such companies accountable, taking into account the Guiding Principles on Business and Human Rights: Implementing the United Nations “Protect, Respect and Remedy” Framework.**

### **The situation of Roma and Tatars**

25. While noting measures taken by the State party, the Committee is concerned about the persistent discrimination against, stereotyping of and intolerance towards Roma and Tatars living in the State party, the persistent difficulties and inequalities faced by Roma and Tatars in accessing employment, housing, health-care services and education, compared to the rest of the population of Norway, the low level of education among Roma and Tatars, coupled with the lower school attendance of Roma children, and the reports of the negative effects of the frequent recourse to separation of Roma children from their families as a protection measure (arts. 2 and 5).

26. **Recalling its general recommendation No. 27 (2000) on discrimination against Roma, the Committee recommends that the State party:**

(a) **Develop appropriate strategies and policies to respond adequately to the difficulties faced by Roma and Tatars in gaining access to employment, housing, health-care services and education in order to facilitate their full integration in Norwegian society;**

(b) **Firmly combat acts of racial discrimination and stereotypes, including by applying its anti-discrimination legislation effectively;**

(c) **Combat hate speech against and intolerance towards Roma and Tatars;**

(d) **Conduct and strengthen its awareness-raising campaigns in order to build confidence and promote understanding;**

(e) **Enhance measures to improve the school attendance of Roma children and carefully review its practice of placing Roma children in institutional settings or in the care of welfare services;**

(f) **Implement the recommendations of the commission set up to assess the discriminatory assimilation policies, including by providing Roma and Tatars with compensation.**

#### **The situation of Sami**

27. While taking note of the Action Plan for Sami Languages adopted by the State party, the Committee remains concerned at reports that mother-tongue instruction for Sami students is not adequately protected and that schools do not always fulfil the requirements for mother-tongue instruction owing to a lack of sufficient teaching materials, financing and staffing. The Committee is also concerned about the vulnerable situation of the Eastern Sami culture, due in particular to the restrictive regulation of reindeer herding, fishing and hunting, which constitute an important part of the culture, and about the insufficiency of measures to preserve the culture. (art. 5).

28. **Recalling its general recommendation No. 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party reinforce its measures to effectively ensure the promotion and preservation of the Sami languages, in particular those under threat, by ensuring that mother-tongue teaching requirements are fulfilled and by securing teaching materials and financial and staffing resources for schools, and that it guarantee the effective implementation of the Action Plan for Sami Languages. The Committee also recommends that the State party increase its efforts to effectively apply the Finnmark Act and preserve the land rights and culture of Eastern Sami, including by finding an appropriate solution to secure the reindeer herding, fishing and hunting that is important to their culture.**

29. The Committee is concerned that, while the Finnmark Act recognizes that Sami have acquired collective and individual rights in Finnmark through long-term usage of land and resources, there remain significant gaps in translating the legal recognition into practice, thus resulting, in reality, in limited recognition and protection of Sami rights over their lands. The Committee is also concerned that:

(a) Little progress has been made in establishing legal frameworks or specialized mechanisms to identify Sami land and resource rights outside Finnmark, despite the proposals contained in the Sami Rights Committee report regarding the clarification of those rights;

(b) Legislation, in particular the Finnmark Act, the Mineral Act and the Reindeer Husbandry Act, does not provide sufficient safeguards regarding the obligation to consult

with Sami, in particular the right to free, prior and informed consent, on all projects and concessions granted to companies for extractive activities, among others, and on other development projects that have an impact on reindeer herding and other Sami livelihoods;

(c) The funds used to provide legal aid to those seeking recourse before the Uncultivated Land Tribunal for Finnmark come out of the budget of the Tribunal, thus limiting the work of the Tribunal;

(d) The 2012 amendments to legislation relating to fisheries, namely, the Marine Resources Act, the Participation Act and the Finnmark Act, did not include a recognition that Sami have established rights to fisheries and other renewable marine resources in the Sami coastal area, and that the legal frameworks may therefore require future reform.

