



# Economic and Social Council

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## Committee on Economic, Social and Cultural Rights

### Concluding observations on the sixth periodic report of Norway\*

1. The Committee considered the sixth periodic report of Norway (E/C.12/NOR/6) at its 14th and 15th meetings (see E/C.12/2020/SR.14 and 15), held on 25 and 26 February 2020, and adopted the present concluding observations at its 30th meeting, held on 6 March 2020.

#### A. Introduction

2. The Committee welcomes the submission of the sixth periodic report by the State party through the simplified reporting procedure, in response to the list of issues prior to reporting prepared under that procedure (E/C.12/NOR/QPR/6). The Committee appreciates the acceptance of the simplified reporting procedure by the State party, as this procedure helps to improve cooperation and better focus the dialogue between the State party and the Committee. The Committee also appreciates the constructive dialogue held with the State party's interministerial delegation.

#### B. Positive aspects

3. The Committee appreciates the continued allocation of 1 per cent of the State party's gross national income to official development assistance. The Committee also welcomes the adoption of the Equality and Anti-Discrimination Act and the Action Plan against Racism and Discrimination on the grounds of Ethnicity and Religion, as recommended by the Committee during the previous review cycle, and the measures taken by the State party in those areas relating to the rights enshrined in the International Covenant on Economic, Social and Cultural Rights, as indicated below.

#### C. Principal subjects of concern and recommendations

##### Domestic application of the Covenant

4. While welcoming the introduction of a chapter on human rights in the Constitution of the State party in 2014, the Committee notes the explanation provided by the delegation that Parliament decided to reflect only the most fundamental human rights obligations of Norway in the Constitution and that the Covenant does not enjoy the same status as the Constitution, but takes precedence over other Norwegian laws in the event of a conflict. The Committee is concerned that the rights enshrined in the Covenant have not been fully incorporated in the Constitution, and that they are not regarded as fundamental rights that are fully justiciable, which has prevented the State party from ratifying the Optional Protocol to the Covenant.

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\* Adopted by the Committee at its sixty-seventh session (17 February–6 March 2020).



The Committee is also concerned about the absence of training on the Covenant for legal professionals. It is further concerned, notwithstanding the explanation provided by the State party, about the revision of the instructions for the preparation of central governmental measures (*utredningsinstruks*), which has removed the explicit requirement to assess the implications for the human rights obligations of Norway during legislative and policy development processes.

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

- (a) **Fully incorporate the Covenant rights into its domestic legal order with a constitutional rank equal to that of civil and political rights;**
- (b) **Enhance training for judges, lawyers and public officials on the Covenant and the justiciability of the rights therein;**
- (c) **Ratify the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights;**
- (d) **Strengthen human rights impact assessments in the process of legislation and policy development.**

#### **Extraterritorial obligations under the Covenant**

6. The Committee notes that the State party's Government Pension Fund Global is the world's largest sovereign wealth fund and that the Council on Ethics has been established to monitor the portfolio of the Fund in accordance with the ethically motivated guidelines for observation and exclusion from the Fund, which is undergoing a review. The Committee, however, is concerned about the serious human rights implications of some of the Fund's investment portfolios, which include companies found to be engaged in home demolition, Israeli settlements or other activities in the Occupied Palestinian Territory. It is also concerned that not all investments of the Fund are subject to the ethics assessment process of the Council on Ethics.

7. **The Committee recommends that the State party review the investment of the Government Pension Fund Global in business entities involved in operations in the Occupied Palestinian Territory, in the light of its obligations stipulated in the advisory opinion of the International Court of Justice of 9 July 2004 on the legal consequences of the construction of a wall in the Occupied Palestinian Territory. It also recommends that the State party ensure that the ethically motivated guidelines for observation and exclusion from the Fund are in line with its territorial and extraterritorial obligations under the Covenant, as indicated in paragraphs 25 to 37 of the Committee's general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities. It further recommends that the State party pursue a rigorous process of ethics assessment by the Council of Ethics.**

#### **Business and human rights**

8. The Committee welcomes the adoption of a national action plan for the implementation of the Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. Nevertheless, the Committee is concerned about the insufficient level of implementation of the plan. While taking note of the draft law prepared by the Government's Ethics Information Committee to promote respect for human rights in business operations and supply chains, the Committee is also concerned about the insufficient level of human rights risk assessment carried out by business entities domiciled in the territory or under the jurisdiction of the State party in relation to their operations overseas and the insufficient capacity of the State party to assess the human rights risks in the business entities' host countries. It is further concerned about inadequate access to remedies in the State party by non-nationals whose rights have allegedly been violated by Norwegian companies abroad.

