



ROYAL MINISTRY
OF FOREIGN AFFAIRS

Committee on the Elimination of Racial Discrimination
Treaties and Commission Branch
Office of the High Commissioner for Human Rights
UNOG-OHCHR,
CH-1211 Geneva 10,
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CERD – Norway’s follow up on recommendations given by the Committee

Reference is made to document CERD/C/497/Add.1 containing the seventeenth/ eighteenth periodic report submitted by Norway under article 9 of The International Convention on the Elimination of all Forms of Racial Discrimination. The report was considered by the Committee on the Elimination of Racial Discrimination on 10 and 11 August 2006, and the Committee adopted its concluding observations on 17 August 2006 (CERD/C/NOR/CO/18). Recommendation # 28 states that “The State party should within one year provide information on the way it has followed upon the Committee’s recommendations contained in paragraphs 17, 19 and 21 pursuant to paragraph 1 of rule 65 of the rules of procedure.”

Please find below information from Norway regarding the three issues.

Recommendation 17

The Committee is concerned that the Finnmark Act does not address the special situation of the East Saami people. (Article 5 and article 2.2)

The Committee recommends that the State party make further steps in conformity with article 2.2 of the Convention and its general recommendation 23 on the rights of indigenous peoples, to adopt special and concrete measures to ensure the adequate development and protection of certain highly vulnerable indigenous groups namely, the East Saami people, for the purpose of guaranteeing them the full and equal enjoyment of human rights and fundamental freedoms, in particular to recognize and respect their distinct culture, history, language and way of life as an enrichment of the State's cultural identity and to promote its preservation. It also requests the State party to provide further information on the Finnmark Commission and on the draft Nordic Saami Convention in its next periodic report.

Response from State party:

The East Sámi is regarded as a marginalized minority within the Sámi people. The group living in Neiden in Norway has few members. The traditional cornerstone in the East Sámi's economy is coastal fishing and fishing in the fjords in Varanger, together with salmon fishing in i.e. the river of Neiden and reindeer husbandry.

A white paper on the general principles governing Norwegian policies towards the Sámi people will be submitted to the Storting at the end of 2007.

The Ministry of Labour and Social Inclusion, which is responsible for coordinating policies pertaining to the Sámi people, has initialized a dialogue between the authorities and the East Sámi. Measures will be considered in close consultation with the Sámi Parliament and representatives from the East Sámi.

Areas for further consideration could be development of small scale business and culture, including measures aimed at revitalizing the East Sámi language. Since the majority of East Sámi live in Finland, transboundary cooperation will have to be important. In addition, measures will be proposed to ensure East Sámi participation and co-determination in matters that are relevant for their language, culture and society. Earlier public policy statements, reports and proposals, in addition to white papers and propositions to the Storting will be important premises for the work.

In the 2007 budget, NOK 20 million are allocated to an East Sámi museum in Neiden. The cornerstone will be laid 22 August 2007 and the building is to be completed in 2008. An East Sámi museum will give new possibilities for information about and development of the culture. The museum could also make a significant contribution to the Norwegian East Sámi's contact across the borders and serve as a coordinating centre for developing special and concrete measures.

In 2000 the old traditional East Sámi village in Neiden was given a special protection as an area for cultural environment, in regulations set forth by Royal decree. The purpose is to secure and conserve special values which reflect the unique cultural history of the East Sámi. Their tradition and religion is reflected in the character of the landscape. The Sámi parliament has been given the responsibility for management and for taking care of the area.

According to the Finnmark Act (enclosed), all inhabitants have the right to equal fishing without regard to their ethnic origin or identity. The East Sámi's right to fresh-water fisheries will be considered as a part of a process on the management of the Neiden River, as set forth in section 28 of the Finnmark Act.

Both the administration for the reindeer husbandry and the courts have stated that the concerned East Sámi have a right to practice reindeer husbandry.

In the proposition regarding the Finnmark Act, which was presented to the Storting in 2003 (Ot.prp. nr. 53 (2002-2003)), the government stated that “the East Sámi has the same right to practice reindeer husbandry as all other Sámi, within the whole reindeer husbandry area in Norway (covering 40% of the Norwegian territory). Therefore, there are no formal obstacles hindering the re-establishment of East Sámi reindeer husbandry, over time, within the ordinary system of reindeer husbandry law”.

