

## NORWAY

### CERD 27<sup>TH</sup> No. 18 (A/8718) (1972)

53. The Committee noted with satisfaction that the reports submitted by ... Norway ... conformed with the guidelines laid down by the Committee for that purpose (CERD/C/R.12) 6/ and that they contained sufficient information on measures adopted to give effect to the provisions of the Convention.

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6/ [Official Records of the General Assembly], Twenty-fifth Session, Supplement No. 27 (A/8027), annex III-A.

**CERD 29<sup>TH</sup> No. 18 (A/9618) (1974)**

120. According to the second periodic report of Norway, no legislative or other measures were adopted since the submission of the initial report and no cases relevant to the provisions of the Convention were brought before the courts. The Committee welcomed the additional information contained in the report (which was considered in conjunction with the information submitted in response to decision 3 (VII)) and, in particular, the information concerning the composition and functions of the permanent commission on the Gipsies.

121. The Committee expressed the desire to know more about the reports prepared by the permanent bodies for the integration of the Lapps and the Gipsies. Concern was expressed lest the concept of “integration” be carried too far; it was observed that total integration of an ethnic group into the mainstream of society, with consequent abandonment of traditions and customs, could be a form of racial discrimination. Noting that two members of the permanent commission of the Gipsies represented that group, questions were raised about the methods of selection of those two members.

122. The information concerning the implementation of article 4 of the Convention suffered from the fact that the text of section 330 of the Penal Code was not supplied. Members of the Committee inquired whether, under that section, taken together with section 135 (a) of the Penal Code, the establishment of, or participation in, organizations which propagated or promoted racial discrimination was a punishable offence.

123. The representative of the Government of Norway supplied additional information on the functions of the commission on the Gipsies, stated that the two members who represented the Gipsies were appointed by the Gipsies themselves, and assured the Committee that Gipsies would not be forced to accept totally the Norwegian way of life. Regarding article 4 of the Convention, he assured the Committee that the text of section 330 of the Penal Code, in an English translation, would be supplied and that the questions raised during the discussion regarding the implementation of paragraph (b) of article 4 would be referred to his Government.

**CERD A/31/18 + Corr. 1 (1976)**

205. The Committee noted that the third periodic report of Norway contained no information on legislative measures, since none had been adopted during the biennium covered by the report, nor on judicial measures, since the provisions of the Penal Code that had been adopted in order to implement certain provisions of the Convention had not been invoked in any criminal case brought before the courts during that period. The Committee noted with satisfaction that the report contained information on administration and other measures relating to the Norwegian gipsies and Lapps; the information requested by the Committee during its consideration of the second periodic report of Norway; and the information envisaged in general recommendations III and IV. The Committee took note also of the information in the report about the declaration made by the Government of Norway in March 1976, recognizing the competence of the Committee under article 14 of the Convention, with some reservations.

206. Members of the Committee considered the statement in the report that, according to Norwegian law, individuals cannot enforce the provisions of articles 2 (para. 1, subparas. (a) and (b) and 4 (para. (c)) of the Convention by appealing directly to domestic courts, and the statement that, before ratifying the Convention, the reporting State had undertaken a detailed study in order to ascertain that domestic law was consistent with the obligations under the Convention and had taken certain legislative measures in that respect. A member of the Committee thought that those two statements were inconsistent. Another member asked how implementation of the legislation against discrimination was guaranteed, if individuals could not enforce the rules of the Convention by appealing directly to the courts. And another member speculated that individuals must have some means of ensuring the application of the aforementioned provisions of the Convention other than direct appeals to the courts.

207. Several members commented with appreciation on the measures adopted by the Government of Norway in favour of the Lapps. The hope was expressed that, in future reports, further information on the results of those measures would be furnished. A question was raised as to the composition of the Norwegian Lapp Council, and whether that body included members belonging to the ethnic group concerned. And it was observed that careful study should be given to the employment opportunities offered to the Lapps in order to ensure that such opportunities were in keeping with their capabilities and way of life; and that the education they received should be designed to enable them to solve their problems for themselves.

208. With regard to the positive measures taken by the authorities of Norway in respect of the Norwegian gipsies - who clearly faced discrimination problems - it was observed that it would be appropriate if the Government, when undertaking programmes to improve the living conditions of the gipsies, took measures also to end the prejudices and discriminatory attitudes that caused problems for both the gipsies and itself: the State could act directly through the information media and education, in keeping with the provisions of article 7 of the Convention. However, some members asked whether the difficulties encountered by the gipsies in having access to the normal housing market had led to the application of the anti-discrimination provisions of Norwegian law by the authorities, whether any offenders had been brought before the courts, and whether any other

measures had been adopted to deal with that situation. Similarly, with respect to the institution of separate classes for gipsy children, some members wondered whether such measures were discriminatory in themselves or were aimed at integrating the gipsies into society; and it was asked whether gipsy children attended any general classes in addition to the separate classes mentioned in the report. A member of the Committee asked whether it was right to place so much emphasis on the permanent settlement of the gipsies.

209. Members of the Committee noted with appreciation the information contained in the report, regarding the active participation of the Government of Norway in the fight against racism and racial discrimination in southern Africa.

210. There was some discussion of the reservation made by the Government of Norway at the time it made a declaration recognizing the competence of the Committee as laid down in article 14 of the Convention. That reservation provides that “the Committee shall not consider any communication from an individual or group of individuals, unless the Committee has ascertained that the matter is not being examined, or has not been examined, under another procedure of international investigation or settlement”. One member inquired whether that reservation meant that the Committee was barred entirely from considering a matter that had been considered under another procedure of international investigation or settlement; or whether the Committee could proceed to consider the matter, but only after that other procedure had been completed. Another member of the Committee discussed the procedure for ascertaining whether the matter was being or had been examined under another procedure of international investigation or settlement. In his view, there were two possible approaches to the problem: the Committee could, through the Secretary-General, request anyone who submitted a communication under article 14 of the Convention to inform it whether the matter had been examined under another international procedure; or it could ask the State party concerned to indicate whether the matter had been examined under such other procedure. But another member of the Committee called attention in that connection to paragraph 6 (a) of article 14 of the Convention, which specifies that “the identity of the individual or group of individuals concerned shall not be revealed without his or their express consent” - a provision that could rule out the second of the two methods proposed for complying with the conditions laid down in the reservation made by the Government of Norway.

211. It was observed that further information was needed on the implementation by the Government of Norway of the provisions of articles 5 and 6 of the Convention, particularly with regard to the remedies available to victims of racial discrimination; that the Government of Norway had not provided any information on the implementation of the provisions of article 7 of the Convention; and that the full text of section 330 of the Norwegian Penal Code, which the representative of the Government of Norway had promised at a previous session to supply to the Committee, had not yet been received.

212. The representative of Norway commented on some of the observations summarized in the foregoing paragraphs. With regard to the observations mentioned in paragraph 206, he affirmed that his Government was bound under the Convention to ensure that all its provisions were fully implemented in Norway; however, it had been considered that the existing laws were sufficient, since individuals were given every opportunity to have those laws enforced in the national courts. With

regard to the questions mentioned in paragraph 207, he said that Norwegian Lapp Council consisted of eight members, all of whom were Lapps; and that his Government had taken measures to ensure that the employment opportunities offered to the Lapps enabled them to retain their traditional way of life. As to the observations summarized in paragraph 208 he stated that the gipsies themselves had approached the Norwegian authorities requesting their co-operation and assistance in obtaining educational opportunities and a higher level of living: at no time had the Government sought to impose on them an alien way of life. The problems of housing faced by the gipsies, however, concerned the social sector and were not strictly legal matters; because of the unfortunate reaction that had occurred, it had been considered more appropriate not to press for a particular solution, but rather to adopt a more flexible approach by seeking more compatible solutions. With regard to the requests for additional information mentioned in paragraph 211 above, he assured the Committee that he would transmit to his Government the Committee's wish to receive more information as well as the full text of the legislative measures in question.

## **CERD A/32/18 (1977)**

155. A supplementary report, submitted by the Government of Norway as an addendum to its third periodic report and replying to questions raised during the Committee's consideration of that report at its fourteenth session, was welcomed as a manifestation of the co-operation of the Government of Norway with the Committee.

156. The relationship of international law to Norwegian law gave rise to some discussion. The report under consideration states: "International law does not automatically form an integral part of Norwegian law, at any rate not in the sense of enjoying equal status with the law ... In the event of any conflict of laws, Norwegian law will, in principle, take precedence. Since, however, legislative harmony [of Norwegian law and the Convention] has been ascertained, such a conflict is hardly likely to arise. In addition, another very important factor enters into the picture, namely, the rule of legal interpretation which assumes that Norwegian law accords with international law. This means that the courts, in their interpretation of Norwegian law, must base themselves on the assumption that Norwegian law does not come into conflict with our obligations under international law." Some members of the Committee were of the opinion that that situation provided an adequate legal framework for ensuring the protection of the rights affirmed in the Convention. Other members, however, asked how punitive action under an article of the Convention could be taken if domestic legislation was presumed to be in accordance with the Convention, which did not, of course, lay down penalties for violations of its provisions. It was thought that further information on this whole subject should be given in a future report.

