

COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Meeting of the 69th session, Geneva 31 July - 18 August 2006

Norway (17th and 18th periodic reports)

Information submitted to the Committee

Norway submitted its 17th and 18th periodic reports¹ (due in 2005 and submitted on 21 September 2005) to the Committee on the Elimination of Racial Discrimination (the Committee).² The Committee provided a list of issues³ to the state to which the Norwegian delegation did not submit written replies but chose to answer them orally during the actual meeting. The state report was composed of two parts. The first part described briefly the main legislative human rights framework existing in Norway while specifically focusing on the new measures that have been adopted in line with the Convention's requirements. The Norwegian government also provided policy implementation programs and statistical data. The second part of the report provided an article-by-article breakdown of issues in Norway relating to Articles 2 to 7 of the *International Convention on the Elimination of All Forms of Racial Discrimination* (the Convention).⁴ The report was highly comprehensive and takes a realistic approach in taking into account the concluding observations made by the Committee on Norway's 16th report on compliance with the Convention. This view was expressed by a number of Committee members who actively praised the detailed information provided on the legislative framework and reforms undertaken in Norway. However, some of the experts criticised the lack of statistics with regards to the ethnic background of persons residing in Norway.

The Antirasistisk Senter and Sami Reindeer Herders' Association of Norway submitted parallel reports to the Committee.⁵ The first report focused on a wide variety of issues, including the *Anti-Discrimination Act*, dissemination of racist ideas, equal treatment by bodies administering justice, the police, and efforts to stop recruitment to racist and nationalistic circles and to prevent racially motivated violence. The second report addressed the treatment of the *Law of Reindeer Husbandry* in relation to the Saami community.

Norway has recognized the competence of the Committee under Article 14 of the Convention to receive communications from individuals and groups within the jurisdiction of Norway. Nevertheless, it has made a reservation that the Committee shall not consider any matter that is being examined or has been examined under another procedure of international investigation or investment.

Themes and Issues

¹ Reports Submitted by State Parties under Article 9 of the Convention, CERD/C/497/Add.1 (21 September 2005).

² Additional information concerning the current session may be found in the press releases section.

³ Questions put by the Rapporteur in Connection to the Consideration of the Combined 17th and 18th Periodic Reports of Norway, CERD/C/497/Add.1.

⁴ *International Convention on the Elimination of all Forms of Racial Discrimination*, available at <http://www.ohchr.org/english/law/cerd.htm>.

⁵ Antirasistisk Senter Noraw, *A Commentary on Norway's Combined 17th and 18th Report Submitted by Norway under Article 9 of the International Convention for the Elimination on all Forms of Racial Discrimination*, available at <http://www.ohchr.org/english/bodies/cerd/docs/ngos/ARC.pdf>; Sami Reindeer Herders' Association of Norway, *The International Convention on the Elimination of Racial Discrimination – Comment and Supplement to Norway's 17th/18th Report*, available at <http://www.ohchr.org/english/bodies/cerd/docs/ngos/samiNGO.pdf>.

As the report was comprehensive and highlighted most issues with regards to racial discrimination, the meeting took place under a very positive atmosphere. The Norwegian delegation made a serious effort to answer all the questions submitted by the Committee as well as to participate pertinently in the interactive debate throughout the session.

Legal Status of the Convention

One of the Committee's main concerns regarding the Norwegian report focused on **the incorporation of the Convention at the national level**. Mr. Patrick Thornberry, the country-Rapporteur, along with other members of the Committee enquired about **the status of the Convention** in domestic law. Mr. Thornberry drew attention to the fact that the incorporation of the Convention was done through the *Anti-Discrimination Act* and not through an amendment to the *Human Rights Act*. Since the *Human Rights Act* has legal precedence in Norway as compared to other acts, this meant that the Convention did not prevail over the entire domestic legislation. He wondered what would happen in the event of a contradiction between other statutory laws and the provisions of the Convention. The Norwegian Centre for Human Rights representative called attention to the fact that other international conventions have been implemented directly in the *Human Rights Act* and expressed their hope that the Convention shall be given the same legal status as the other conventions. The delegation noted that the Norwegian government was contemplating the incorporation of the Convention in its *Human Rights Act*. Nevertheless, the delegation explained that a court could allow domestic legislation to take precedence over the Convention only in the rare and very unlikely case of a domestic regulation being passed after the Convention was incorporated and only when it is explicitly stated as such in the text of the new law. The Norwegian representative stated that there have been no cases of inconsistency between domestic legislation and the Convention thus far. In its Concluding Observations⁶, the Committee invited that the State party further strengthened its domestic legal order by incorporating the Convention as to ensure its primacy over domestic legislation in cases of conflict.