One important obstacle would be limits to available lands for grazing. Access to such lands is regulated through a system of “reindeer husbandry permits” (“driftsenhet”). The Sámi rights commission suggested that such lands would have had to be expropriated from the neighbouring Sámi reindeer herders. The Samediggi (the Sami Parliament), and the Norwegian government, were against this proposal, because it was seen as potentially creating conflicts between persons and groups within the Sámi people. Furthermore, the government did not want to make exceptions from the overall principle of treating inhabitants equally at the local level, without any distinctions based on ethnic criteria. For these reasons, the proposal to take lands from the neighbouring reindeer herding districts in order to re-establish the East Sámi reindeer husbandry was not given further consideration.

Representatives of the East Sámi have expressed a wish to start a smaller reindeer husbandry for tourism. This would require smaller areas and could be a feasible solution.

Draft Nordic Sámi Convention

The Sámi people are one people, living in three different states: Finland, Sweden and Norway. In November 2005, a group of experts submitted its proposal to the three concerned governments and the three Sami Parliaments. The draft convention contains provisions on Sámi land and resource rights, on the Sámi Parliaments and the rights to self-government, and Sámi cultural rights. The draft also contains a provision on non-discrimination, which provides that the Sámi people and Sámi individuals shall be ensured protection against all forms of discrimination. “Sámi language” is ensured in the draft Nordic Sámi Convention. There is no specification of the various Sámi languages, and also less prevalent Sámi dialects are covered.

The Governments in the three states committed themselves to do the necessary assessments for their state within one year in the Minister meeting October 2006. For this purpose, Norway has established a working group with members from the concerned ministries and the Sámi Parliament.

The Finnmark Commission and the Finnmark Act

The Finnmark Commission is an instrument in The Finnmark Act of 17 June 2005 No. 85 relating to legal relations and management of land and natural resources in the county of Finnmark. The Act was adopted by the Storting in June 2005. The Act came

into force 1 July 2006. A translated version of the Act is enclosed. The Finnmark Act is ethnically neutral at the individual level. Finnmark County has a mixed population. An important argument was to reduce conflicts and at the same time secure local management of renewable resources.

The work on the Finnmark Act is based on the need to clarify the state's relationship to the Sámi people, and the need to recognise the Sámi people's right to use and exploit natural resources in accordance with their culture. This work has been in progress since 1980, when the Government appointed the Sámi Rights Committee. Over the years, this Committee has presented several comprehensive reports on the legal status of the Sámi people in national and international law, on the natural resource base for Sámi culture and on Sámi land and water rights in Finnmark. These reports have laid an important foundation for the Government's work on the Finnmark Act.

The Government presented its draft of the Finnmark Act to the Storting on 4 April 2003. In the two years during which the Storting's Standing Committee on Justice worked on drafting the statute, the Committee held open hearings in June 2003 and visited Finnmark in autumn 2003. The Committee also held four formal consultations with the Sámi Parliament and the Finnmark County Council to discuss the Government's Bill, and received several rounds of written comments from these two bodies. Never before has there been so much transparency in connection with the preparation of a Bill by one of the Storting's Standing Committees.

Furthermore, the final Bill prepared by the Standing Committee on Justice was sent to the Sámi Parliament and the Finnmark County Council for comment. A unanimous Sámi Parliament and a large majority of the Finnmark County Council endorsed the Bill prepared by the Standing Committee on Justice, which was then finally adopted by the Storting. In the Government's opinion, this is a clear indication that the Finnmark Act does not entail any limitation of the control and decision-making powers of the Sámi population over the management of land and natural resources in Finnmark County.

Section 1 of the Finnmark Act establishes that the purpose of the Act is to create the necessary conditions to ensure that land and resources in Finnmark County are managed in a balanced and ecologically sustainable way in the best interests of the population of the county and particularly as a basis for Sámi culture, reindeer husbandry, the use of uncultivated land, the exercise of commercial activities and social life.

The Finnmark Act establishes that the Sámi people have acquired rights to land in Finnmark through longstanding use of land and water (section 5). The Act does not interfere with any collective or individual rights that the Sámi or other people have acquired through custom or immemorial usage. This also applies to the rights acquired by persons engaged in reindeer husbandry based on such grounds or pursuant to the

Reindeer Husbandry Act. Other inhabitants of Finnmark may also have acquired such rights.

The Finnmark Commission

The Finnmark Commission is to be established to investigate and clarify land rights in Finnmark. A special court will also be set up to decide disputes concerning such rights. Chapter 5 in the Act concerns the two new bodies.

The Finnmark Commission will investigate the rights to the land that Finnmark Estate (see below) has taken over from Statskog SF. The Commission shall not assign rights that do not already exist. The investigation shall be conducted on the basis of current national law, including the principle of use since time immemorial. According to recent jurisprudence from the High Court this legal customary principle is interpreted in line with the provisions in ILO-Convention No 169 article 14 and 15.