157. Some members considered that section 135a of Norway's General Penal Code could satisfactorily ensure the application of the provisions of article 4, paragraph (a), of the Convention. It was stated, however, that that section of the Norwegian Penal Code covered only public utterances and communications, since private utterances and communications lay outside the field in which the penal law could effectively be applied without an oppressive system of surveillance; on the other hand, it was affirmed that that section of the Penal Code covered single acts directed against individuals as well as the dissemination of ideas and acts against groups of the population. It was observed also that no information was given in the report on the fulfilment of the undertaking to declare illegal and prohibit organizations which promote and incite racial discrimination, in accordance with the provisions of article 4, paragraph (b), of the Convention.

158. Some members noted that the report under consideration referred to a number of areas where there was no legal protection of certain rights listed in article 5 of the Convention. For example, in connection with the right to work, mentioned in article 5, paragraph (e), of the Convention, the report stated that there were no penal provisions directed against acts of discrimination in the employment of personnel in the private sector, the existing situation apparently having not made such provisions necessary. Some members observed that it was better to anticipate events without waiting for discriminatory acts actually to be committed. Some members asked for further clarification of the differences in the treatment of Norwegian nationals and foreigners referred to in the report.

159. The reservation attached to Norway's Declaration on article 14 of the Convention - stipulating

that “the Committee shall not consider any communication from an individual or group of individuals unless the Committee has ascertained that the same matter is not being examined or has not been examined under another procedure of international investigation or settlement” - gave rise to some questions. Some members wondered how the Committee could ascertain whether or not a particular case was, or had been, before another international body, when the Committee could not in accordance with paragraph 6 of article 14, reveal the identity of the individual or group of individuals concerned without his or their express consent. It was therefore hoped that the complex and technical question of the reservation would be further clarified in the next report in Norway.

160. The representative of the Government of Norway gave a preliminary reply to some of the questions raised and assured the Committee that the comments made by its members would be studied in depth by his Government and answered in its fourth period report.

## **CERD A/33/18 (1978)**

180. The fourth periodic report of Norway was considered together with the statement made by the representative of the reporting State, which supplemented and brought up to date the information contained in the report.

181. Members of the Committee noted with appreciation the responsiveness of the report to the concerns expressed by the Committee in past sessions. They noted also the frankness with which problems relevant to the provisions of the Convention were discussed. The information on judicial measures, including the texts of relevant court decisions and the extracts from the decisions of the Council for Professional Ethics of the Norwegian Press Association, were noted with appreciation, as was also the information on administrative measures, including measures affecting the Lapps and the Gipsies, relations with the racist régimes in southern Africa, and foreign immigrants.

182. The implementation of existing penal legislation prohibiting some of the acts described in subparagraph (a) of article 4 of the Convention in two cases mentioned in the report was considered by the Committee. Some members expressed surprise at the suspension of the sentence in one of the two cases - that of a school-teacher found guilty of advocating racial discrimination in violation of paragraph 135 (a) of the Penal Code. The difference in treatment in the two cases under consideration - the second of which related to a student convicted for violating the same provisions of the Penal Code and sentenced to unconditional imprisonment for 60 days - also caused surprise.

183. Several members commented on another aspect of the matter, stressing the importance of the principles reflected in the sentence imposed in the first case. In that case, the Supreme Court examined the apparent conflict between the right to freedom of opinion and speech, guaranteed in article 100 of the Constitution, and the prohibition of racist propaganda, in accordance with paragraph 135 (a) of the Penal Code. The Supreme Court decision stated: "In cases where the human right one of these provisions is designed to protect seems to collide with that which the other provision aims at protecting, the conflicting considerations must be balanced one against the other in order to decide which of these rights must be given precedence in a particular situation". In the case under consideration, the Court concluded that the provisions of article 100 of the Constitution should not bar the application of the provisions of paragraph 135 (a) of the Penal Code. A member of the Committee described that decision as "a very important precedent which could serve as an example in all circumstances in which there was competition between the provisions protecting freedom of speech and those punishing racism and racial discrimination". Another member commented that "freedom of speech could not be absolute and it was abused when it was used to promote racial prejudices". However, a member of the Committee, while applauding the interpretation rendered by the Court and expressing his confidence that, "as long as the courts retained their present membership, they would continue to act in the same spirit", expressed a reservation: "That depended on the fortuitous circumstances of the membership and thinking of the courts remaining unchanged." And another member expressed his concern at "the wide latitude which that approach left to the court"; he felt that, since ratification of the Convention did not make it automatically enforceable in Norway, "legislative action should be taken to limit freedom of speech when the latter might conflict with the provisions of the Convention".

184. In that connection, another solution, adopted with a view to reconciling freedom of speech with prohibition of the defence of racial discrimination - namely, the application of an editorial ethics code by the Council for Professional Ethics of the Norwegian Press Association - was noted with special interest by more than one member of the Committee. It was observed that the Norwegian experience in that regard could be "of great importance for those countries where the press was free, but should not be given the liberty to satisfy the less avowable appetites of the public" and that "the success of such a Council could expand the horizons as to what could be achieved, going beyond the sphere of repression, in the area of arbitration and conciliation". Members of the Committee asked whether that Council was a state organ or a private one, established by the information media themselves. Questions were raised also about its composition and powers, particularly if it was capable of imposing penalties or applying a specific policy. The representative of Norway replied that the professional code of ethics of the Norwegian press was a written document and that the Council consisted of representatives of the authorities and the press. However, it was not an official body and its decisions did not call for the application of any penalty, although the full text of the decision would be reproduced in the publication in question, as well as in the rest of the Norwegian press.

185. With regard to the application of article 4, subparagraph (b), of the Convention, it was observed that, according to the report under consideration, the measures taken in Norway were directed not against the existence of certain organizations but against certain offences. While one member of the Committee thought that that situation was satisfactory, other members were of the view that the Convention required States parties to prohibit associations which promoted racial discrimination. A member of the Committee suggested that if Norway incorporated such a prohibition in its positive law, the course reflected in the decision of the Supreme Court to resolve the conflict of rights could be applied also to the right of association. The representative of Norway assured the Committee that he would inform his Government of the views expressed by its members and would stress the importance accorded to the question by the Committee.

186. With regard to the implementation of article 7 of the Convention, it was observed that the report gave no information on the measures taken to reach the population and disseminate the principles of the Convention among the general public or on how the communication media were used in that connection. In his reply, the representative of Norway stated that his Government could not exercise any control over the information media since, although they were state enterprises, they were independent and reacted strongly against any attempt at Government interference. That did not prevent material designed to combat racial prejudice and promote understanding and tolerance from being published, but it was published on a strictly voluntary basis.

187. The information given by the Norwegian representative in his introductory statement, concerning joint action by the Nordic countries designed to increase international pressures against the régimes in southern Africa, was welcomed by members of the Committee. However, it was asked why Norway had not imposed a general prohibition on economic ties of any kind with the racist régimes concerned, whether any sanctions were applied against private Norwegian companies active in South Africa, whether Norway had diplomatic relations with South Africa, and, if so, at what level. The Norwegian representative stated that his Government had considered the possibility of applying stricter unilateral measures, in addition to complying fully with the compulsory arms embargo prescribed by the Security Council. At present Norway only had commercial ties with South Africa

since all economic relations at the government level had been discontinued, and diplomatic relations were confined to the maintenance of a Consul General. The representative of Norway said that it would be very hard to do away with trade ties altogether because there was no state commerce in Norway, and it would be unconstitutional to interfere in the activities of private enterprises unless a binding decision was taken by the Security Council. Nevertheless, his Government would continue to consider further courses of action.

188. Two aspects of the special measures taken with respect to racial minorities were favourably viewed by members of the Committee: that the Government was trying to protect the culture of the Gipsies and, at the same time, giving them an opportunity to be integrated into society if they so wished; and that the Sami People Education Council was endeavouring “to provide non-Sami with more information and teaching about the Sami people and their occupations and culture”.

189. With regard to the measures taken on behalf of foreign immigrants working in Norway, the efforts of the Government to raise their level of living and place them on a footing of equality with the rest of the population were welcomed. It was asked if the Norwegian ombudsman dealt with matters relating to the Convention and affecting foreigners and whether the advisory body on immigration questions had on any occasion reported that any public authorities had violated the Norwegian immigration policy and regulations. The representative of Norway stated that foreigners had full freedom of recourse to the ombudsman and received the same treatment as Norwegian nationals, although he noted that the ombudsman was not a court but an official who dealt with relations between individuals and government institutions.

## **CERD A/35/18 (1980)**

221. The fifth periodic report of Norway (CERD/C/50/Add.5) was considered by the Committee together with the introductory statement of the representative of the reporting State, who provided the Committee with information on measures introduced during the period under review and highlighted the replies given by his Government to questions previously raised by the Committee relating to the implementation of some articles of the Convention.

222. Members of the Committee expressed satisfaction with the report, which supplied ample information on various measures taken for the implementation of the Convention and was considered noteworthy both in form and substance.