9. **The Committee recommends that the State party fully implement the national action plan for the implementation of the Guiding Principles on Business and Human Rights and that it improve the effectiveness of the plan, including by setting measurable**

**goals and concrete timelines. The Committee also recommends that the State party ensure that business entities properly carry out assessments of human rights risks in relation to their operations overseas and strengthen the capacity of the State party, including through its embassies, to assess the human rights risks of their host countries. It further recommends that the State party adopt a legislative framework that stipulates the human rights due diligence of business entities, holds business entities under the State party's jurisdiction accountable for violations of economic, social and cultural rights, and provides for access to remedy in the State party by non-national victims.**

#### **Climate change**

10. While noting the State party's contribution to the Green Climate Fund and its efforts to meet its 2030 targets for reduction of greenhouse gas emissions, the Committee is concerned about the licences the State party has issued in recent years for the exploration and exploitation of petroleum and natural gas reserves in the Arctic Ocean and the Barents Sea and the impact of those activities on global warming (art. 2 (1)).

**11. The Committee recommends that the State party intensify its efforts to achieve its nationally determined contribution under the Paris Agreement to reduce emissions by at least 50 per cent and towards 55 per cent compared to 1990 levels by 2030, and to promote alternative and renewable energy sources. It also recommends that the State party reconsider its decision to increase oil and natural gas exploitation and take its human rights obligations as a primary consideration in its natural resource exploitation and export policies.**

#### **Data collection**

12. The Committee is concerned about the absence of data disaggregated by ethnic or indigenous origin in the State party, which makes it difficult to assess the level of enjoyment of Covenant rights by the Sami and persons belonging to ethnic minority groups.

**13. The Committee recommends that the State party improve the data-collection system to collect data disaggregated by ethnic or indigenous origin with a view to tracking progress in the realization of Covenant rights and designing effective and targeted measures to increase the level of enjoyment of Covenant rights by the Sami and persons belonging to ethnic minority groups towards full realization.**

#### **Legal aid**

14. While noting that a review of the legal aid scheme is under way, the Committee is concerned that disadvantaged individuals have limited access to remedies if their Covenant rights are violated, owing to the limited scope of free legal aid and the unrealistic financial eligibility of the means-tested legal aid scheme, which has not been adjusted since 2009.

**15. The Committee recommends that the State party reform the legal aid scheme, taking into consideration the outcome of the review, once it is published, to ensure that free legal aid is accessible to all disadvantaged and marginalized individuals.**

#### **Equality and Anti-Discrimination Act**

16. The Committee notes that section 26 of the Equality and Anti-Discrimination Act provides for the duty of employers in the public and private sectors to take action to promote equality and prevent discrimination and that section 26 a, which provides for the duty to report on the activities undertaken pursuant to section 26, applies to private undertakings that ordinarily employ between 20 and 50 persons upon request from the employees or their representatives. Nevertheless, the Committee is concerned about the effectiveness of this provision, as private employers with fewer than 50 employees, which comprise over 97 per cent of private employers, are fully or conditionally exempted from this duty to report. It is also concerned about the reportedly low level of compliance with the duties to take action and to report (art. 2 (2)).

**17. The Committee recommends that the State party take effective measures to ensure that the duty to take action to promote equality and prevent discrimination**

**stipulated in section 26 of the Equality and Anti-Discrimination Act is fully implemented by all public and private employers. It also recommends that the State party ensure the full compliance with the duties to take action and to report, including by strengthening penalties for non-compliance.**

#### **Persons with disabilities**

18. While noting the adoption of the National Inclusion Initiative (2018–2021), the Committee is concerned about the high number of persons with disabilities who are unemployed or outside of the labour market. It is also concerned about reports that a large number of persons with visual impairments have resigned or are considering resigning from their job due to technological barriers at work. It is further concerned that the universal design duty provided for in section 17 of the Equality and Anti-Discrimination Act, while imposed on public and private undertakings in their services to the public, does not apply to the organization of work in the workplace (arts. 2 (2), 6 and 15).

**19. The Committee recommends that the State party fully implement the National Inclusion Initiative and take measures tailored to the specific needs of persons with disabilities in accessing employment. The Committee also recommends that the State party revise section 17 of the Equality and Anti-Discrimination Act with a view to extending to the workplace the duty to have universal design and incorporating information and communication technologies in universal design in the workplace, including software programs.**

#### **Persons with an immigration background**

20. The Committee is concerned that persons with an immigration background continue to be discriminated against in the enjoyment of their Covenant rights. It is particularly concerned that the incidence of unemployment among these persons is three times higher than among the rest of the population and that they are concentrated in low-paid jobs. The Committee is also concerned at the absence of special measures to improve their employment situation. It is further concerned that these persons are persistently discriminated against in the housing market, and are consequently predominant among “the disadvantaged in the housing market” (arts. 2 (2), 6 and 11).

