

## **NORWAY**

### **Follow-up - Jurisprudence Action by Treaty Bodies**

**CERD, A/61/18 (2006)**

#### **Chapter VII. Follow-up to Individual Communications**

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487. The table below shows a complete picture of follow-up replies from States parties received up to 18 August 2006, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

488. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

489. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 22 complaints and found violations of the Convention in 9 cases. In 8 cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

<b>State party and number of cases with violation</b>	<b>Communication, number, author and location</b>	<b>Follow-up response received from State party</b>	<b>Satisfactory response</b>	<b>Unsatisfactory response</b>	<b>No follow-up response received</b>	<b>Follow-up dialogue still ongoing</b>
...						
Norway (1)	30/2003, The Jewish Community of Oslo				X	
...						

**Petitions in which the Committee found no violations of the Convention but made recommendations**

<b>State party and number of cases with violation</b>	<b>Communication, number, author and location</b>	<b>Follow-up response received from State party</b>	<b>Satisfactory response</b>	<b>Unsatisfactory response</b>	<b>No follow-up response received</b>	<b>Follow-up dialogue still ongoing</b>
...						
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
...						

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## Annex V

### Cases in which the Committee adopted recommendations and follow-up information provided in relation thereto

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State party	Norway
Case and No.	The Jewish Community of Oslo, 30/2003
Opinion adopted on	15 August 2005
Issues and violations found	Failure to protect against dissemination of ideas, "hate speech" - articles 4 and 6
Remedy recommended	<p>The Committee recommends that the State party take measures to ensure that statements such as those made by Mr. Sjolie in the course of his speech are not protected by the right to freedom of speech under Norwegian law.</p> <p>The Committee wishes to receive, within six months, information from the State party about the measures taken in the light of the Committee's opinion. The State party is requested also to give wide publicity to the Committee's opinion.</p>
Date of examination of report(s) since adoption	Seventeenth and eighteenth reports examined on 10 and 11 August 2006
Due date for State party response	22 August 2005
Date of reply	21 February 2006
State party response	<p>The State party informs the Committee that the Norwegian Government gave wide publicity to the opinion in the following forms: press statement issued by the Ministry of Justice and the Police, in which the Ministry referred to several legislative developments providing enhanced protection against racist statements; media coverage; translation of the opinion on the Ministry's web site; seminar and information circular on the</p>

	<p>opinion and implications for Norwegian law. In addition, the State party reiterates information provided on the merits to the effect that article 100 of the Constitution on freedom of expression was amended by the Storting on 30 September 2004 and entered into force immediately. The new provision allows for punishment of racist utterances to a greater extent than at the time of Mr. Sjolie's speech. Secondly, it states that section 135 (a) of the Norwegian Penal Code, which criminalizes racist utterances, has been amended twice since the Sjolie case. Both amendments have broadened the purview of section 135 (a), thus providing stronger protection against racist utterances. Thirdly, the Convention has been incorporated into Norwegian law. In addition, the State party informs the Committee that a new Act No. 33 of 3 June 2005, on prohibition of discrimination on the basis of ethnicity, national origin, ancestry, skin colour, language, and religious and ethical orientation (the Discrimination Act), which provides protection additional to section 135 (a) against discrimination on the basis of racism, was enacted. The State party refers to the establishment of the Equality and Anti-discriminatory Ombudsman on 1 January 2006, which will contribute to the enforcement of laws protecting against racism. His/her mandate is to promote equality and combat discrimination on the basis of, inter alia, ethnic origin.</p> <p>Considering these new developments, the State party is convinced that statements such as those made by the author in this case will be penalized in the future and considers that it has complied with the Committee's opinion.</p>
Author's response	None
Further action/Committee's recommendation	The State party's response should be sent to the author for comments.

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#### **Cases in which the Committee found no violation of the Convention but made recommendations**

<b>State party</b>	<b>Norway</b>
Case and No.	Narrainen, Michel L.N., 3/1991

Views adopted on	15 March 1994
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Issues	Alleged racial discrimination during trial for drug offences
Recommendation	The Committee recommends to the State party that every effort should be made to prevent any form of racial bias from entering into judicial proceedings which might result in adversely affecting the administration of justice on the basis of equality and non-discrimination. Consequently, the Committee recommends that in criminal cases like the one it has examined due attention be given to the impartiality of juries, in line with the principles underlying article 5 (a) of the Convention.
Date of examination of report(s) since adoption	Tenth and eleventh on 14 March 1994 Twelfth, thirteenth and fourteenth on 21 August 1997 Fifteenth on 17 and 18 August 2000 Sixteenth on 15 and 18 August 2003 Seventeenth and eighteenth reports on 10 and 11 August 2006
Due date for State party response	None
Date of reply	N/A
State party response	None
Author's response	None
Further action/Committee's recommendation	None required

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**VII. FOLLOW-UP TO INDIVIDUAL COMMUNICATIONS**

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523. The table below shows a complete picture of follow-up replies from States parties received up to 17 August 2007, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

524. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

525. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 23 complaints and found violations of the Convention in 10 cases. In eight cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
...						