223. In connection with article 2 of the Convention, the Committee drew special attention to questions concerning the Sami people and Gypsies. More details were requested on the specific results of the four years of activities of the Sami People's Education Council established in 1976. Some members wondered whether the educational measures adopted on behalf of that population group had been followed up by action to improve their economic status, in particular by the offer of employment; what was the membership of the board of directors of the Sami-language newspaper; what were the principal provisions of the new Act relating to reindeer husbandry, its effects, the membership of the committees set up under the Act, their competence and the representation therein of the Sami people. It was stated that Norway's efforts to develop a written form of the Romany language were highly commendable. A member of the Committee suggested that perhaps a pan-European initiative might be launched to develop a written form of Romany (a term preferable to "Gypsies"), which would be in keeping with the spirit of the Helsinki Declaration.

224. The Committee also drew attention to the question of immigrants and other foreign population groups. It was noted that immigrant organizations were represented on the Council for Immigration Questions, which dealt with family reunification and the education of young immigrants. In this connection, the Committee asked further information about the terms of reference of the Council and what action the authorities were planning to take on behalf of immigrants, as a follow-up to the work of the Council after the expiry of its term of office. It was also asked what categories of immigrants were still being admitted to Norway and why the Government Council for Aliens had not been in operation in recent years. In addition, a member wanted to know whether the immigrant workers, and their children, in Norway, were given an opportunity to study their own culture and traditions.

225. The Committee noted with satisfaction that the position expressed by Norway in connection with article 3 of the Convention was quite consistent and the unilateral measures taken were commendable. Nevertheless, the members were interested to know what changes had taken place in Norway's trade relations with South Africa; what further measures had been undertaken by the authorities against the racist régime of this country, including the question of visas, prevention of the Norwegian companies from selling oil to South Africa, and the realization of the joint programme of the Nordic countries.

226. With reference to article 4 of the Convention, attention was drawn by members of the

Committee to the Supreme Court judgement No. 137 B/1978, cited in annex III to the report, which was of great interest in that it weighed up the claims of freedom of expression against what was involved in the implementation of article 4 (a) of the Convention. Some members noted that the two points of view set forth in this judgement, the majority view and the minority view, were significant. It was noteworthy that whichever of the two views they had espoused, all the Justices of the Supreme Court of Norway had referred not only to article 135 (a) of the Penal Code of Norway, but also to the Convention itself. Whether agreeing or disagreeing with the judgement of the Supreme Court, the Committee noted that the Norwegians when they referred to such judgements would know what basic texts they could rely on in cases of racial discrimination, cases which were in any event isolated and exceptional because there were no acute racial problems in that country. A member said that the judgement was evidence of disagreement between the lower court and the Supreme Court and, in addition, of a division of opinion among the Justices of the Supreme Court itself. The double disagreement was explained by the fact that a judge based his ruling not only on national law but also on his conscience and innermost conviction. He asked whether the judgement of the Supreme Court would be binding on the lower courts and hoped that the Norwegian Government would consider revising its position on the interpretation of the right to freedom of expression in the light of the provisions of the Convention. Another member added that the judgement contrasted sharply with the Supreme Court's earlier rulings, as described in previous periodic reports of the Norwegian Government. In this connection, he would be very anxious to know to what courts, administrative or other, the victims of defamatory publications of that kind could apply in future. Nevertheless, most members of the Committee agreed that the Supreme Court of Norway had never stated that it applied the Convention directly; it had cited the Convention inasmuch as article 135 (a) of the Penal Code was based on it. The question was raised, but not fully discussed, as to whether the Committee was competent to express an opinion on a judgement of the Supreme Court of a State party.

227. The existence of a Press Council which dealt with complaints concerning the methods and the Code of Ethics for the Norwegian press was evidence of the Government's wish to forestall abuses of freedom of the press by setting limits to freedom of opinion and freedom of expression, which were precious benefits that should not, however, be abused. With regard to the composition of the Norwegian Press Council, a member asked whether the two members of the Council who represented the public were also appointed by the Executive Committee of the Norwegian Press Association.

228. With reference to article 5 of the Convention, it was noted that the rights set forth in this article were guaranteed, either by the Constitution, or by positive law, or by way of the principle of legality. The only exception concerned the private sector: there was no penal provision covering discriminatory acts committed in the recruitment of staff by private enterprises. Some members asked for additional information concerning the implementation of economic and social rights and also whether the refugees enjoyed the rights set forth in this article of the Convention.

229. In connection with article 7 of the Convention, some members of the Committee considered that respect for human rights which was taught as part of the vocational training programme for the police was noteworthy. Further information was requested on the action taken in the field of education, training, culture and information, particularly as regards the steps taken to encourage the public to show a friendly attitude towards foreigners.

230. The representatives of Norway replied to a number of questions raised by members of the Committee and provided detailed information concerning the provisions of the new Act relating to Reindeer Husbandry, the composition and functions of the committees established under the Act, the activities of the Sami Peoples Education Council, and the provisions of the Aliens Act of 27 July 1956 which governed the entry and sojourn of foreigners in Norway. The Council for Immigration Questions had recently considered various problems relating to family unification, marriage to a minor and the situation of persons having more than one spouse. In connection with the immigration of young people seeking education, the Council had made proposals for the granting of financial and other assistance to foreign students.

231. With regard to apartheid and Norway's policy towards South Africa, the representatives stated that visa requirements had been introduced and that Norway followed a restrictive policy in that regard. It was the policy of the Government not to sell oil to South Africa; trade relations in general were not very extensive; a Norwegian Consulate General still existed in Cape Town, but the question of its maintenance was under review.

232. The representatives also made comments concerning the judgement of the Supreme Court mentioned in the report and stressed that it was a firmly established principle of Norwegian law that the judiciary was totally independent and it would not therefore be appropriate to adopt a position on the judgement. Nevertheless, the Norwegian authorities would continue to follow developments closely. They also clarified the provisions relating to the Press Council and the institutions of court proceedings. The Committee was assured that the Norwegian Government would make every effort to give full and complete answers to the points raised by the members in the next periodic report.

## **CERD A/37/18 (1982)**

256. The sixth periodic report of Norway (CERD/C/76/Add.2) was considered by the Committee, together with the introductory statement made by the representative of the reporting State, who pointed out that the report dealt mainly with measures concerning the Sami people, immigrants living in Norway, and measures relevant to the implementation of article 7 of the Convention. He also provided further information concerning the Norwegian Supreme Court's final judgement with regard to the Alta case, which had been given at the end of February 1982, as well as detailed information on the anti-apartheid policy of Norway at the national and international level. The representative stressed that his Government abided strictly by the embargo on arms sales to South Africa and participated actively in the action programme adopted by the Nordic countries for the prohibition or discouragement of economic and other relations with South Africa.

257. The Committee was of the view that the report of Norway was in all respects an exemplary report and showed how fruitful the dialogue between a State party and the Committee could be. The Government of Norway was commended especially for the prompt and responsible manner in which it was giving effect to the provisions of the Convention at the national and international level and for its specific answers to questions put by the members of the Committee on the occasion of the previous report.

258. Members of the Committee drew particular attention to measures taken in Norway with regard to immigrants in the light of the provisions of articles 2 and 5 of the Convention. It was observed that the statistical data relating to the composition of the population in Norway did not indicate precisely their status, and it was asked whether they were migrant workers or persons who had intended to stay in Norway and whether the figures concerning the non-Norwegian population included Samis. In addition, information was requested on measures taken to implement the principle of the Norwegian immigration policy concerning a strict regulation of immigration, on special measures that would be necessary during a transition period in order to give immigrants a real opportunity to exercise their rights; on training and special programmes, in particular on human rights issues, for personnel dealing with refugees and immigrants; on the appointment, composition, role and sphere of activity of the Council for Immigration Questions, on the administrative co-ordination of activities concerning immigrants under one Ministry in the course of 1982, on the appointment of a committee to propose measures as to what the State as employer could do to employ disadvantaged groups, including immigrants; on the employment of foreign workers following the repeal of the so-called 25 per-cent rule, which limited the number of foreign workers within a tariff area; and on special measures to promote wider intercultural understanding between immigrants and the Norwegian population.

259. Furthermore, it was noted from the report that nationals of Nordic countries could request Norwegian nationality after three years' residence in Norway and other foreign nationals after seven years and it was observed that, while those provisions were understandable in view of Norway's close relations with the other Nordic countries, it was not certain that the retention of those provisions was in keeping with the obligations laid down by the Convention. As regards the Sami population, it was asked how many Samis there had been at the end of the Second World War and whether there had been more or fewer of them than at the present time, whether representatives of the Samis sat in the

Storting (Parliament) or in local bodies and why the Norwegian Lapp Council was composed of members appointed by the King rather than of members elected by the Sami people. One member of the Committee also wished to know whether special measures had been taken to protect the national culture of Vietnamese refugees, whether they were encouraged to set up their own cultural associations and whether it was the policy of the Norwegian Government to integrate them into Norwegian cultural life. Another member wished to receive further information on the efforts made by the Norwegian Government to give gypsies full economic, social and cultural rights.

260. In connection with article 3 of the Convention, one member of the Committee recalled that, during the consideration by the Committee of the fifth periodic report of Norway, the question was asked why the measures relating to investments in South Africa had been confined to new investments and not applied to existing ones, and why the same applied to trade.

261. With reference to article 4 of the Convention, it was noted that articles 135 (a) and 349 (a) of the Norwegian Penal Code provided that acts such as insults, incitement to hatred and persecution on grounds of religious belief, race, colour or national or ethnic origin were punishable, but the mere dissemination of ideas was not and it was observed that that provision was restrictive and did not comply fully with the provisions of paragraph (a) of article 4 of the Convention. As regards the implementation of paragraph (b) of that article, information was requested on the legislative provision that expressly banned organizations engaging in racial discrimination in Norway.