Ethnic Statistical Data

Another issue raised by various experts concerned the lack of **data on ethnic statistics** provided by Norway. The Committee seemed to be of the opinion that more statistics of various ethnic groups would be beneficial as to easier evaluate and provide better responses and programs to specific target groups such as national minorities. The delegation said that they did have comprehensive updated statistics on immigrants and persons with immigrant backgrounds. The Norwegian representative admitted that they do not require the non-immigrant groups to do similarly because this would infringe on their right to privacy. The Committee recommended that the State party should provide information on the use of mother tongues as indicative of ethnic differences, together with information derived from targeted social surveys performed on a voluntary basis, with the full respect for the privacy and anonymity of the individuals concerned.

Criminal Laws

The Committee expressed interest in why the Norwegian legislation does not explicitly prohibit **racist organizations**. Mr. Luiz Valencia Rodriguez specifically

⁶ *Concluding Observations of the Committee on the Elimination of Racial Discrimination – Norway*, CERD/C/NOR/CO/18, (18 August 2006).

asked whether publicly formulated **racist expressions** are sufficiently dealt with in the amended Norwegian *Penal Code* as to give rise to penalties in case of violations. The Norwegian delegation explained that new offences have been created in the Norwegian *Penal Code*⁷ and the *Constitution*⁸, which fall under the prohibition of racist acts including racist expressions. These are very carefully monitored and penalised. In the opinion of the Norwegian delegation, the practical outcome will not be changed should the law be directed specifically at racist organizations and assured the Committee that in Norway, these type of organizations are very loosely organized and show no signs of current activity. In its Concluding Observations, the Committee insisted that Norway passes relevant legislation in order to declare illegal and prohibit all organisations promoting and inciting racial discrimination.

Anti-Discrimination Ombudsman

Some members of the Committee questioned the legal amendments concerning the extension of **the mandate of the Ombudsman** office as to address a general anti-discrimination agenda. In line with the new changes, in addition with the civil enforcement of the *Anti-Discrimination Act*, the Ombudsman also enforced other anti-discrimination legislation, such as the *Gender Equality Act*, and the anti-discrimination provisions in the *Working Environment Act* and housing legislation. Mr. Thornberry was concerned that following the changes, the Ombudsman's mandate might lose its specificity and focus. The delegation believed that different grounds of discrimination have a lot in common and explained that addressing anti-discrimination issues in one single body is expected to give more comprehensive enforcement in cases of multiple discriminations and at the same time keep a clear focus altogether. The delegation added that the Ombudsman also has a duty to provide guidance in cases concerning legislation not enforced by the Ombudsman. The Committee did not touch upon this issue in its Concluding Observations.

Immigration

The Committee took into consideration the **immigration** aspect and was concerned with the new *Nationality Act*⁹ and its provisions in which a **language requirement** is introduced for obtaining Norwegian citizenship. Mr. Thornberry was worried that this new requirement may give rise to discretionary and subjective decisions vis-à-vis immigrant people and enquired whether its addition was necessary. The Committee also investigated on the quality of language teachings, as they are vital in helping learners to pass the exam. The delegation of Norway replied that it is compulsory for newly arrived immigrants to take part in language programs consisting of at least 300 lessons before one can sit an exam in either Norwegian or Saami. The delegation added that those with further training needs do have the option of taking up more classes. The Committee recommended that the State party ensure that particular groups of non-citizens are not discriminated against with regards to access to citizenship, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents.

⁷ Article 135a of the *Norwegian Penal Code*, available at http://www.coe.int/T/E/Legal_affairs/Legal_co-operation/Conferences_and_high-level_meetings/European_Public_Prosecutors/00_Norway_Penal%20Code.asp

⁸ Article 100 of the *Norwegian Constitution*, available at http://odin.dep.no/ud/norsk/dok/andre_dok/rappporter/032201-220007/hov021-bu.html

⁹ *Norwegian Nationality Act*, available at http://odin.dep.no/filarkiv/173122/Norwegian_Nationality_Act.pdf

The Committee also requested more information on the specific programs aimed at the **integration of immigrants into the domestic labour market**. One Committee member, Mr. Morten Kjaerum noted that the employment rate for immigrants is lower than for nationals. The Norwegian delegation recognized this as a problem and noted that some of the main reasons for the current negative situation are language, skill barriers and discrimination on behalf of the employers. The delegation illustrated a number of laws such as the *Working Environment Act*¹⁰ and the new *Anti-Discrimination Act*¹¹, which are hoped to address the issue. In its Concluding Observations, the Committee advised the State party to take more effective measures to eliminate discrimination against non-citizens in relation to working conditions and work requirements, including employment rules and practices with discriminatory purposes or effects. The Committee recommended that the legislation prohibiting discrimination should be fully implemented in practice and that further measures should be taken to reduce unemployment among immigrants in the State party.