**21. The Committee recommends that the State party fully implement the Action Plan against Racism and Discrimination on the grounds of Ethnicity and Religion in consultation with, and with the participation of, persons with an immigration background. In particular, it recommends that the State party:**

- (a) Strengthen vocational education and training and language training, as well as employment services, for them;**
- (b) Ensure that their education and professional qualifications and work experience abroad are adequately recognized;**
- (c) Introduce special measures to improve the employment of persons with an immigration background;**
- (d) Take targeted measures to address the discrimination faced by them in accessing housing;**
- (e) Remove linguistic and cultural barriers in accessing public and social services.**

#### **Equality between men and women**

22. While noting that the parental leave period is now evenly divided for mother, father and both parents, the Committee is concerned that fathers used only 25.6 per cent of the parental leave period reserved for them in 2019, despite an increase from 20 per cent in 2018. The Committee is also concerned about the persistent gender pay gap, which stood at 12.4 per cent in 2019 (arts. 3, 7 and 10).

**23. The Committee recommends that the State party take the steps necessary to ensure that parents fully use the parental leave period reserved for them with a view to**

**ensuring the equitable distribution of care responsibilities between men and women. It also recommends that the State party intensify its efforts to narrow the gender pay gap.**

#### **Occupational safety and health**

24. While noting the decrease in occupational injuries and fatalities in recent years, the Committee remains concerned about the high number of occupational accidents and the concentration of occupational fatalities in the construction, transportation and storage, agriculture and manufacturing sectors, despite the very small proportion of labour force in these sectors. It is also concerned about the absence of official data on occupational diseases (arts. 7 and 12).

**25. The Committee recommends that the State party redouble its efforts to reduce occupational injuries and fatalities with a focus on accident-prone sectors, including by raising awareness among employers and workers about workplace safety, ensuring that enhanced protection measures are put in place in the workplace, and strengthening labour inspections. It also recommends that the State party adopt a framework policy on occupational safety and health and establish a related comprehensive data-collection system.**

#### **Right to social security**

26. The Committee notes the introduction of the possibility of flexible drawing of the old-age pension for persons aged between 62 and 75 years through the pension reform in 2011, which enables pensioners to combine work and pension and continue to accrue their pension points. Nevertheless, the Committee remains concerned, despite the explanation provided by the State party, about the discriminatory effect of this measure on persons with disabilities, who are systematically prevented from accruing pension points from the age of 62, as they are transferred to the old-age pension only at the age of 67. This disadvantages pensioners with disabilities by about 10 per cent in their old age benefits in comparison with pensioners without disabilities (arts. 2 (2) and 9).

**27. The Committee recommends that the State party take the measures necessary to eliminate the discriminatory effect of the old-age pension on persons with disabilities.**

#### **Unaccompanied asylum-seeking children**

28. While noting that the Child Welfare Act applies to all children in the State party regardless of their ethnic background and residence status, the Committee is concerned that unaccompanied asylum-seeking children aged between 15 and 18 years are excluded from the application of the Act. The exclusion has resulted in them having to live in inadequate conditions in reception centres. The Committee is also concerned about the high incidence of mental illness among unaccompanied asylum-seeking children living in reception centres and their limited access to mental health care (arts. 2 (2), 10 and 12).

**29. The Committee recommends that the State party ensure that the Child Welfare Act applies to all unaccompanied asylum-seeking children, regardless of their age, with a view to providing the same level of protection and services to all children in the State party. It also recommends that the State party ensure the timely identification of unaccompanied asylum-seeking children with mental health conditions and provide them with necessary mental health care.**

#### **Children in foster care**

30. The Committee is concerned that a number of children continue to be removed from parental care and put in foster care or institutions and that many of them have serious mental health conditions. It is also concerned that children with minority backgrounds in foster care or institutions face additional difficulties due to cultural, linguistic and religious differences (arts. 2 (2) and 10).