The Commission may in some instances find rights of ownership. It is also likely that various forms of rights of use exist, for example the right to use an area for reindeer husbandry, limited felling of trees, the right of fishing in certain streams, cutting of peat or the like. *The rights of the East Sámi will be considered in this process.*

Before the Finnmark Commission begins its investigation of an area, it shall make an announcement requesting potential right holders to make themselves known to the Commission. The announcement shall be made in local media and in other appropriate ways. The Commission will issue more detailed information concerning the procedure for notification of claims.

The purpose of the Commission is to obtain a more rapid and complete clarification of rights in Finnmark than could be achieved through the ordinary courts, whereby each individual claimant would have had to initiate legal proceedings in order to put forward his claim. This is often costly, and may have resulted in only those persons who could afford litigation obtaining clarification of their acquired rights to land in Finnmark.

The Finnmark Commission is not a court, and is therefore not dependent on the parties initiating legal action in order to be able to investigate an area. The Commission is itself responsible for investigating rights in respect of land of the Finnmark Estate. The Commission also holds responsibility for ensuring that the matter is sufficiently elucidated, as opposed to ordinary legal proceedings, where it is the parties that are responsible for providing the court with all necessary information.

The Commission may appoint representatives for various interest groups that may monitor the Commission's work. In this way, it is ensured that the interests of the parties are safeguarded without the need for each party to be represented by his own lawyer or the like. The costs of the parties' representatives will be covered by the state. The arrangement constitutes a form of legal aid provided by the state.

When the Commission has completed its investigation of an area, it will issue a report indicating who, in the view of the Commission, owns the land and whether there are others who have rights of use within the area. The Finnmark Estate is obliged to issue a written statement concerning its views on the Commission's report.

The Finnmark Estate shall also arrange for official registration of the identified rights that it agrees exist. If the parties do not agree that the Finnmark Commission's conclusion is correct, they may request the Commission to mediate between them.

If there is still disagreement concerning rights in areas investigated by the Finnmark Commission, the parties may bring the case before the Uncultivated Land Tribunal for Finnmark. This is a special court that passes legally binding judgments. It is up to the private parties to request that the case shall be reviewed by the Tribunal. The Tribunal will only consider disputes concerning rights to the Finnmark Estate's land.

Judgments of the Uncultivated Land Tribunal may be appealed. In such cases, appeals are made directly to the Supreme Court.

Section 5 was adopted in order to ensure loyal compliance with the obligations under international law to recognise the rights of indigenous peoples in the areas that they have traditionally inhabited and used, in particular Article 14 of the ILO Convention. However, it must be emphasized that the Finnmark Act is ethnically neutral in the sense that the legal position of an individual is not dependent on his or her being Sámi, Norwegian, Kven or a member of another population group.

The Finnmark Estate

Around 95 per cent of the land in Finnmark was managed by Statskog SF, a state-owned enterprise. When the Act came into force, this area, which totals almost 45,000 km², was placed under local ownership through Finnmarkseiendommen/Finnmárkkuopmodat (the Finnmark Estate).

The Finnmark Estate is a private landowner which has the same relationship to the public authorities as other landowners. The Finnmark Estate is headed by a board consisting of six persons: three board members appointed by the Sámi Parliament and three by the Finnmark County Council. All the board members must be resident in Finnmark.

All the inhabitants of Finnmark are entitled to exploit the natural resources on the land of the Finnmark Estate, through activities such as hunting, fishing or cloudberry picking (Chapter 3). The extent of each person's right depends on how closely linked he or she is to the resource. For instance, persons have a greater right to exploit natural resources in the municipality in which they are resident. The Act gives the local population, without treating inhabitants differently on the basis of ethnicity, greater

rights to exploit renewable resources in the county than has previously been the case. At the same time, it assures those residing outside the county the same right to exploit natural resources as they have traditionally had on state land in Finnmark, i.e. to hunt and trap small game, fish and pick cloudberry for their own household.

Coastal salt water fisheries

The Finnmark Act contains no provisions on sea fishing. In June 2005, the Storting therefore adopted a resolution requesting the Government to carry out a report as soon as possible of the rights of Sámi and other people to fish in the sea off the Finnmark coast, including a minimum quota for boats under ten meters in length, and to present a follow-up case on this issue to the Storting. The Government is currently following up this resolution. A special, independent committee of experts has been established to do the report. The report will be completed by the end of 2007. The committee has visited several relevant locations. The committee visited the East Sámi population in May 2007 in order to receive their input.