262. In replying to questions by members of the Committee, the representative of Norway stated that the figures provided with regard to foreign nationals living in his country concerned those who had retained their nationality or origin and that Samis were not included since they were Norwegian citizens. He also stated that Norway's policy with regard to immigrants was indeed to take special measures for their benefit, with the aim to ensure that they were integrated with the same rights and duties as other citizens, but that those special measures were supposed to be a transitional nature. Furthermore, the Norwegian Government considered that, in the context of the training of personnel having responsibility for immigrants and refugees, dissemination of information on different cultures and traditions was essential for everybody and it was therefore making a major effort to educate and inform not only government employees and officials, but also refugees, immigrants and Norwegians in general, through special courses and pamphlets. The mandate of the Council for Immigration Questions would probably be extended in 1982 and broadened so as to cover, in particular, questions concerning refugees. Besides, no final decision had been taken for 1982 on the administrative co-ordination of activities concerning immigrants. The Committee which had been appointed to suggest what the Government could do, in its capacity as an employer, had made no specific proposal but, other qualifications being equal, consideration would be given in particular to granting preference to candidates from disadvantaged groups and immigrants. As regards the participation of the Sami peoples in local Governments, the representative explained that it was in keeping with their number in the various counties of Norway. It was also likely that some members of the Storting were of Sami origin since there was reason to believe that, in regions where they were in the majority, the Samis must have elected candidates of Sami origin. The members of the Norwegian Lapp Council were appointed by the King on the proposal of Sami organizations, according to the Norwegian practice in the matter; however, the question of setting up a special body for the Samis, whose members would be elected by universal suffrage, was under consideration. The Norwegian Government's

policy towards Vietnamese refugees was also based on the principle of integration combined with protection of the cultural heritage.

263. With regard to article 4 of the Convention, the representative pointed out that the insertion of articles 135 (a) and 349 (a) in the Norwegian Penal Code, aimed precisely at implementing its provisions and provided some details concerning the applicability in Norway of penal provisions relating to paragraph (b) of article 4 of the Convention.

264. The representative of Norway assured the members of the Committee that his Government would deal with their questions in greater detail in its next periodic report.

## **CERD A/39/18 (1984)**

503. The seventh periodic report of Norway (CERD/C/107/Add.4) was introduced by the representative of the reporting State who highlighted the main points dealt with in their Government's report. He pointed out that close attention was being paid in Norway to the need to prevent discrimination against immigration. That was emphasized in the programme of action for the integration of immigrants, adopted by the Norwegian Government in 1984, which was aimed basically at achieving equal rights for immigrants in everyday life through a number of special measures. Among other things, the programme laid down the principle of limited and controlled immigration to Norway in the years to come.

504. The Contact Committee between immigrant representatives and the Norwegian authorities was appointed by the Ministry of Local Government and Labour in March 1984. One of its main tasks was the revision of the legislation regulating the entry and sojourn of aliens. The Contact Committee had already submitted its proposals for an overall revision of the Aliens Act of 1956. On the basis of those proposals and comments on them by several institutions and organizations, the Ministry of Justice would submit a Bill to Parliament. The new Act should express the rights and duties of individuals more directly. The present system with parallel procedures to obtain a work permit and a resident's permit should be simplified to provide for only one permit, namely a resident's permit with or without the right to work. Aliens resident for more than three years should have the right to obtain a permanent resident's permit, thus providing greater protection against expulsion. The Contact Committee had also proposed new provisions on the organization of second instance review with regard to expulsion and administrative procedures more favourable to aliens, such as making it the special duty of the authorities to inform aliens about their rights, including the right to legal aid and to request information connected with a hearing in court. In addition, it had proposed provisions concerning the status of refugees and the establishment of a new independent commission to decide upon matters relating to refugees, such as the granting of asylum.

505. The representative also informed the Committee that the Committee on the legal rights of the Sami people, mentioned in the sixth periodic report of Norway, had recently submitted its first report. One of its main conclusions was that the Sami language, culture and society should be protected by separate Acts. A majority within that Committee was of the opinion that the principle of protection should also be stated in the Constitution. The Act on Sami questions should set up a special representative body for the Sami elected by and among the Sami people. Its competence should be mainly consultative. A majority also proposed that Sami committees should be set up in municipalities and counties to ensure that the views of the Samis were heard. The Committee was of the unanimous opinion that the new Act should regulate the authorities' work in formulating and implementing policy concerning the Sami people. The Committee was currently continuing its work concerning the right to land and water in areas in northern Norway and would later discuss similar questions relating to the rest of the country.

506. The Committee congratulated the Government of Norway on its excellent report and expressed particular appreciation of the steps that it had taken to protect immigrants, to facilitate the introduction of foreign residents in the country, to support the cultural and economic development

of the Sami and Romany minorities and to implement article 7 of the Convention.

507. The judgement of the Supreme Court referred to in the report gave rise to discussion as to whether religious discrimination was covered by article 1 of the Convention. The views were expressed, on the one hand, that an attack on a religion did not breach the Convention but that an attack on an identifiable national or ethnic group did; on the other hand, that good grounds could be found for extending the Convention to cover attacks on religion.

508. With reference to article 3 of the Convention, one member of the Committee asked whether Norway had diplomatic, trade and other relations with South Africa and whether there was any Norwegian investment in South Africa and Namibia.

509. With regard to article 4 of the Convention, members of the Committee stressed the particular importance of a judgement rendered by the Supreme Court of Norway in 1981 concerning statements of a discriminatory character contained in three leaflets issued by the Organization against harmful immigration into Norway. They also stressed the importance of two decisions adopted by the Norwegian Press Council during the period June 1982 to June 1983 in respect of two cases concerning racial discrimination mentioned in newspapers. They noted that, in the case judged by the Supreme Court, a penalty had been imposed on the author of the statements under article 135 (a) of the Norwegian Penal Code and they asked what specific measures or action had been taken by the Government to enforce article 135 (a) in connection with the distribution of racist propaganda in schools, who was entitled to institute proceedings before the courts under article 135 of the Penal Code and in what circumstances the Public Prosecutor could institute proceedings in the case of acts of racial discrimination perpetrated in public. Some members of the Committee expressed the view that the judgement of the Supreme Court as well as article 135 of the Penal Code were good examples of implementation of article 4 of the Convention which could be taken into account by other States parties, especially those which had political, social and legal systems similar to those of Norway. It was significant that the Court had struck a balance between freedom of expression and the ban on incitement to racial discrimination. Though the defendant was held entitled to express certain general views, she had broken the law when she had directed her remarks against specific ethnic groups. Noting that the Penal Code could be applied to individual members of an organization, but not to an organization as such, as required by article 4 (b) of the Convention, it was asked whether Norwegian legislation contained some other provision prohibiting organizations that practised racial discrimination.

510. In connection with article 5 of the Convention, it was asked whether, in addition to the steps taken in Norway to improve the situation of immigrants and national minorities, any studies of public attitudes towards them had been made by sociologists, social psychologists or social anthropologists. Furthermore, clarification was requested on whether data concerning foreign nationals contained in the report referred to residents or immigrants. Information was also requested on the participation of immigrants in the elections held in September 1983. As regards the proposal to grant a single permit to immigrants, under the Aliens Act, with or without the right to work, it was observed that that kind of permit might be unsatisfactory since it could discourage immigrants or members of their families from residing in Norway if they were not allowed to work there. With reference to matrimonial agents who arranged for marriage partners to come from the third world to Norway, it

was asked whether they would be permitted under the proposed revision of the Aliens Act, whether the situation had been studied and whether there had been problems with such marriages.

511. In connection with article 7 of the Convention, further information was requested on measures to disseminate information against racial discrimination outside schools.

512. In reply to questions put by members of the Committee, the representative of Norway stated that his Government did not have diplomatic relations with South Africa, but it did have a consulate general in Cape Town. Norway's financial and commercial engagements were not important either in South Africa or Namibia, and Norwegian investment in those countries were very limited. No licences were given; there was no State promotion of Norwegian investment in South Africa or Namibia or of Norwegian exports to South Africa. There were no Norwegian production plants or units in South Africa or Namibia and only a very few firms had representatives there. Trade could not be described as significant, nevertheless, a working group had been established to find alternative markets with a view to further reducing the trade between Norway and South Africa. There were no bilateral sports contacts between Norway and South Africa.

513. The representative then referred to comments and observations relating to the implementation by Norway of article 4 of the Convention and pointed out that cases of racial discrimination were rare in Norway and not representative of public opinion in general. Cases of racist propaganda in schools had been reported to the police and, as a consequence, persons had been charged and judicial proceedings were under way. As to who would institute proceedings under the provisions of the Penal Code, the representative stated that, in practice, initiatives would usually come from individuals, whether directly affected or not, who would report the case to the police; however, the public prosecution itself might also take the initiative. With regard to the question of organizations practising racial discrimination, the representative referred, in particular, to article 330 of the Norwegian Penal Code which prescribed punishment for anyone who established or participated in an association with the aim of committing or promoting offences and he stated that, in accordance with that article, a person establishing an organization with the aim of promoting racial discrimination was subject to punishment.