**30. The Committee recommends that the State party:**

(a) **Take concrete steps to give full effect in practice of the legal recognition of the Sami rights to their lands and resources as provided for in the Finnmark Act to enable Sami to maintain and sustain their livelihoods;**

(b) **Follow up on the proposals of the Sami Rights Committee, including by establishing an appropriate mechanism and legal framework, and identify and recognize Sami land and resource rights outside Finnmark;**

(c) **Put in place consultation procedures for the establishment of necessary economic parameters for the Sami Parliament, and ensure that the Sami Parliament is consulted on financial initiatives and budgetary measures that may have a direct impact on the Sami community;**

(d) **Guarantee that all administrative and legislative mechanisms under the Finnmark Act, the Mineral Act and the Reindeer Husbandry Act, among others, that allow for extractive activities in Sami lands be reviewed in order to guarantee adequate consultation with the affected Sami communities, in particular with respect to the right to free, prior and informed consent, mitigation measures, compensation and benefit sharing;**

(e) **Follow up on the allocations for the survey and recognition work of the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark and ensure that the Commission and Tribunal have adequate financial resources at their disposal, including for providing legal aid to those seeking recourse before the Tribunal;**

(f) **Review the fisheries legislation and ensure that it fully recognizes the Sami fishing rights based on immemorial usage and local customs.**

**Free legal aid in discrimination cases and damages for non-economic loss**

31. The Committee is concerned that the anti-discrimination tribunal and the ombudsman are not authorized to grant damages for non-economic losses. It is also concerned that free legal aid is granted only as an exception and on an ad hoc basis for discrimination cases in legal proceedings (art. 6).

**32. The Committee recommends that the State party consider allowing the anti-discrimination tribunal and the ombudsman to grant damages for non-economic losses in order to guarantee a more effective enforcement of the anti-discrimination legislation. It also recommends that the State party review the conditions for free legal aid in order to enable complainants to resort easily to legal proceedings before courts in discrimination cases.**

**Intersectional discrimination and violence against minority and migrant women**

33. The Committee welcomes measures taken by the State party to combat gender-based violence and discrimination, as well as trafficking in persons. However, it remains concerned about:

(a) The three-year residence requirement under the Immigration Act, which may create problems for foreign women married for fewer than three years to Norwegian nationals and who are victims of domestic violence in obtaining a residency permit due to difficulties in proving that the relationship is abusive. These requirements may also prevent victims from leaving abusive relationships and seeking assistance and protection;

(b) Reports that the residence requirement for obtaining a residence permit independently may be extended to five years;

(c) Reports that assistance and protection measures for women victims of trafficking are neither sufficient nor sufficiently accessible and that the protection offered, including the granting of residence permits, depends on the level of the women's collaboration with the justice system;

(d) The fact that women in prostitution who do not have a residence permit are discouraged from reporting offences against them and from requesting that their cases be investigated by the police, including in cases of gender-based violence, such as rape;

(e) The lack of access to adequate health services for women in prostitution (art. 5).

34. **Recalling its general recommendation No. 25 (2000) on gender-related dimensions of racial discrimination and general recommendation No. 30, the Committee recommends that the State party:**

(a) **Intensify its efforts to address the issue of violence against women, in particular women from minorities, and review its practice for granting residence permits to ensure that the application of the law does not have the effect, in practice, of forcing women victims of domestic violence to remain in abusive relationships;**

(b) **Consider not extending to five years the residence requirement for obtaining a residence permit;**

(c) **Provide victims of trafficking with adequate assistance and protection regardless of their residence status and grant them residence permits where necessary, and increase its efforts to combat trafficking, including by identifying, prosecuting and punishing those responsible;**

(d) **Develop full national health-service coverage for women in prostitution regardless of their residence status and accept reports and complaints from them, investigate such complaints and prosecute those responsible.**

**Refugees and asylum seekers, including unaccompanied minors**

35. While noting the explanations provided by the State party, the Committee remains concerned about the use in the Trandum immigration centre of solitary confinement to ensure safe deportation, reportedly without a proper assessment or appropriate health services. It is also concerned at reports of the detention of children in immigration centres in the State party. The Committee is further concerned about the reported disappearance of unaccompanied minors, who may become victims of human trafficking (art. 5).