For a more detailed description of the Finnmark Act, reference is made to the enclosed translation of the Act.

Recommendation 19

While noting the importance of adequate command of the State language as a vehicle of social integration, the Committee is concerned about the strictness of the language requirements for acquiring Norwegian citizenship in the new Nationality Act. (Article 5 d iii)

In light of general recommendation 30, the Committee recommends that the State party ensure that particular groups of non-citizens are not discriminated against with regard to access to citizenship, and to pay due attention to possible barriers to naturalization that may exist for long-term or permanent residents.

Response from State party:

Norwegian nationality may be acquired automatically by birth or adoption, by notification in the case of Nordic nationals or by application.

As a general rule persons between the ages of 18 and 55 who lodge an application for Norwegian nationality after 1 September 2008 will be required to have completed 300 hours of approved Norwegian language training or to be able to document that they have adequate knowledge of Norwegian or Sami.

The requirement as regards Norwegian language training is considered to be fulfilled if the applicant has participated in the Norwegian language training programme in which he/she has been placed in. The training is adapted and adjusted to the level of each individual participant. Completion of the Norwegian language training programme is documented by a certificate of participation. The granting of Norwegian nationality is thus not contingent on any requirement as regards knowledge or results. The only requirement is that the applicant has participated in Norwegian language training.

Applicants who can document an adequate knowledge of Norwegian or Sami are exempted from the requirement as regards Norwegian language training set out in the Norwegian Nationality Act. Adequate knowledge of Norwegian or Sami can be documented in one of the following ways:

1. by passing a language test;
2. by receiving a mark in Norwegian or Sami upon completion of lower secondary or upper secondary school;
3. by completing a university or university college level Norwegian or Sami language programme equivalent to at least 30 credits in Norway or abroad; or
4. by fulfilling the admission requirements for enrolment in a Norwegian or Sami language programme at a university or university college in Norway.

Applicants who for particular health reasons or other weighty reasons are unable to participate in and complete 300 hours of Norwegian language training in the course of three years are exempted from the requirement as regards completion of a Norwegian language training programme.

The requirement is thus that applicants must either document an adequate knowledge of Norwegian or Sami or participate in 300 hours of Norwegian language training unless they have been exempted for particular reasons. There are no requirements as regards knowledge or results in connection with Norwegian language training. On the basis of the above there is no reason to presume that the requirement as regards completion of a Norwegian language training programme set out in the Norwegian Nationality Act has any discriminatory effect.

Recommendation 21

The Committee is concerned that many municipalities do not provide sufficient protection from disease in health services for asylum-seekers, refugees and persons reunified with their families. (Article 5 e (iv))

In light of its general recommendation 30, the Committee recommends that the State party take all necessary measures to ensure the right of non-citizens to an adequate standard of physical and mental health by, inter alia, improving their access to preventive, curative and palliative health services.

Response from State party:

The Committee has based its observations on the Norwegian Board of Health's nationwide survey of health services provided to newly arrived asylum seekers, refugees and persons reunited with their families. Since the survey was carried out in 2004, the county governors have followed up the municipalities that provided inadequate services to ensure that the services have been brought up to standard.

A compendium of guidelines for the health services provided to asylum seekers and refugees (IS-1022) has been made available (in Norwegian) on the Internet at http://www.shdir.no/vp/multimedia/archive/00004/IS-1022_4100a.pdf

The Directorate for Health and Social Affairs is in the process of following up the guidelines. The status of this work is as follows:

- The guidelines have been implemented by the municipalities, and the county governors have helped to focus attention on them.
- The Directorate has recommended that the county governors be instructed in 2007 to help follow up and further develop the health services provided to asylum seekers and refugees. The county governors are also to pay particular attention to the situation of children at reception centres, communicable disease control and environmental health care.
- Insofar as the county governors consider it appropriate, communicable disease control in relation to asylum seekers, refugees and persons reunited with their families is being included as a theme at the various county conferences on communicable disease control.
- The Directorate has begun cooperating with the Directorate of Integration and Diversity with a view to finding ways of more quickly settling refugees suffering from health problems that are demanding in terms of resources. They have surveyed a number of municipalities in order to identify bottlenecks in the process of settling persons living at reception centres. The findings of the survey were presented together with the Directorate for Health and Social Affairs' recommendations for speeding up the settlement process in a report (IS-1398) that was completed at the end of 2006.
- In 2004 the Directorate established a group of resource persons to consider health services provided to asylum seekers and refugees. The group is made up of nine people who have experience of and are particularly involved in work related to asylum seekers and refugees. It serves as a discussion forum and advises the Directorate on matters related to health services for asylum seekers and refugees. The Directorate is free, however, to decide whether it will follow the group's recommendations.
- In 2005 and 2006, the Directorate allocated funds for establishing *Migrahel*, a forum for health personnel that work with migration health issues. *Migrahel* has organised two national conferences on migration health, with a main focus on health services for asylum seekers and refugees. One of the main objectives of the group is promote the establishment of a special forum for nurses which will be affiliated to the Norwegian Nurses Organisation. *Migrahel* will be an important cooperation partner for the Directorate when it comes to ensuring health services of a high standard at reception centres.