514. In connection with article 5 of the Convention, the representative stated that no extensive studies had been made on Norwegian attitudes towards immigrants; however, polls had been conducted which showed that, although there was a small minority of negative attitudes, depending on the way questions were asked, the vast majority of Norwegians were quite favourable towards immigrants. The representative also stated that no distinction was made in Norway between foreign nationals and immigrants and he provided information on the movement of immigrants into the country which showed a slow increase since July 1983. He informed the Committee that preliminary figures concerning the elections held in September 1983 showed that participation by foreigners was lower than that by Norwegians and he provided a breakdown of those figures by nationality. He pointed out, in this connection, that immigrants from distant countries had been more interested in the elections than citizens from countries more closely related to Norway, and that a report was in preparation on the way in which immigrants had received information about the elections and would be included in Norway's next periodic report. The representative explained that the proposal concerning the new permit for immigrants had an exception clause: even if admitted without the right

to work, the alien might apply later for a permit with the right to work. The situation on entry would not necessarily be final. He also stated that the revised Aliens Act would probably not prevent the work of matrimonial agents, but public debate was currently in progress on that question.

515. In connection with article 7 of the Convention, the representative referred to various research projects envisaged by the Government to eliminate any cause of discrimination and racism in Norwegian society. He said that seminars and conferences would also be organized to increase knowledge about racism and discrimination and to develop measures against them and that considerable Government grants had been given to Norwegian and immigrant organizations for activities against racism and discrimination.

516. The representative of Norway finally assured the Committee that he would convey its comments to the Government.

## **CERD A/44/18 (1989)**

134. The eighth and ninth periodic reports of Norway (CERD/C/132/Add.5 and CERD/C/152/Add.4) were considered by the Committee at its 936<sup>th</sup> meeting, held on 10 August 1989 (CERD/C/SR.836).

135. The representative of the reporting State, introducing the reports, emphasized the importance attached by his country to the reporting system, which enabled it to maintain the awareness of its obligations in the legislative and administrative areas. He highlighted some relevant new developments relating to the implementation of the Convention's provisions and in particular informed the Committee that the proposed constitutional provision concerning the legal status of the Sami people had been adopted by the Parliament on 21 April 1988; the bill concerning the establishment of a new central Sami organ (Samitinget) and some other questions concerning Sami policy, was also adopted by the Parliament on 12 June 1987; and the new Aliens Act was expected to enter into force in the beginning of 1990. A description was given measures taken by Norway, unilaterally or together with other Nordic countries, against South Africa.

136. Members of the Committee commended the high quality of the two reports and expressed their appreciation to Norway for its record on human rights and the assistance it had given to national liberation movements and victims of racial discrimination.

137. Referring to article 2 of the Convention, members wished to have more information on the Liaison Committee, on the role to be played by the Immigrant Council, on the situation of the southern Sami people, who had lost many reindeer as a result of fall-out from the Chernobyl nuclear accident, and on the real difference in status between the Sami people and other Norwegians.

138. As far as article 3 of the Convention was concerned, members praised Norway and other Nordic countries for the action they had taken to combat the apartheid régime and sought further information on the penalties for those who flouted the ban on the sale of Norwegian petroleum to South Africa, and on the Programme of Action against Apartheid adopted by the Nordic countries. They wished also to know whether Norway maintained diplomatic contacts with South Africa.

139. With regard to article 4 of the Convention, it was noted that the information given in annex II to the eighth report, with specific examples of acts regarded as racially discriminatory and consequently punishable under criminal law, was most useful in enlightening the Committee on practical action taken to combat racial discrimination. With reference to the judgements described in that annex, it was asked whether those concerned could appeal against such decisions and whether they had in fact done so. The opinion was expressed that the description of the application of article 4 of the Convention in Norway had been excessively brief. It was enquired whether there was a possibility of government subsidies to the Press being withdrawn in cases where it had defended racial discrimination.

140. Additional information was sought on the implementation of article 5 of the Convention. In particular, members wished to know whether there had been any cases in Norway of racial

discrimination against European or American immigrants with regard to employment or housing or whether such discrimination had been practised only against such immigrant minority groups as Pakistanis, Vietnamese, Turks and Africans; what was the real participation of Sami in the political life of the country, and what was the general educational level of the Sami people.

141. As far as article 6 was concerned, members asked what remedies were available in Norway if the right to housing or employment was refused on racial grounds, and whether they were effective. With reference to the information contained in annex II of the eighth periodic report, it was suggested that the Government of Norway should publicize more widely the United Nations Declaration and the International Convention on the Elimination of All Forms of Racial Discrimination.

142. The representative of the reporting State, replying to the questions raised by the Committee in relation to article 3 of the Convention, stated that Norway had no diplomatic relations with South Africa; it did have a Consulate-General in Cape Town staffed by two career diplomats, but their presence in no way implied support for the apartheid system. The description of their functions was given. Referring to the question about penalties for tankers freighting crude oil to South Africa, he said that there had been no evidence that Norwegian ships had violated the Boycott Act of 1987 since its entry into force.

143. With regard to the questions raised in connection with article 4 of the Convention, he stated that the previous reports had dealt with the scope of the relevant provisions of the Penal Code (sects. 135 and 349) and with the ways in which article 4 was being implemented, which explained the brief statement in paragraph 37 of the eighth report.

144. Replying to questions raised in connection with article 5 of the Convention, the representative of Norway stated that cases in which the press had overstepped the boundaries laid down by the Press Council in respect of racist materials were very few and, as far as he was aware, there had been no instances of withdrawal of subsidies, although in principle the publication of illegal utterances might well have a bearing on the granting of subsidies. He said that the detailed information on the Press Council had been given in previous reports; there was no systematic control by the Council, but in general it took action on the basis of complaints against the publication of discriminatory material. Turning to the question about possible discrimination against European or American as distinct from Asian or African immigrants, the representative said that the obvious point of departure was that any kind of racial discrimination was prohibited and punishable under section 135 (a) of the Penal Code. In practice, he added, to the extent that such incidents did occur, discriminatory utterances would be more likely to be directed towards people whose appearance differed from that of the local population, although it could not be said for sure that a distinction was drawn specifically between Europeans and Americans on the one hand, and persons from other parts of the world on the other.

145. On the question of the educational level of the Sami people, he said that there were, of course, Samis with a university education who played a leading role in intellectual circles, but there was a perceived problem of motivation among young Samis to pursue their studies, which called for a solution by the competent authorities. The representative specified that Sami language was taught in schools in areas populated by the Sami people and that the Government was currently working on a draft Sami-language bill to increase the use of the Sami language, including its extended use in the

administration and the courts. That language was already used widely in the courts in Sami areas through interpreters.

146. As for the Liaison Committee referred to in paragraph 21 of the eighth report, the representative said that its mandate has been extended until 1992, at which point it would become an Immigrant Council, which would consist only of representatives of immigrants advising the Government on immigrant issues.

147. As to the implementation of article 6 of the Convention, especially in regard to the right to housing and employment, the representative pointed out that a distinction should be drawn between public and private sectors. In the case of both housing and employment, the unwritten principle of equality and non-discrimination applied, and any victim of a discriminatory decision could go to court if such a decision had been based on illegal grounds. In the private sphere, legal provisions in various fields would provide the necessary guarantees. Where employment was concerned, he said they would include binding rules in such matters as the working environment, leave or unfair dismissal, including section 410 of the Penal Code providing for penalties in the event of illegal dismissal or refusal to accept a person into employment. In the case of housing, it would be necessary to turn to specific legal provisions, such as the Rent Act, for protection against unjustified eviction. However, he added, in the case of the sale of property, those guarantees might be partly offset by the principle of contractual freedom.

## **CERD A/49/18 (1994)**

232. The tenth and eleventh periodic reports of Norway, submitted in one document (CERD/C/210/Add.3), were considered by the Committee at its 1032<sup>nd</sup> and 1033<sup>rd</sup> meetings, held on 14 March 1994 (CERD/C/SR.1032 and 1033).

233. The report was introduced by the representative of the State party, who said that his Government attached great importance to the dialogue with the Committee. He noted that, contrary to the usual practice, the eleventh periodic report of Norway had not been drafted in consultation with non-governmental organizations, but those organizations would be informed of the Committee's conclusions.

234. With regard to action to combat racism, the representative indicated that his country had chosen to improve documentation and statistics, to strengthen legislative instruments and to adapt the education of the personnel concerned (police, teachers, journalists, health and social welfare workers).

235. The representative said that the general prohibition on organizations described in article 4 of the Convention was not necessary and would, moreover, give rise to problems in connection with freedom of speech and assembly. However, the members of such organizations could be liable to criminal proceedings (Penal Code, sects. 330, 135 (a) and 349 (a)), so that it would be possible to prosecute any person who established such an organization and any person who was a member of an association whose purpose was to commit or incite offences punishable by law. In that connection, the police had been criticized for filing without investigation information transmitted to it in breach of sections 135 (a) and 349 (a) of the Penal Code; the Director General of Public Prosecutions had therefore requested prosecutors throughout the country to pay particular attention, in the exercise of their monitoring and advisory functions, to the way in which the police dealt with such cases. The prosecutors had also been invited to examine any information on violations of those sections during the period from 15 January to 15 April 1994 and to follow the relevant inquiries closely.