**Petitions in which the Committee found no violations of the Convention but made recommendations**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
...						

## Annex VI

### FOLLOW-UP INFORMATION PROVIDED IN RELATION TO CASES IN WHICH THE COMMITTEE ADOPTED RECOMMENDATIONS

This annex compiles information received on follow-up to individual communications since the last annual report (A/61/18), as well as any decisions made by the Committee on the nature of those responses.

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State party	Norway
Case and No.	The Jewish Community of Oslo, 30/2003
Opinion adopted on	15 August 2005
Issues and violations found	Failure to protect against dissemination of ideas, "hate speech" - articles 4 and 6.
Remedy recommended	<p>The Committee recommends that the State party take measures to ensure that statements such as those made by Mr. Sjølie in the course of his speech are not protected by the right to freedom of speech under Norwegian law.</p> <p>The Committee wishes to receive, within six months, information from the State party about the measures taken in the light of the Committee's opinion. The State party is requested also to give wide publicity to the Committee's opinion.</p>
Date of examination of report(s) since adoption	Seventeenth and eighteenth reports examined on 10 and 11 August 2006
Due date for State party response	22 August 2005
Date of reply	26 May 2006 (the State party had responded on 21 February 2006)

State party response	On 21 February 2006, the State party informed the Committee that the Norwegian Government gave wide publicity to the opinion in the following forms: press statement issued by the Ministry of Justice and the Police, in which the Ministry referred to several legislative developments providing enhanced protection against
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racist statements; media coverage; translation of the opinion on the Ministry's website; seminar and information circular on the opinion and implications for Norwegian law.

In addition, the State party reiterated information provided on the merits to the effect that article 100 of the Constitution on freedom of expression was amended by the Storting on 30 September 2004 and entered into force immediately. The new provision allows for punishment of racist utterances to a greater extent than at the time of Mr. Sjølie's speech. Secondly, it stated that section 135 (a) of the Norwegian Penal Code, which criminalizes racist utterances, was amended twice since the *Sjølie* case. Both amendments have broadened the purview of section 135 (a), thus providing stronger protection against racist utterances. Thirdly, the Convention was incorporated into Norwegian law. In addition, the State party informed the Committee that a new Act No. 33 of 3 June 2005, on prohibition of discrimination on the basis of ethnicity, national origin, ancestry, skin colour, language, and religious and ethical orientation (the Discrimination Act), which provides protection additional to section 135 (a) against discrimination on the basis of racism, was enacted. The State party referred to the establishment of the Equality and Anti-discriminatory Ombudsman on 1 January 2006, which will contribute to the enforcement of laws protecting against racism. His/her mandate is to promote equality and combat discrimination on the basis of, inter alia, ethnic origin. Considering these new developments, the State party stated that it was convinced that statements such as those made by the petitioner in this case will be penalized in the future and considers that it has complied with the Committee's opinion.

On 26 May 2006, the Norwegian Equality and Anti-Discrimination Ombudsman, who had been given specific responsibility to monitor the implementation of the Convention in Norwegian law and public governance, commented on the above-mentioned submission. While recognizing the efforts made to date by the State party to provide a remedy to give effect to the Committee's decision, the Ombudsman sets out further improvements that can be made. Despite amendments to Norwegian law, the Ombudsman submits that it is still necessary to secure effective enforcement of section 135 (a) in the Penal Code, especially through the education of the police and the prosecuting authorities. The Ombudsman does not have the authority to enforce the prohibition on racist speech in the Penal Code, section 135 (a). As the Anti-Discrimination Act, section 5, only protects against racist speech directed against one or several specifically named individuals, his/her authority to enforce protection against racist speech is limited to specific episodes of

	<p>individual harassment, and does not extend to generalized racist speech directed against groups of people. There is still need for clarification on the provisions of section 135 (a) of the Penal Code to ensure that it covers all aspects of article 4 (a) of the Convention. The Convention should be incorporated under the Human Rights Act of 1999 like the Convention on the Rights of the Child and the International Covenant on Civil and Political Rights. It was instead incorporated under the Anti-Discrimination Act which, according to the Ombudsman, may lead to conflicts with regard to interpretation of the Convention and other Norwegian laws.</p>
<p>Petitioner's response</p> <p>...</p>	<p>On 8 May 2006, the petitioner submitted that the State party's undertakings under article 4 must be followed up in practice, in particular by the prosecuting authority. The State party does not confirm that the prosecuting authority's practice has been amended, or that racist speeches like Mr. Sjølie's will be prosecuted in the future. He suggests that legislative initiatives aimed at clarifying the text in section 135 (a) of the Penal Code would be welcomed and that, while acknowledging that seminars have been held, the Government's submission does not explain how the prosecuting authority intends to educate the police and prosecutors in this particular field.</p>