It is the Directorate's assessment that asylum seekers, refugees and persons reunited with their families generally have satisfactory access to preventive, therapeutic and

palliative treatment. However, the Directorate is aware that at times it is a challenge to provide sufficient psychiatric health services.

In 2006, the Norwegian Centre for Violence and Traumatic Stress Studies updated and revised a compendium of guidelines for psychiatric and psychosocial work among refugees. The compendium is primarily targeted at therapeutic personnel in the field of psychiatric health care, and aims at disseminating professional experience and knowledge. It provides advice on diagnostic testing, treatment and follow-up of this group of patients, who often have complex problems and needs. The focus is on key themes such as cooperation with interpreters, cultural understanding and serious human rights violations. The compendium stresses the importance of dialogue and cooperation to build trust and make the refugee feel sufficiently confident to make use of the services offered. It also contains references to other important sources of information. The compendium is available (in Norwegian) on the Internet at http://www.nkvts.no/bibliotek/Publikasjoner/Info/InfoFlyktninger_veileder.htm.

The Directorate for Health and Social Affairs is concerned about children at reception centres, as they are often in a particularly vulnerable situation. The Norwegian Centre for Violence and Traumatic Stress Studies has recently produced a compendium of guidelines dedicated to the treatment and follow-up of children and young asylum seekers who suffer from traumatic stress. It is available (in Norwegian) on the Internet http://www.nkvts.no/bibliotek/Publikasjoner/BokerRapporterNotater/Barneveileder_flyktninger.pdf.

The Directorate for Health and Social Affairs is also cooperating with the immigration authorities on measures to provide conditions that are favourable to the mental health of children and young people at reception centres. This is important, as not all of them stay in the country long enough for it to be advisable to start long-term treatment.

Since autumn 2005 the Norwegian Centre for Violence and Traumatic Stress Studies has been preparing a pilot project aimed at identifying mental disorders in children and young people when they enter Norway so that any such disorder can be taken into account in further planning. The aim is to launch the project in 2007.

In addition, the Directorate for Health and Social Affairs will seek to improve the medical services provided to asylum seekers and refugees by encouraging more municipalities to make use of the opportunity they have to arrange for a general practitioner to provide up to 7.5 hours of health services per week.

The health services related to communicable disease control provided to asylum seekers, refugees and other persons with an immigrant background were described in the Norwegian Board of Health's nationwide survey of health services for this group which was conducted in 2004. The Ministry of Health and Care Services underlines that any person who is a bearer of a generally contagious disease is entitled to personal

counselling on how to avoid transmitting the disease to others. This is considered to be part of the right to necessary health services under the Municipal Health Services Act, the Health Personnel Act and the Patients' Rights Act. According to section 1-1 of the Municipal Health Services Act, each municipality is responsible for providing necessary health services to all people who live in or are temporarily staying in the municipality. It is therefore the municipalities' responsibility to ensure that refugees and asylum seekers receive necessary health services, and thus also that any person who is assessed by a doctor to be a bearer of a generally contagious disease receives information about the disease, its degree of contagiousness, its modes of transmission and the applicable legislation.

Since the results of the 2004 survey of health services were made public in 2005, the Ministry of Health and Care Services has allocated NOK 500 000 in 2005 and 2006 for county conferences on communicable disease control for municipal health personnel and employees at reception centres in order to improve the health services related to communicable disease control that are provided to refugees and asylum seekers. Such conferences will be held again in 2007. HIV prevention among immigrants has been an important priority of national preventive health care efforts during the past ten years and this work will continue in 2007 and in years to come.

Further information can be found in Norway's 17th/18th periodic report to CERD, see paragraphs 244-249 on minorities and tuberculosis, HIV and sexually transmissible diseases.

Yours sincerely

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Enclosure:
The Finnmark Act

Copy:
Ministry of Health and Care Services
Ministry of Labour and Social Inclusion
Permanent Mission of Norway to the United Nations and other international organisations in Geneva