236. The representative said that the last sanctions in force against South Africa, except for the arms embargo, had been lifted in accordance with a decision taken on the basis of recommendations by the United Nations General Assembly.

237. The members of the Committee expressed their satisfaction with the reports of the State party, thanked the representative for his oral introduction and noted with satisfaction that Norway had made the declaration under article 14 of the Convention. They nevertheless stated that the information on the demographic composition of the country was inadequate. They commended the Government on the positive measures it had taken in favor of the Sami people and, in particular, on the efforts it had made to promote the use and study of the Sami language.

238. Referring to article 2 of the Convention, members of the Committee requested further information on multiracial organizations and movements encouraged by the Government, as well as on the multi-party platform of youth leaders referred to in the report (para. 42). They then asked

about the status of the Convention in Norwegian domestic law and whether it could be invoked directly in the courts. The Norwegian delegation was asked how much free legal advice was given to foreigners. Members of the Committee wanted to have examples of exceptions provided by law to the principle of equality between Norwegians and foreigners (para. 36 of the report). They also asked how and to what extent the language and culture of foreigners living in Norway could be preserved.

239. In relation to article 4 of the Convention, members of the Committee stressed that, since Norway had not formulated any reservation to that article, it was bound to take the measures it provided for and to adopt instruments prohibiting all types of racist crimes and discrimination. Members of the Committee expressed concern about the apparent reluctance to bring prosecutions (see para. 254 below) and drew attention to the Committee's opinion on communication No. 4/1991, *L.K. v. the Netherlands*, of 1993. They asked what means would be available to the Broadcasting Committee to prohibit transmissions by a radio station with racist tendencies, such as Radio Nite Rocket, and, in general, what means would be used to prohibit or punish an organization that advocated racism, which would not, in the Committee's view, be a violation of freedom of expression. Information was requested on the number, composition and philosophy of racist organizations and organizations with racist propaganda activities in Norway. With regard to the entry of foreigners into Norway and the implementation of the Immigration Act, had particular ethnic groups been subject to the possibility of imprisonment in the event of a violation of that Act?

240. In connection with article 5 of the Convention, members of the Committee drew the attention of the delegation to the fact that the report did not contain socio-economic indicators, such as the unemployment and delinquency rates for the foreign population on the one hand, and the Norwegian population on the other. Members of the Committee wished to know whether the members of ethnic minorities enjoyed equal treatment in the administration of criminal justice. They also asked whether the immigration services did their work without discrimination, since there had been incidents suggesting that that was not the case. Further information was requested on discrimination in the workplace in both the public and private sectors, and in respect of the right to housing, health care and access to public places and services; what remedies were available to a person who claimed to be a victim of discrimination in the exercise of one of those rights? Members of the Committee also requested information on Nazi parades in Norwegian streets, as reported in the press, as well as further details on the status of asylum seekers, including many children, who had been taken in by the churches but not by the competent authorities, as well as on the organization of refugee centres.

241. Referring to article 6 of the Convention, the members of the Committee regretted that the report and the oral introduction did not contain statistics and practical information on complaints, proceedings and convictions for racial discrimination. Could associations and non-governmental organizations defending the rights of foreigners and representing their interests bring legal action?

242. Replying to the Committee's questions and comments, the representative of the State party indicated that all the questions he would be unable to answer orally, especially those relating to the country's statistical data, would be dealt with in the next periodic report.

243. On the question of the status of the Convention in relation to domestic law, the representative

indicated that neither the Constitution nor domestic legislation contained any general rule about the status of international treaties. Treaties were either incorporated in domestic law or, before ratification, a comparison was made between domestic law and the treaty in question to ensure that they were in conformity with one another. Since the Supreme Court had never had to rule on a conflict between the Constitution and a treaty, it had never had occasion to decide which took precedence. The representative also noted that human rights conventions, including the Convention on the Elimination of All Forms of Racial Discrimination, had been invoked many times before the courts, but he had no detailed information on such cases.

244. Referring to the question of child asylum seekers, the representative of the State party said that, when such children, accompanied or unaccompanied, obtained refugee status, they had the same rights as Norwegian children. They had access to education and were entitled to health care. Children whose request had been turned down and who had not left the country had no legal status; in principle, they were entitled only to emergency medical assistance, but it was to be noted that, in practice, they enjoyed more or less the same access to health care as other children. Most of the children who had sought refuge in churches had been given education and health care on the basis of decisions by local authorities. The majority of those children were from Kosovo; some of them had arrived directly from the former Yugoslavia and others had come from Sweden, where their applications for asylum had been rejected. In all cases, their applications for asylum had been rejected, but, following an agreement with the churches, the Government had undertaken to review those cases. When asylum was granted to one person, it was granted to his closest family members. The same principle applied in connection with family reunification: when a person had a settlement permit, a residence permit or work permit was granted to his spouse and children.

245. In reply to the question on the property rights of the Sami people, the representative of the State party indicated that, although the Government owned 96 per cent of the county of Finnmark, where most of the Sami lived, the local population enjoyed extensive rights, especially with regard to reindeer grazing. A study on the Sami right to land had been made by the Committee on Sami Rights and would be available in 1994.

246. In reply to the question on the possibility of imprisoning foreigners provided for in the Immigration Act, the representative stressed that there would not be any imprisonment if the court could impose less constraining measures, such as assignment to a particular place of residence or confiscation of passport. Imprisonment was intended primarily for aliens of unknown identity who did not cooperate with the authorities. Any person arrested under such conditions could be released provided that he agreed to leave Norway and withdrew the application for residence or asylum.

247. With regard to the prohibition of racist organizations and to freedom of expression and association, the representative indicated that the policy of the Norwegian Government was to prosecute and punish organizations and individuals for actions committed. However, prohibiting an organization or membership of an organization or making it a criminal offence could be contrary to other freedoms. Radio and television stations that broadcast racist propaganda were liable to punishment under section 135 (a) of the Penal Code and that could lead to the halting of their activity and the confiscation of their equipment, as well as the prosecution of the persons involved. At present, the possibility of allowing non-governmental organizations and associations to bring legal

actions in cases of racial discrimination was being considered by the Ministry of Justice. Persons who were denied a public service on racial grounds could take legal action on the basis of section 349 (a) of the Penal Code.

248. Like the members of the Committee, the representative noted that there had been many complaints about the way the immigration authorities dealt with certain cases and said that consideration was being given to the possibility of having immigration personnel take special courses on racism.

#### Concluding observations

249. At its 1038<sup>th</sup> meeting, on 17 March 1994, the Committee adopted the following concluding observations.

##### (a) Introduction

250. Appreciation is expressed to the State party for its readiness to continue a dialogue with the Committee. The latter notes with satisfaction the submission by Norway of the core document (HRI/CORE/1/Add.6) containing useful information of a general character, and of a number of legislative acts adopted during the period under review. It is regretted, however, that the tenth and eleventh periodic reports were not submitted in due time and that neither previous reports nor the report under consideration contained replies of the Government to all comments made and questions raised by the Committee in the consideration of preceding reports.

##### (b) Positive aspects

251. The legislative measures adopted by the Government of Norway to bring the national legislation into closer conformity with the Convention and to enhance the protection of the human rights of Sami people and foreign nationals are welcomed. In that connection, note is taken of a new article 110 (a) inserted into the Constitution on 27 May 1988; of Act No. 78 of 21 December 1990 amending the Sami Act of 1987 and Act No. 24 of 1969; of Act No. 64 of 24 June 1988 concerning the entry of foreign nationals into the Kingdom of Norway; and of the revision of section 232 of the Penal Code to meet the requirements of article 4 (a). It is noted with satisfaction that Norway has ratified ILO Convention No. 169.

##### (c) Principal subjects of concern

252. Concern is expressed as to the status of the Convention in the domestic legal order of Norway and the lack of precise information about this in the report.

253. It is regretted that the report does not contain sufficient information on the demographic composition of the Norwegian population.

254. Concern is expressed once again that the State party has not implemented the provisions contained in article 4 (b) of the Convention and has not provided information on the practical

implementation of provisions of article 4. In that connection, it is noted with concern that between 1982 and 1989 some 500 possible breaches of section 135 (a) of the Penal Code were reported to the authorities and that very few led to any proceedings. The situation has not improved since 1989. It is regretted that no information has been provided by the State party on the existing case law relevant to the Convention.

255. Concern is expressed that the exercise of discretion not to invoke criminal proceedings may result in an absence of effective remedies.

256. Further to reports about the use of local radio to disseminate ideas which may be in breach of article 4 (a) of the Convention, more detailed information is desired about the monitoring of transmissions and the implementation of procedures for receiving licences to broadcast.

257. Concern is expressed that the arrangements for compiling lists from which juries are selected may not guarantee to qualified persons of minority ethnic or national origin an equal chance that their names will appear on the lists.

258. Insufficient information was provided on measures to ensure that persons of minority ethnic and national origin receive equal protection against acts of violence, and on measures to counteract their reported belief that it is futile for them to report such attacks to the authorities.

259. Insufficient information was provided on the implementation of the provisions of article 5 of the Convention dealing with non-discrimination in respect of economic, social and cultural rights. Attention was drawn in 1977 to certain deficiencies in this field, which have still not been corrected.