Ethnic Minorities and the Police

The Committee also enquired about the **level of representation of ethnic minorities in the police force**. Specifically, Mr. Kjaerum asked whether there has been an evaluation of the efforts undergone by the Government in increasing the access of members of ethnic minorities into the police force. The Norwegian delegation agreed this is a current problem that needs to be tackled. Some of the reasons mentioned by the delegation for the current situation involved subtle discrimination, exclusion, and lack of trust due to the fact that the police force is comprised largely of ethnic Norwegian majority population. The delegation committed itself as to establish a research project in order to see the exact factual situation as it stands. The Committee did not specifically address this issue in its Concluding Observations. The Committee encouraged the State party to continue providing raising awareness training programmes for law enforcement officers.

National Minorities: Saami and Roma Issues

The Committee took the issues of the **Saami People's rights** into consideration. The Committee was worried about the situation of the **East Saami** group, which appeared to be a particularly vulnerable group, and in greatest need of protection. The Committee noted the government's adoption of the *Finmark Act*, which promulgates collective and individual rights to land for indigenous peoples. Nevertheless, the Committee was concerned over the application of the principle of non-discrimination between ethnic groups within the same area, which may negatively affect the East Saami people. In that connection, he wondered if particularly vulnerable groups did not have the right to affirmative action and preferential treatment. The delegation explained that although the East Saami people do not hold specific special rights, they do have the opportunity to submit claims to the commission and the court that are to be established under the *Finmark Act* to deal with claims relating to land rights. The delegation added that in order to preserve the East Saami culture, the Government has decided to establish an East Saami museum to which it allocated 30 million krona. The delegation also clarified that the *Finmark Act* does not interfere with other

¹⁰ *Working Environment Act*, available at <http://www.arbeidstilsynet.no/binfil/download.php?tid=28675#search=%22working%20environment%20act%20norway%22>

¹¹ *Anti-Discrimination Act*, available at <http://www.dep.no/aid/english/doc/legislation/016101-990042/dok-bn.html>

collective and individual rights previously acquired by the Saami people. In its final recommendations, the Committee expressed concern that the *Finmark Act* does not address the special situation of the East Saami and asked the State party to adopt special and concrete measures to ensure the adequate development and protection of certain highly vulnerable indigenous groups, namely, the East Saami people.

One specific issue raised by the Committee questioned the state **compensation policies** with regards to **past discriminatory practices** and **forced sterilisation against Roma**. Mr. Thornberry praised the Norwegian government for paying compensation to Roma for the negative effects of previous assimilation policies. The Committee expressed its hope that the Norwegian courts will strictly apply the law and would not create a lengthy bureaucratic process for the claimants. The delegation noted that the Norwegian Parliament had allocated the Romany People's Fund in 2004 as a collective compensation for earlier injustices. Furthermore, the delegation mentioned that a separate individual compensation scheme had been approved in 2005, and several applications concerning forced sterilizations and a few concerning forced settlement were currently in process. The Committee did not comment in its Concluding Observations on the issue of compensation policies with regards to past discriminatory practices regarding the Roma population.

Conclusion and Next Steps

Generally, the discussion between the Norwegian delegation and the Committee was very productive and both parties participated actively and diligently in the dialogue. The Committee repeatedly praised the Norwegian delegation for both their comprehensive report and for their precise, well-prepared and helpful responses throughout the session.

The state report presented by the Norwegian delegation appeared very consistent and took into account the concluding observations of the previous Committee session while presenting the various new sets of laws and amendments that have been adopted in Norway. This allowed the Committee members to focus more clearly on specific issues where action may be needed, such as immigration issues, the Ombudsman's mandate, the East Sami situation, data on ethnic statistics, racist organizations' legal status, and the representation of ethnic minorities in the police forces. In its comments throughout the interactive dialogue, the Norwegian delegation identified ways of improving the overall situation in the future by adopting the relevant set of laws, by focusing on education and training and by holding interactive meetings with relevant organizations and NGOs that have expertise in the field. As a future specific step, the Norwegian delegation committed itself to establish a research project, which would investigate the main reasons for the low participation of ethnic minority representatives in the police force.

In its Concluding Observations, the Committee managed to address most of the issues discussed during the session. Unfortunately, the Committee did not address the question of compensation policies with regards to past discriminatory practices regarding the Roma population, the mandate of the Ombudsman, and the access of members of minorities in the police force.