



# 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 reports of Norway

Addendum

#### Information received from Norway on follow-up to the concluding observations\*

[Date received: 27 September 2016]

#### National Human Rights Institution

##### Follow-up to recommendations in paragraph 14

1. The Act relating to the Norwegian National Human Rights Institution entered into force on 1 July 2015, establishing a new national institution under the auspices of the *Stortinget* (the Norwegian Parliament). The institution has been given a broad mandate to promote and protect human rights in Norway, in accordance with the Principles relating to the status of National Institutions (The Paris Principles). The institution discharges its functions in a free and independent manner and makes its own decisions on how to organise and carry out its work.
2. The act stipulates a number of requirements to the management and staffing of the new institution, in respect of composition and qualifications. The board of the institution, consisting of five highly-qualified individuals, was appointed by the Norwegian Parliament on 18 June 2015. The institution's new director, Peter Wille, took office on 1 January 2016 and an advisory committee has been appointed with 14 members. The institution currently (as of 1 September 2016) has nine employees, of which six are lawyers.
3. The new National Institution for Human Rights is still in the process of setting up its activities, but it has begun its work. A yearbook of 2015 was published in February 2016, and the institution submitted its first annual report in April 2016. The institution has begun the process of preparing its application for accreditation by the International Coordination

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\* The present document is being issued without formal editing.



Committee of National Institutions for the Promotion and Protection of Human Rights (ICC).

4. Norwegian authorities are focused on supporting the institution so as to enable it to successfully complete its establishment process, and will support it in seeking accreditation.

5. It is stated in the travaux préparatoires of the Act relating to the Norwegian National Human Rights Institution that the strengthening of Sami rights is an important part of the institution's broad mandate. Section 5 of the aforementioned act requires at least one member of the institution's board to have special knowledge of Sami issues. According to section 6 of the instructions pursuant to the act, the same requirement applies to the advisory committee.

## **Situation of the Sami**

### **Follow-up to recommendation in paragraph 30 (a)**

6. The work to identify and recognise ownership and usage rights in Finnmark is underway. In pursuance of the Finnmark Act a commission and a special court have been appointed to examine these matters, the Finnmark Commission and the Uncultivated Land Tribunal for Finnmark respectively. The Finnmark Commission examines ownership and usage rights for land that forms part of the Finnmark Estate. The Commission has examined six areas and has commenced work on two other areas. The Uncultivated Land Tribunal took up work in September 2014 and hears disputes relating to rights which the Commission has examined in its reports.

### **Follow-up to recommendation in paragraph 30 (b)**

7. As noted in Norway's report, the Government is currently following up the proposal submitted by the Sami Rights Commission to establish by law the obligation for the authorities to consult with the Sami in matters that could affect them directly. The Commission's proposal regarding identification and recognition of existing land rights in traditional Sami areas outside of Finnmark is being considered by the relevant ministries.

8. Furthermore, the Government notes the Sami Rights Commission's view that the rights of the Sami to land and natural resources in areas they traditionally occupy, must be assessed on the basis of current Norwegian property law relating to the acquisition of ownership and usage rights to fixed property. This includes acquisition through use since time immemorial, common usage and custom. However, these general principles of property law, must be adapted to characteristics of Sami culture and land use. This is reflected in two decisions by the Supreme Court from 2001.

### **Follow-up to recommendation in paragraph 30 (c)**

9. Every year the Norwegian Parliament appropriates just under 500 million NOK as block grants, from 7 different budget line items, to the Sami Parliament. The objective is to support the Sami in preserving and developing their culture, language and community life. These grants are in addition to appropriations from the central government and municipal allocations for services benefiting everyone in the population, regardless of ethnic, linguistic or cultural affiliation.

10. Norway has established consultation procedures between the Government and the Sami Parliament in matters that could directly affect Sami interests. These procedures have been drawn up in line with Norway's obligation under Article 6 of ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. For further details on the consultation procedures, please refer to our previous reports.

11. Budgetary processes raise a number of specific questions and issues, and are not covered by the aforementioned consultation procedures.

12. Prior to the Government's first annual budget conference, a meeting is held every year between the president of the Sami Parliament, the Minister of Finance and the Minister for Local Government and Modernisation. The Sami Parliament explains the budgetary needs of the Sami society in the meeting.

13. The Ministry of Local Government and Modernisation is working on an evaluation of the advantages and disadvantages of aggregating the appropriations to the Sami Parliament into one, overall budget item, and considering related issues regarding dialogue and procedures. The work is done in consultation with the Sami Parliament. We will also mention that the Government of Norway is of the opinion that the current arrangements for the preparation of the government's annual budget proposal is in line with Norway's obligations under the ICERD.