(d) Suggestions and recommendations

260. The Committee requests the Government of Norway to provide information in its next report on the ethnic composition of the Norwegian population.

261. The Committee reaffirms that the provisions of article 4, paragraphs (a) and (b) are of a mandatory character as stated in general recommendation VII (32) of the Committee. It notes that so far these provisions have not been fully implemented in Norway; therefore, the Committee recommends that the State party should carry out each obligation under those mandatory provisions of the Convention. When doing so, the Government should also take into account general recommendation XV (42) of the Committee.

262. The Committee recommends that Norway both improve the training of public officials (including immigration officers) to avoid racial discrimination and improve methods of supervision to ensure that there are effective controls upon their conduct.

263. The Committee recommends that the State party review its measures for guaranteeing the human rights of asylum-seekers, in particular women and children, especially their economic and social rights, to see whether there is room for improvement.

264. The Committee recommends that the State party review its measures for guaranteeing the economic and social rights of naturalized immigrants and resident aliens of minority ethnic or national origin, with particular reference to the rights to work and to housing.

265. In view of the importance of measures in the fields of teaching, education and culture to combat prejudices that lead to racial discrimination, the Committee requests the State party to provide information to it on which measures it has found most effective, and which measures can reach those sections of the population most likely to engage in racist activities.

266. The Committee draws the attention of the State party to the dates on which forthcoming reports are due. It suggests that the combined twelfth and thirteenth reports be submitted early in June 1995 so that the Committee, at its forty-seventh session, may receive a considered response to the issues raised above.

267. The Committee draws the attention of the State party to the amendment to article 8, paragraph 6, of the Convention, which was approved by the Fourteenth Meeting of States Parties and by the General Assembly in its resolution 47/111, and encourages the State party to expedite its action formally to accept that amendment.

## **CERD A/52/18 (1997)**

594. At its 1232<sup>nd</sup> and 1233<sup>rd</sup> meetings, held on 13 and 14 August 1997, the Committee considered the twelfth and thirteenth periodic reports submitted in one document (CERD/C/281/Add.2) and the fourteenth periodic report (CERD/C/320/Add.1) of Norway and at its 1242<sup>nd</sup> meeting, held on 21 August 1997, adopted the following concluding observations:

### **A. Introduction**

595. The Committee welcomes the reports presented by the Government of Norway, which follow the guidelines and contain comprehensive, frank and self-critical information about changes and developments that have occurred since the consideration of the previous periodic report. The Committee also welcomes the detailed answers to questions raised and concerns expressed during the consideration of the reports. It expresses its appreciation for the constructive dialogue with the delegation and for the answers given to the questions raised by members. The Committee notes also with appreciation that the State party has made the declaration under article 14 of the Convention and has ratified the amendment concerning article 8, paragraph 6.

### **B. Positive aspects**

596. The overall efforts undertaken and innovative measures adopted by the State party to prevent and combat all forms of racial discrimination are welcomed. In this regard, the recent establishment of a working group which has a mandate to improve legal aid available to victims of racial discrimination is noted. The possibility of including resident foreigners in a jury is also noted.

597. The adoption by the State party of the Plan of Action to Tackle Acute Situations of Racial Violence and Harassment in a Local Community is also welcomed.

598. The efforts undertaken by the State party to protect the culture, language and way of life of minorities are welcomed. In this regard, the establishment and work of the Sami Assembly is perceived as a positive development.

599. The White Paper on Immigration and a Multicultural Norway, issued by the State party in February 1997, is welcomed as a policy framework for the State party developing into a multicultural society. The right of foreigners to participate in local and regional elections is also welcomed. Further, the work undertaken during the period under review by the Interdisciplinary Advisory Group on Community relations is favourably noted.

600. The amendment of section 292 of the Penal Code by the Act of 7 April 1995, adding racial motivation as an aggravating circumstance when an act of vandalism has been committed, is welcomed.

601. The teaching programme "Norway as a multicultural society" launched by the State party in 1992 is noted. The fact that this training has targeted the police, journalists, teachers, customs

officers and health and social workers is regarded positively.

602. The long-standing effort undertaken by the State party to give access to education to immigrant and minority groups in appropriate languages is regarded as a positive factor. Further, the efforts undertaken by the authorities to translate, when necessary, public information into the diverse languages spoken by minority members and immigrants are also welcomed.

603. Cooperation between the State party and non-governmental organizations is noted, as well as the fact that the State party has consulted some non-governmental organizations during the drafting of the State party's report.

### C. Principal subjects of concern

604. While acknowledging the Constitutional amendment of 15 July 1994, and despite additional information provided by the State party both in oral and written form, concern is expressed regarding the extent to which the International Convention on the Elimination of All Forms of Discrimination is self-executing in domestic law.

605. While noting that the number of complaints concerning racially motivated offences has fallen, concern is expressed that the reasons for this trend are not yet known. Concern is also expressed over allegations that the police are reluctant to institute criminal proceedings in some cases involving racial discrimination. The absence of a sufficiently complete official record of incidents of a racial character in Norway is also a source of concern.

606. Concern is expressed that the State party has not taken all appropriate measures to prohibit organizations which promote and incite racial discrimination, in accordance with article 4 (b) of the Convention. The fact that a Norwegian political party promotes racial discrimination is a source of serious concern.

607. Concern is expressed over the publications of anti-immigrant racist organizations and over the fact that a radio station is systematically disseminating ideas of racial superiority. The view expressed openly by the leader of the above-mentioned political party that the Sami parliament should be dissolved is also a matter of concern.

608. Concern is expressed that foreigners and persons belonging to minority groups may not be sufficiently protected, especially in the field of labour and housing.

609. The Committee expresses concern that the State party's health services allege that immigrants of African descent disproportionately test positive for HIV and that Africans have been obliged to undergo tests for HIV simply because they are Africans.

610. Reports of the unjustified deportation of foreign nationals, including in some cases asylum seekers and unaccompanied children, are a matter of concern.

#### D. Suggestions and recommendations

611. The Committee requests the State party to clarify in its next periodic report the status of the Convention in domestic law. It would welcome in next report examples, if any exist, of court decisions illustrating how the Convention is applied in domestic law.

612. The Committee suggests that the competent Norwegian authorities maintain a comprehensive record of all racist acts or incidents, and it recommends that they take the necessary measures to facilitate and ensure criminal proceedings whenever appropriate.

613. The Committee recommends that the State party take all appropriate measures to prohibit all racist organizations, in conformity with article 4 (b) of the Convention.

614. The Committee recommends that the State party take the necessary measures to prohibit all dissemination of racist propaganda.

615. The Committee recommends that the State party continue to strengthen its efforts to promote understanding and tolerance with regard to immigrants in Norway.

616. The Committee recommends that the State party take all appropriate measures to ensure access to work and housing on a non-discriminatory basis, in conformity with the Convention.

617. The Committee recommends that the State party ensure the wide dissemination of its report and of the concluding observations of the Committee.

618. The Committee recommends that the State party's next periodic report, due on 5 September 1999, be an updating report and address all the concerns expressed by the Committee.

## **CERD A/55/18 (2000)**

402. The Committee considered the fifteenth periodic report of Norway (CERD/C/363/Add.3) at its 1426th and 1427th meetings (CERD/C/SR.1426 and 1427), on 17 and 18 August 2000, and at its 1434th meeting (CERD/C/SR.1434), on 23 August 2000, adopted the following concluding observations.

### **1. Introduction**

403. The Committee welcomes the detailed updating report presented by the Government of Norway, which follows the Committee's guidelines and contains relevant information about the implementation of the provisions of the Convention in the State party. The Committee particularly welcomes the opportunity to continue a constructive and open dialogue with the State party and appreciates the detailed answers to questions raised and concerns expressed during the consideration of the report.

### **2. Positive aspects**

404. The Committee notes that the State party consulted the Government's Advisory Committee on Human Rights as well as a number of NGOs in the drafting of its report.

405. The Committee welcomes the adoption of the Human Rights Act in anticipation that it will contribute to the implementation of the Convention.

406. The Committee welcomes the establishment of the Centre for Combating Ethnic Discrimination and trusts that the State party will ensure that it receives sufficient support to operate as an independent entity.

407. The Committee welcomes the adoption of the Plan of Action for Human Rights as well as the Plan of Action for Recruiting Persons with an Immigrant Background to the State Sector for the period 1998-2001 to reduce structural barriers to employment and to improve measures targeted at the attitudes and practice of employers.

408. The Committee also appreciates actions by the Ministries of Education, Health and Social Affairs, the Council of Judges and the Directorate of Immigration to develop training courses to increase the knowledge and skills of public servants and judges in the prevention of racial discrimination.

409. The Committee notes that changes in policies for the reception of asylum-seekers and refugees and the institution of an Appeals Board should improve present protection against racial

discrimination.

410. The Committee is satisfied that the State party is funding projects such as EXIT to develop strategies to discourage young people from supporting racist groups.

411. The Committee particularly welcomes the State party's action in apologizing to the Roma for injustices they have suffered in the past.