36. **The Committee recommends that the State party review the procedures for and restrict the practice of solitary confinement of migrants and asylum seekers awaiting deportation, establish adequate health services, including for mental illness, for such**



**persons, avoid the detention of children and ensure effective protection of unaccompanied minors, including against trafficking.**

#### **Interpretation services**

37. While noting the measures taken by the State party, the Committee remains concerned about reports on the continued practice of using children, next of kin and unqualified persons in providing interpretation services, in particular in the areas of health care and law enforcement, which risks impairing equal access to public services for persons with an immigrant background and Roma (art. 5).

**38. The Committee recommends that the State party ensure that interpretation services are provided by qualified professionals and avoid using children or next of kin for such services. It also recommends that the State party follow up on the report of the Interpreting Services Review Committee and adopt legislation on interpretation services to guarantee equal access to public services for all.**

#### **Right to education**

39. The Committee is concerned that children living in asylum centres do not always enjoy access to kindergarten. It is also concerned about reports that section 3-1 of the education act has the effect of excluding from upper secondary school education children who are older than 15 and have no legal residence status (arts. 2 and 5).

**40. The Committee recommends that the State party review section 3-1 of the education act in order to guarantee the right to education, including at the upper secondary school level, to all children within its jurisdiction, irrespective of their residence status.**

### **D. Other recommendations**

#### **Ratification of other treaties**

41. Bearing in mind the indivisibility of all human rights, the Committee encourages the State party to consider ratifying those international human rights treaties which it has not yet ratified, in particular treaties with provisions that have a direct relevance to communities that may be subjected to racial discrimination, such as the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and the International Labour Organization Domestic Workers Convention, 2011 (No. 189).

#### **Follow-up to the Durban Declaration and Programme of Action**

42. In the light of its general recommendation No. 33 (2009) on the follow-up to the Durban Review Conference, the Committee recommends that, when implementing the Convention in its domestic legal order, the State party give effect to the Durban Declaration and Programme of Action, adopted in September 2001 at the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, taking into account the outcome document of the Durban Review Conference, held in Geneva in April 2009. The Committee requests the State party to include in its next periodic report specific information on action plans and other measures taken to implement the Durban Declaration and Programme of Action at the national level.

### **International Decade for People of African Descent**

43. In the light of General Assembly resolution 68/237, proclaiming 2015-2024 the International Decade for People of African Descent and Assembly resolution 69/16 on the programme of activities for the implementation of the Decade, the Committee recommends that the State party prepare and implement a suitable programme of measures and policies. The Committee requests the State party to include in its next report precise information on the concrete measures adopted in that framework, taking into account its general recommendation No.°34 (2011) on racial discrimination against people of African descent.

### **Consultations with civil society organizations**

44. The Committee recommends that the State party continue to consult and expand its dialogue with civil society organizations working in the area of human rights protection, in particular in combating racial discrimination, in connection with the preparation of the next periodic report and the follow-up to the present concluding observations.

### **Dissemination**

45. The Committee recommends that the State party increase its efforts to raise public awareness and knowledge of the Convention throughout its territory, make the State party's reports readily available and accessible to the public at the time of their submission, and widely publicize the concluding observations of the Committee in the official and other commonly used languages, as appropriate.

### **Follow-up to concluding observations**

46. In accordance with article 9 (1) of the Convention and rule 65 of its rules of procedure, the Committee requests the State party to provide information, within one year of the adoption of the present concluding observations, on its follow-up to the recommendations contained in paragraphs 14, 30 and 38 above.

### **Paragraphs of particular importance**

47. The Committee wishes to draw the attention of the State party to the particular importance of the recommendations in paragraphs 16, 22, 26 and 43 above and requests the State party to provide detailed information in its next periodic report on concrete measures taken to implement those recommendations.

### **Preparation of the next periodic report**

48. The Committee recommends that the State party submit its twenty-third and twenty-fourth periodic reports, in a single document, by 19 September 2017, taking into account the specific reporting guidelines adopted by the Committee during its seventy-first session (CERD/C/2007/1) and addressing all the points raised in the present concluding observations. In the light of General Assembly resolution 68/268, the Committee urges the State party to observe the limit of 21,200 words for periodic reports.

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