#### **Follow-up to recommendation in paragraph 30 (d)**

##### *General points on consultation and Sami interests*

14. The Government is following up the Sami Rights Committee's proposal to establish in law the right to consultation in matters that could directly affect Sami interests. The Committee has proposed adoption of a separate act on administrative procedure and consultations; the Government is consulting with the Sami Parliament on how to follow up these proposals. The Committee has also proposed amendments to several other acts, including the former Mining Act (currently the Mineral Act) and the Reindeer Herding Act. These proposals are now being reviewed by the relevant ministries.

##### *On the Mineral Act*

15. When drafting the Mineral Act, the authorities and the Sami Parliament held consultations with a view to reaching an agreement, though agreement was not reached regarding the totality of the proposal. The Mineral Act includes general provisions intended to safeguard Sami culture and interests. In addition, a number of particular rules on administrative procedure have been laid down in order to safeguard Sami interests in matters relating to exploration and extraction of minerals in Finnmark. On the Finnmark Estate there is also a higher landowner fee for mineral extraction. The Finnmark Estate is a landowner and land management body where the Sami Parliament appoints half of the board.

16. The Sami Rights Committee has proposed special rules to safeguard Sami interests also outside of Finnmark. The Government will consider these proposals in its further work in the follow-up of the Sami Rights Committee.

##### *On Reindeer Herding*

17. The Government is preparing a White Paper to the Norwegian Parliament on reindeer husbandry with submission to the Norwegian Parliament planned in the spring 2017. The report will among other things highlight some of the legal and administrative mechanisms that follow from existing regulations and any related problems. The consultation process in connection with the planned White Paper has begun and will continue through the autumn of 2016.

#### **Follow-up to recommendation in paragraph 30 (e)**

18. The Government has proposed to the Norwegian Parliament a legislative amendment concerning the state's obligation to cover the parties' legal costs in cases

brought before the Uncultivated Land Tribunal for Finnmark. This is to be combined with an amendment to the regulations which will entail that the Government's coverage of the parties' legal costs will no longer be met over the Uncultivated Land Tribunal's own budget. The Sami Parliament has, following consultations on the matter, given its consent on the proposed amendments.

#### **Follow-up to recommendation in paragraph 30 (f)**

19. The Coastal Fishing Committee submitted its Official Norwegian Report, NOU 2008:5 The right to fisheries in the sea off Finnmark county, on 18 February 2008. Extensive hearings were held and the Government and the Sami Parliament completed consultations in May 2011. The parties who contributed to the consultation rounds differed in their views on some of the issues under international law, but reached agreement on a set of measures that will help ensure the material basis for Coastal Sami culture. One such measure is to introduce a statutory right to fish, contingent on certain conditions, for all residents of Finnmark, Nord-Troms and other municipalities in Troms and Nordland with elements of Coastal Sami culture, and an additional cod quota for the smallest coastal fishing vessel in these areas.

20. In addition, a proposal was made to include a provision in the Marine Resources Act to place significant emphasis on safeguarding Sami culture in all fisheries regulation and administration, as well as a new provision in the Participation Act stipulating that the law must be applied in accordance with the provisions of international law on indigenous peoples and minorities. Furthermore, introduction of a prohibition against fishing vessels exceeding 15 meters was proposed for fjord fishing. It was also suggested that persons so entitled be given the possibility to present their claims for fishing ground rights before the Finnmark Commission, and to set up a Fjord Fisheries Advisory Board for the counties of Finnmark, Troms and Nordland which will have an important role in administering fisheries resources. The legislative amendments were adopted by the Norwegian Parliament on 21 September 2012 and entered into force on 1 January 2013. The authorities have begun implementing the above-mentioned measures in the applicable regulations and fisheries administration. The Fjord Fisheries Advisory Board was established in 2014.

21. Norway recognises that fishing for sea salmon is important to Sami culture. This recognition is reflected in the regulation of fisheries in Coastal Sami areas, where appropriate. A provision emphasising the importance of Sami interests has also been included in the Act relating to salmonid and freshwater fish, etc. Section 3 *Importance given to Sami interests*, of the Act states: "When considering any administrative decisions that might be made under this Act and that would directly affect Sami interests, appropriate importance will be given, within the scope of the provisions in which the administrative decision has legal authority, to the basis for Sami culture."