### 3. Concerns and recommendations

412. While it welcomes the incorporation of the International Covenant on Civil and Political rights, the International Covenant on Economic, Social and Cultural Rights and the European Convention on Human Rights into a single (Norwegian) Human Rights Act, the Committee is concerned that the International Convention on the Elimination of All Forms of Racial Discrimination has not been similarly incorporated. The absence of an explicit prohibition of racial discrimination in the Norwegian Constitution increases this concern. The Committee recommends that the body charged with drafting the Human Rights Act be further encouraged to introduce the provisions of this Convention into the new statute.

413. The Committee notes that there has been little progress in monitoring racial discrimination through record-keeping of racist incidents, indictments, sentences and compensation. The Committee maintains its request for information on court decisions on racial discrimination and recommends that the State party review its procedures for monitoring racist incidents in order to increase their effectiveness.

414. The Committee recommends that the effectiveness of the training courses referred to in paragraph 428 above be assessed in due course.

415. With respect to the implementation of article 4 of the Convention, the Committee notes that racist organizations have not been prohibited. The Committee reminds the State party that in its opinion, prohibition of the dissemination of all ideas based upon racial superiority or hatred is compatible with the right to freedom of opinion and expression.

416. The Committee is concerned that persons seeking to rent or purchase apartments and houses are not adequately protected against racial discrimination on the part of vendors. It recommends that the State party give full effect to its obligations under article 5 (e) (iii) of the Convention.

417. Noting that a commission has been established to review the State party's legislation against racial discrimination, the Committee recommends that consideration be given to the introduction of provisions within other branches of its legislation to supplement the provisions of the Criminal Code wherever this might produce more effective protections.

418. The Committee expresses concern over reports of racial discrimination in access to places of service to the general public, notably restaurants and discotheques, and over reports that the criminal law does not always provide effective protection. The Committee recommends that licences to

operate such establishments include a prohibition of racial discrimination.

419. The State party is invited in its next report to provide further information on the following issues: (a) the functioning and first results of the Appeals Board for Asylum and Immigration Cases; (b) the steps taken to facilitate employment of minorities in the public sector; and (c) the results of the two plans of action mentioned in paragraph 11 of the State party's report.

420. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the Committee's concluding observations on them be similarly publicized.

421. The Committee recommends that the State party's sixteenth periodic report, due on 5 September 2001, be a comprehensive report and that it address the points raised in the present observations.

## **CERD A/58/18 (2003)**

463. The Committee considered the sixteenth periodic report of Norway (CERD/C/430/Add.2), which was due on 5 September 2001, at its 1602nd and 1603rd meetings (CERD/C/SR.1602 and 1603), held on 15 and 18 August 2003. At its 1611th meeting (CERD/C/SR.1611), held on 22 August 2003, it adopted the following concluding observations.

### **A. Introduction**

464. The Committee welcomes the report, submitted by the State party in a timely fashion, and the additional oral and written information provided by the delegation. It expresses its satisfaction at the progress reported and the information that the Government's Advisory Committee on human rights and non-governmental organizations participated in the preparation of the report. The Committee further expresses its appreciation for the detailed responses of the delegation to the questions raised during the consideration of the report.

### **B. Positive aspects**

465. The Committee acknowledges the quality of the report of the State party, which is in conformity with the reporting guidelines of the Committee and addresses the concerns and recommendations formulated by the Committee following the consideration of the previous report.

466. The Committee takes note of the amendments to Norway's Immigration Act in 2000, namely the transfer of responsibility for the State party's immigration policy from the Ministry of Justice to the Ministry of Local Government and Regional Development, as well as the appointment of a committee to revise the Immigration Act.

467. The Committee welcomes the amendment to section 135 (a) of the Penal Code, adopted in December 2002, which explicitly states that racist symbols are covered by this provision.

468. The Committee commends the adoption of a second National Plan of Action to Combat Racial Discrimination for the four-year period 2002-2006 to implement the Durban Declaration and Programme of Action, and the establishment of a committee to follow up the implementation of the first National Plan of Action.

469. The Committee commends the State party's policy in respect of national minorities which is based on the principle of respect for cultural diversity.

### **C. Concerns and recommendations**

470. The Committee takes note of the State party's views on the difficulties involved in determining the ethnic composition of the population, but remains concerned that such information has not been provided in the State party's report.

In the light of the absence of statistical data on the ethnic composition of Norwegian society,

the Committee recommends that the State party provide an estimate of the demographic composition of the population in subsequent reports, as requested in paragraph 8 of the reporting guidelines, and draws the attention of the State party to its general recommendation VIII concerning the self-identification of members of particular racial and ethnic groups.

471. The Committee takes note of the fact that the State party is currently considering the incorporation of the Convention into Norwegian law through an amendment to the Human Rights Act of 1999.

The Committee encourages the State party to give due consideration to this issue in order to give full effect to the provisions of the Convention in its domestic legal order.

472. While the Committee welcomes the proposed Act on protection against ethnic discrimination, which aims to provide wider protection against discrimination in various fields and introduces a rule on the shared burden of proof in civil cases, it notes that the proposed Act will only cover ethnic and not racial discrimination.

The Committee invites the State party to submit further information in its next periodic report on the reasons for not including racial discrimination in the proposed Act.

473. The Committee takes note of the amendments to the Aliens Act, which include provisions for the expulsion of persons charged with terrorist acts or where there are serious reasons to suspect a person of participating in such an act.

While acknowledging the State party's national security concerns, the Committee recommends that the State party seek to balance those concerns with its human rights obligations. In this regard, it draws the State party's attention to the Committee's statement of 8 March 2002 in which it underlines the obligation of States to "ensure that measures taken in the struggle against terrorism do not discriminate in purpose or effect on grounds of race, colour, descent, or national or ethnic origin".

474. The Committee is concerned that the strict interpretation of the scope of section 135 (a) of the Penal Code, which prohibits any utterance or other communication of racist ideas made publicly or otherwise disseminated among the public, may not cover all aspects of article 4 (a) of the Convention.

The Committee invites the State party to review the provisions of section 135 (a) of the Penal Code in the light of article 4 (a) of the Convention and to provide information on this issue in its next periodic report.

475. The Committee takes note of the State party's observation that a formal ban on organizations might not be very effective in combating racism, owing to the fact that the groups involved in most of the racist activities are loose networks and not formal organizations. In this respect, the Committee draws the State party's attention to its general recommendation XV according to which all provisions of article 4 of the Convention are of a mandatory character, including declaring illegal and prohibiting all organizations promoting and inciting racial discrimination.

The Committee recommends that the State party adopt the necessary legislation in order to ensure full compliance with article 4 (b) of the Convention.

476. The Committee takes note that a high percentage of asylum applications have been decided either by the Chairman alone or by the legal secretariat of the State party's Immigration Appeals Board (UNE), without a hearing before the Board.

The Committee recommends that the State party provide additional information as to whether this procedure offers sufficient protection and ensures the relevant legal safeguards to all asylum applicants, without discrimination.

477. While the Committee acknowledges the frankness of the State party and its efforts to combat discrimination faced by minorities in relation to the housing and labour markets, it remains concerned about the persistence of such discrimination.

The Committee encourages the State party to intensify its efforts in these fields, in accordance with article 5 (e) of the Convention, and trusts that provisions to combat discrimination in the housing and labour markets will be included in the proposed Act on protection against ethnic discrimination.

478. The Committee notes with concern that, although there have been few court cases concerning discrimination consisting in refusing access to places serving the general public such as bars, discos, nightclubs and restaurants, discrimination in this area continues to exist. In this respect, the Committee also notes that domestic courts can determine whether persons are refused entry to such places on racial grounds.

The Committee encourages the State party to include adequate provisions to combat discrimination in relation to access to places intended for use by the general public in the proposed Act on protection against ethnic discrimination.

479. The Committee is concerned about the shortage of well-qualified interpreters in court proceedings, which may be an obstacle to the enjoyment by non-native speakers of the right to equal treatment before the courts and all other organs administering justice.

The Committee recommends that the State party adopt further measures, in accordance with article 5 (a) of the Convention, to mitigate the current difficulties with regard to interpretation services.

480. With regard to article 7 of the Convention, the Committee notes with concern that courses focusing on racism and discrimination are not compulsory in the basic curriculum of the Police Academy.

The Committee draws the attention of the State party to its general recommendation XIII on the training of law enforcement officials in the protection of human rights, and invites the State party to consider reforming the Police Academy's education programme so as to ensure

a better understanding of the norms and values in different cultures and to inform trainees about the obligations of the State party under the Convention.

481. The Committee is concerned that the recently proposed Finnmark Act will significantly limit the control and decision-making powers of the Saami population over the right to own and use land and natural resources in Finnmark County. The Committee draws the attention of the State party to its general recommendation XXIII on the rights of indigenous peoples which, inter alia, calls upon the State party to recognize and protect the right of indigenous peoples to own, develop, control and use their communal lands, territories and resources.

The Committee recommends that the State party find an adequate solution concerning the control and decision-making powers over the right to land and natural resources in Finnmark County in agreement with the Saami people.

482. The Committee encourages the State party to continue to consult with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

483. The Committee recommends that the State party disseminate widely information on the domestic remedies available against acts of racial discrimination, on the legal avenues for obtaining compensation in cases of discrimination and on the individual complaint procedure under article 14 of the Convention.

484. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

485. The Committee recommends that the State party submit its seventeenth periodic report jointly with its eighteenth periodic report, due on 5 September 2005, and that it address all points raised in the present concluding observations.