31. **The Committee recommends that the State party intensify its efforts to:**
- (a) **Identify and address the root causes of the situations that have led to the removal of children from parental care;**
  - (b) **Ensure that the removal of children from parental care is used as a measure of last resort;**
  - (c) **Strengthen periodic comprehensive reviews of children placed in foster homes or institutions;**
  - (d) **Provide parents with the necessary assistance and support for them to exercise their parental role and responsibilities in the upbringing and education of their children;**
  - (e) **Provide municipalities with sufficient resources and support so that they can effectively undertake preventive work in families at risk and follow-up work for children in foster families or homes;**
  - (f) **Ensure the timely detection of children with mental health conditions and provide the necessary services;**
  - (g) **Enhance training for caregivers to enable them to deal with children from different cultural, linguistic and religious backgrounds.**

#### **Poverty**

32. The Committee is concerned about the continued increase in the incidence of poverty, particularly among children, as a result of the increase in income inequality. In particular, it is concerned about the constant increase in the incidence of child poverty over the last decade, despite the measures taken by the State party under the Government's strategy on children living in poverty (2015–2017) and the increased funding allocated thereto (art. 11).

33. **The Committee recommends that the State party take effective measures to reduce income inequality and intensify its efforts to eradicate poverty, particularly child poverty, in the State party. In particular, it recommends that the State party assess the effectiveness of existing policies and programmes and identify the root causes of child poverty and the needs of children living in poverty and their families with a view to adopting effective measures to tackle child poverty and to providing adequate support to children and their families living in poverty.**

#### **Right to housing**

34. While noting the measures taken by the State party, including the national strategy for housing and support services (2014–2020), the Committee is concerned about the challenges continuously faced by disadvantaged individuals and groups in accessing housing. It is particularly concerned about:

- (a) The chronic shortage of social housing in many municipalities;
- (b) The lack of housing with accessibility for persons with disabilities;
- (c) Expensive private rental housing, which is often of poor quality, and unpredictable terms of tenancy and arbitrary termination of terms;
- (d) The high number of long-term homeless persons (art. 11).

35. **The Committee recommends that the State party fully implement the national strategy for housing and support services and assess its effectiveness with a view to renewing the strategy to better respond to the housing needs of disadvantaged and marginalized individuals and families. In particular, the Committee recommends that the State party:**

- (a) **Improve the availability and provision of municipal low-cost social housing units to disadvantaged and marginalized individuals and groups;**
- (b) **Increase the provision of housing, including social housing, accessible by persons with disabilities;**

(c) **Increase the availability of affordable rental housing and regulate the private rental housing market, including by controlling rent increases, strengthening minimum quality standards for rental housing, and protecting tenants from irregular terms of tenancy and arbitrary termination of terms;**

(d) **Strengthen measures to reduce homelessness, including targeted measures to address long-term homelessness.**

#### **Older persons**

36. The Committee is concerned about reports indicating the high incidence of violence against and abuse of older persons living both in domestic and institutional settings. It is also concerned that a third of older persons in hospitals and in health and care services in municipalities are malnourished or at risk of malnutrition (art. 11).

37. **The Committee recommends that the State party intensify its efforts to prevent violence against and abuse of older persons, including by identifying and addressing the root causes and strengthening the reporting system of elder abuse, and thoroughly investigate reported cases. The Committee urges the State party to take immediate action to address acute malnutrition among older persons in health and care institutions, in close collaboration with municipalities. It recommends that the State party fully implement a national strategy for healthy nutrition and nourishment for elderly people in institutions and home services, and once the strategy is formally adopted, allocate sufficient financial resources to it.**

#### **Access to health-care services**

38. In the light of the significant decrease in the number of persons seeking asylum in the State party in recent years and the continuously strong economy of the State party, the Committee is concerned that the State party maintains the regressive measures taken in 2011 to restrict the right of irregular migrants, including European Union citizens not in possession of a European health insurance card, to primary health-care services without assessing the impact on the affected individuals. The Committee is particularly concerned about the limited scope of the conditions under which irregular migrants are provided with health care and the absence of clear guidelines for the interpretation of such conditions, which have led to a serious deterioration in the health conditions or to deaths of irregular migrants with chronic diseases and to inconsistent and varying degrees of health services provided to them. It is also concerned that irregular migrant children are not considered eligible to be placed on general practitioners' patient lists, which effectively hinders them from accessing the timely and adequate health-care services to which all children in the State party are entitled (arts. 2 (1)–(2) and 12).

39. **The Committee recommends that the State party take effective measures to ensure that all persons in the State party have access to primary health-care services, regardless of their residence status. In particular, the Committee recommends that the State party withdraw the regressive measures taken in 2011 with regard to the right of irregular migrants to primary health-care services and allow them and their children to be placed on general practitioners' lists. The Committee draws the attention of the State party to its statement of 13 March 2017 on the duties of States towards refugees and migrants under the International Covenant on Economic, Social and Cultural Rights (E/C.12/2017/1).**

#### **Mental health**

40. The Committee is concerned about the high proportion of persons with mental health conditions in the prison population and their limited access to adequate mental health-care services. It is particularly concerned about the extensive use of electroconvulsive therapy, which has no statutory basis, without patients' consent, and of other coercive measures such as restraints and forced medication, often during segregation, in psychiatric institutions and nursing homes for older persons. It is also concerned that no record has been systematically kept of the use of such measures, despite the legal requirements to do so (art. 12).