### **Interpretation services**

#### **Follow-up to recommendations in paragraph 38**

22. The Norwegian Parliament has prohibited administrative agencies from using children as interpreters. The prohibition entered into force 1 July 2016. According to the new section 11 e of the Public Administration Act, children must not be used as interpreters or to convey information in any other way between the public administration and individuals who have inadequate Norwegian language skills. Exemptions from the provision are permissible in situations where children are used as interpreters in order to avoid the loss of life or serious damage to health, or in other emergency situations. Exemptions from the prohibition can also be made in cases where it is justifiable with regard to the interests of the child and other circumstances. It is stated in the travaux

préparatoires of the new section 11(e) that this opportunity to make exemptions is reserved for situations where it is customary for children to convey simple messages, for instance from the child's school to his or her home. Furthermore, such exemptions should only be made when it is obviously justifiable to let the child convey the information in question, and when doing so is not at odds with the child's interests.

23. The prohibition against using children as interpreters covers relaying information between Norwegian, Sami and other languages, and sign language.

24. Several of the country's courts have introduced more stringent qualification requirements for interpreters. According to the Norwegian Directorate of Integration and Diversity (IMDi), 95% of interpreting assignments at Oslo District Court in 2015 were carried out by interpreters with government-authorisation and/or interpreter training. A list of interpreters with documented qualifications is provided in the Norwegian National Register of Interpreters, which is run and owned by IMDi. As per June 2016 there are a total of 1 525 interpreters listed in the Norwegian National Register of Interpreters, which covers 65 languages. From 2018, it is planned to introduce ID-cards for interpreters listed in the register.

25. The considerable inflow of asylum seekers in 2015 has dramatically increased the need for interpreters. In order to increase the number of interpreters listed in the National Register of Interpreters, additional funds have been allocated to qualification measures for interpreters. IMDi and the Oslo and Akershus University College of Applied Sciences have provided special services in terms of testing, courses and interpreter training in the languages that are in greatest demand in asylum cases. These efforts will bring 200 new interpreters to the National Register of Interpreters. IMDi is working to improve the tests for potential interpreters (the tests are known as ToSPot), seeking to modernise the tests and make them more broadly available. As of the spring of 2017 the Oslo and Akershus University College of Applied Sciences will offer a bachelor's degree in public sector interpreting.

26. The refugee situation has highlighted the fact that access to qualified interpreters is largely a question of well-organised interpreting services in the different sectors providing services to the public. Procedures, good planning and, where possible, collaboration across different sectors and bodies are all essential factors in enabling the public sector to access and use existing interpreting resources. In October 2015, the former Ministry of Children, Equality and Inclusion therefore sent a letter to other relevant ministries, with a request to consider mentioning guidelines for how to use and order interpreters in their allotment letters for 2016 to the directorates and other public services.

27. In 2014 a dedicated Interpreting Service was established at Oslo University Hospital. The Interpreting Service provides interpreting services to the largest hospitals in the greater Oslo area. Following various analyses of the need for interpreters, the hospital has drawn up permanent agreements with qualified interpreters in the most sought-after languages. The Directorate of Health has drawn up a guidance document for managers and personnel in health and care services on the use of interpreters in communication settings (IS-1924). This states that qualified interpreters must be used and that children must not be used as interpreters. The guidance document is subject to regular updates. Northern Norway Regional Health Authority has, on assignments from the Ministry of Health and Care Services, prepared a report named "Tolkeprosjektet" (the Interpreting Project) (2013). The project proposes building up a Sami interpreter service. It is proposed that the project will consist of four stages over a period of three to five years. Northern Norway Regional Health Authority has been tasked with following up the Interpreting Project. The project is primarily targeted at Sami users, but also involves cooperation interfaces with other patient groups such as immigrants. Other patient groups will therefore also be able to benefit from the measures under the project.

28. The Government wishes to create “the patient’s health service”. When meeting health care providers, every single patient should have a sense of respect and openness, of being involved in treatment-related decisions and how treatment will be undertaken. If needed, qualified interpreters shall be used. The care providers must safeguard Sami patients’ rights and the need for adopted services. This also applies for other patient groups with a non-Norwegian language background.

29. The Government has initiated work with a view to preparing a special act on interpreting. A Norwegian Official Report with the title “Interpreting in the Public Sector - a Question of Legal Safeguards and Equality” was published in September 2014. The report contained the proposal of an act which is intended to highlight the authorities’ responsibility to guide and inform all citizens and to complement and define existing legislation more precisely.

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