## **CHAPTER VII. FOLLOW-UP TO INDIVIDUAL COMMUNICATIONS**

536. In the past, the Committee only informally monitored whether, how or the extent to which States parties implemented its recommendations adopted following the examination of communications from individuals or from groups of individuals. In light of the positive experiences of other treaty bodies, and following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1, available on the OHCHR website), the Committee decided, at its sixty-seventh session,<sup>1</sup> to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

537. Also at its sixty-seventh session, the Committee decided to add two new paragraphs to its rules of procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Linos-Alexandre Sicilianos was appointed Rapporteur for follow-up to opinions. He presented a report to the Committee with recommendations on further action to be taken. This report, which was adopted by the Committee at its sixty-ninth session, has been updated (see annex V) and reflects all cases in which the Committee found violations of the Convention or where it provided suggestions or recommendations although it did not establish a violation of the Convention. During the seventy-second session Mr. Régis de Gouttes was appointed Rapporteur for follow-up to opinions.

538. The table below shows a complete picture of follow-up replies from States parties received up to 17 August 2007, in relation to cases in which the Committee found violations of the Convention or provided suggestions or recommendations in cases of non-violation. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. This table, which will be updated by the Rapporteur on an annual basis, will be included in future annual reports of the Committee.

539. The categorization of follow-up replies by States parties is not always easy. It is therefore not possible to provide a neat statistical breakdown of follow-up replies. Many replies received may be considered satisfactory, in that they display the willingness of the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Other replies cannot be considered satisfactory because they either do not address the Committee's recommendations at all or only relate to certain aspects of these recommendations.

540. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 25 complaints and found violations of the Convention in 10 cases. In eight cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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1/ See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV, sect. I.

2/ Ibid., annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
...						

**Petitions in which the Committee found no violations of the Convention but made recommendations**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
...						

...

## **Chapter VII Follow-up to Individual Communications**

64. At its sixty-seventh session,<sup>1</sup> following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1), the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

65. At the same session, the Committee decided to add two new paragraphs to its rules of procedure setting out details of the procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded by Mr. de Gouttes with effect from the seventy-second session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual report to the General Assembly, reflect all cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

66. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies which do not address the Committee's recommendations or only relate to certain aspects of these recommendations are generally considered unsatisfactory.

67. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 27 complaints and found violations of the Convention in 10 cases. In nine cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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<sup>1</sup> See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV, sect. I

<sup>2</sup> *Ibid.*, annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
...						

**Petitions in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
...						

...

## **Chapter VII Follow-up to Individual Communications**

68. At its sixty-seventh session,<sup>1</sup> following a discussion based on a background paper prepared by the Secretariat (CERD/C/67/FU/1), the Committee decided to establish a procedure to follow up on its opinions and recommendations adopted following the examination of communications from individuals or groups of individuals.

69. At the same session, the Committee decided to add two new paragraphs to its rules of procedure setting out details of the procedure.<sup>2</sup> On 6 March 2006, at its sixty-eighth session, Mr. Sicilianos was appointed Rapporteur for follow-up to opinions, succeeded by Mr. de Gouttes with effect from the seventy-second session. The Rapporteur for follow-up to opinions regularly presents a report to the Committee with recommendations on further action to be taken. These recommendations, which are annexed to the Committee's annual report to the General Assembly, reflect all cases in which the Committee found violations of the Convention or otherwise provided suggestions or recommendations.

70. The table below provides an overview of follow-up replies received from States parties. Wherever possible, it indicates whether follow-up replies are or have been considered satisfactory or unsatisfactory, or whether the dialogue between the State party and the Rapporteur for follow-up continues. Such categorization is not always easy. In general, replies may be considered satisfactory if they reveal a willingness by the State party to implement the Committee's recommendations or to offer an appropriate remedy to the complainant. Replies which do not address the Committee's recommendations or only relate to certain aspects of these recommendations are generally considered unsatisfactory.

71. At the time of adoption of the present report, the Committee had adopted final opinions on the merits with respect to 28 complaints and found violations of the Convention in 11 cases. In nine cases, the Committee provided suggestions or recommendations although it did not establish a violation of the Convention.

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<sup>1</sup> See *Official Records of the General Assembly, Sixtieth Session, Supplement No. 18 (A/60/18)*, annex IV, sect. I.

<sup>2</sup> *Ibid.*, annex IV, sect. II.

**Follow-up received to date for all cases of violations of the Convention and cases in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	30/2003, The Jewish Community of Oslo	X (A/62/18)				X
...						

**Petitions in which the Committee provided suggestions or recommendations in cases of no violation**

State party and number of cases with violation	Communication, number, author and location	Follow-up response received from State party	Satisfactory response	Unsatisfactory or incomplete response	No follow-up response received	Follow-up dialogue still ongoing
...						
Norway (1)	3/1991, Narrainen				X (never requested by the Committee)	
...						