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

- (a) **Ensure that prisoners with mental health conditions receive adequate mental health care, including through transferral to an appropriate medical establishment;**
- (b) **Ensure that treatment is based on the free and informed consent of the individual concerned or that of his or her legal representative;**
- (c) **Incorporate into the law the prohibition of the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and electroconvulsive therapy;**
- (d) **Introduce stricter procedural requirements for the use of coercive measures to ensure that persons with psychosocial disabilities and older persons in institutional care have adequate legal protection against the use of coercion;**
- (e) **Increase community-based services, including peer support and other alternatives to the medical model, for persons with psychosocial disabilities;**
- (f) **Ensure the systematic recording of the use of coercive measures, in accordance with the legal requirements.**

#### **Drug use**

42. While noting the review of the existing drug policy by an expert committee and the submission in December 2019 of its report with proposals for policy reform, the Committee is concerned that the State party continues to criminalize drug use, which prevents drug users from accessing harm reduction programmes and health-care services (art. 12).

43. **The Committee recommends that the State party decriminalize drug use and enhance the availability, accessibility and quality of harm reduction programmes and specialized health-care services available to drug users.**

#### **Right to education**

44. The Committee is concerned that:

- (a) Regional disparities persist in the quality of education and the academic performance of students, with the northern and remote regions the most disadvantaged;
- (b) Asylum-seeking children living in reception centres are not entitled to preschool education;
- (c) The school dropout rate remains high and educational attainment rates are low among Roma children;
- (d) The incidence of school dropout is high among foreign-born male students in upper secondary education;
- (e) Teachers often lack the skills and appropriate tools to address the needs of an increasingly diverse student population (arts. 13–15).

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

- (a) **Increase its resource allocation to improve the quality of education in the northern and remote areas of the State party with a view to eradicating the persistent regional disparities;**
- (b) **Extend the right to preschool education to asylum-seeking children living in reception centres;**
- (c) **Take targeted measures to improve the school attendance and educational attainment of Roma children, including by rolling out effective programmes such as the City of Oslo’s “Roma guides” scheme;**
- (d) **Provide students born overseas with support tailored to their specific needs to complete upper secondary education;**
- (e) **Provide adequate training and tools for teachers to enable them to deal confidently with an increasingly diverse student population.**

### Cultural rights

46. The Committee notes various measures taken by the State party to protect and preserve Sami languages and cultural heritage. Nevertheless, the Committee remains concerned that the right of Sami children to education in Sami languages as languages of instruction is not fully guaranteed in practice. It is also concerned about reports by the Sami Parliament that the facilities for the preservation of Sami cultural artefacts have received much less government support than those of other Norwegian cultural items and that there was an insufficient number of facilities for Sami cultural items (arts. 13–15).

47. **The Committee recommends that the State party intensify its efforts to ensure that all Sami children, whether living in the Sami districts or elsewhere, fully enjoy their right to education in Sami languages as languages of instruction, and to provide sufficient resources, including financial and technical resources, for the preservation and exhibition of Sami cultural artefacts.**

### D. Other recommendations

48. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind. In this regard, the Committee draws the State party's attention to its statement on the pledge to leave no one behind (E/C.12/2019/1).**

49. **The Committee requests that the State party disseminate the present concluding observations widely at all levels of society, including at the national, county and municipal levels, in particular among parliamentarians, public officials and judicial authorities, and that it inform the Committee in its next periodic report about the steps taken to implement them. The Committee encourages the State party to engage with the Norwegian National Human Rights Institution, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report. Furthermore, the Committee recommends that the State party consider establishing a national mechanism to coordinate and follow up on the implementation, on an ongoing basis, with the participation of the Norwegian National Human Rights Institution and civil society organizations.**

50. **In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 24 months of the adoption of the present concluding observations, information on the implementation of the recommendations contained in paragraphs 29 (unaccompanied asylum-seeking children), 37 (older persons) and 39 (access to health-care services) above.**

51. **The Committee requests the State party to submit its seventh periodic report by 31 March 2025. To that end, and given that the State party has accepted the simplified reporting procedure, the Committee will, in due course, transmit to it a list of issues prior to reporting. The State party's replies to that list of issues will constitute its seventh periodic report to be submitted in accordance with article 16 of the Covenant. In addition, the Committee invites the State party to update its common core document, as necessary, in accordance with the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6, chap. I).**