

**ECRI CONCLUSIONS
ON THE IMPLEMENTATION OF THE RECOMMENDATIONS
IN RESPECT OF NORWAY SUBJECT TO INTERIM FOLLOW-UP**

Adopted on 9 December 2011¹

¹ Any developments which occurred after 27 June 2011, date on which the additional response of the Norwegian authorities to ECRI's request for information on measures taken to implement the recommendations chosen for interim follow-up was received, are not taken into account in this analysis.

FOREWORD

As part of the fourth round of ECRI's monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI's country reports.

Accordingly and in line with the guidelines for the fourth round of ECRI's country-by-country work brought to the attention of the Ministers' Deputies on 7 February 2007¹, not later than two years following the publication of each report, ECRI addresses a communication to the Government concerned asking what has been done in respect of the specific recommendations for which priority follow-up was requested.

At the same time, ECRI gathers relevant information itself. On the basis of this information and the response from the Government, ECRI draws up its conclusions on the way in which its recommendations have been followed up.

It should be noted that these conclusions concern only the specific interim recommendations and do not aim at providing a comprehensive analysis of all developments in the fight against racism and intolerance in the State concerned.

¹ CM/Del/Dec(2007)986/4.1

1. *In its report on Norway (fourth monitoring cycle) published on 24 February 2009, ECRI recommended that the Norwegian authorities ensure that the general duty on public authorities and private employers to promote equality and prevent discrimination in carrying out their functions includes specific duties, notably in the field of monitoring, and the adoption and implementation of equality programmes as recommended in its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination¹. ECRI recommended that the Norwegian authorities empower the Equality and Anti-Discrimination Ombud to legally enforce the duty for public authorities and employers to promote equality and eliminate racial discrimination² in carrying out their functions. ECRI drew the attention of the Norwegian authorities to its General Policy Recommendation No. 7 on national legislation to combat racism and racial discrimination, where it provides additional guidance on this issue³.*

As concerns the first part of its recommendation, ECRI reiterates its positive assessment of the Antidiscrimination Act, in particular its Section 3.a, which entered into force in January 2009 and which contains a duty for public authorities, as well as private employers with more than 50 employees, to make active efforts to promote equality. ECRI takes note with interest of a number of initiatives, such as guidelines issued and training activities, taken by the authorities to ensure the proper implementation of the Act. The implementation of the Act is linked with the duty to prepare annual reports on relevant measures that have been implemented or are planned to be implemented. The authorities have informed ECRI that the Equality and Anti-discrimination Tribunal has the power to order recalcitrant employers to ensure that the annual reports meet the statutory reporting requirements and impose fines in some cases. However, a number of sources indicated that the overly general nature of the reporting obligations complicates the task of monitoring compliance.

ECRI regrets, therefore, that the duty on public authorities and employers to promote equality remains general in nature and no steps have been taken to attach to it specific duties other than general reporting obligations.

As concerns the second part of its recommendation, ECRI has been informed that the Ombud does not have the necessary tools to enforce the duty of public authorities and employers to promote equality and eliminate racial discrimination.

ECRI, therefore, considers that its recommendation concerning the possibility for the Ombud to enforce the duty of public authorities and certain private employers to promote equality and eliminate racial discrimination has not been implemented. However, ECRI was informed by the authorities that the Government intends to present to Parliament new comprehensive antidiscrimination legislation. ECRI understands that this legislation might also strengthen the monitoring of the duty to promote equality. In this context, ECRI would also like to refer to the specific guidance provided in its GPR No.7 on the

¹ ECRI's General Policy Recommendation No.7, paragraph 8.

² According to ECRI's General Policy Recommendation No.7, racial discrimination is any differential treatment based on a ground such as "race", colour, language, religion, nationality or national or ethnic origin, which has no objective and reasonable justification.

³ According to paragraph 27 of the Explanatory Memorandum to ECRI's General Policy Recommendation No.7 (which refers to GPR No.7, paragraph 8) "The law should provide for the regular assessment of the equality programmes, the monitoring of their effects, as well as for effective implementation mechanisms and the possibility for legal enforcement of these programmes, notably through the national specialised body".

functions attributed to an antidiscrimination body, such as provision of general advice to victims and legal assistance, including representation in proceedings before the courts. In addition, according to the GPR in question the law should guarantee free legal aid and, where necessary, a court-appointed lawyer, for victims who wish to go before the courts as applicants or plaintiffs and who do not have the necessary means to do so.

2. *In its report on Norway (fourth monitoring cycle), ECRI also urged the Norwegian authorities to increase the availability and use of professional interpretation in the health sector. Moreover, ECRI recommended that the Norwegian authorities increase the availability and use of professional interpretation in the legal system.*

ECRI noted in its report that persons of immigrant background are discriminated against in the fields of health and administration of justice as a result of their inability to obtain professional interpretation services, although they do not always master the Norwegian language.

Regarding the issue of availability and use of professional interpretation in the public sector, the Norwegian authorities have informed ECRI that, as of June 2010, 1 100 interpreters in 66 languages were registered in the Norwegian National Register of Interpreters. Moreover, according to the Norwegian authorities, as of March 2011, 56% of all registered interpreters have had formal training and/or are officially recognised. In addition, ECRI is pleased to know that the Government is introducing common and specific guidelines for the use of interpreters in the public sector as part of its action plan to promote equality and prevent discrimination.

However, a number of sources have expressed concern about the availability of professional interpretation in the health sector and in the legal system. In addition, ECRI received worrying information about unqualified interpreters being used in situations where this can lead to the weakening of legal protection or pose a risk to life and health through misdiagnosis and incorrect treatment. ECRI stresses that further measures are needed in order to ensure that existing qualified interpreters are used and the gap in certain languages is filled, with the possibility of remote interpretation, if necessary. It would be also necessary to earmark budget funds for this purpose and to accelerate the ongoing work to implement new rules regarding the right to interpretation and translation in the legal system.

Therefore, despite progress made since the publication of ECRI report in February 2009, ECRI regrets that its recommendation has not yet been fully implemented.

3. *In its report on Norway (fourth monitoring cycle), ECRI strongly recommended that the Norwegian authorities take steps to address racial profiling, notably in stop and search operations carried out by police and customs and immigration officials. In particular, ECRI recommended that the Norwegian authorities carry out in-depth research on racial profiling and monitor police activities in order to identify racial profiling practices. To these ends, ECRI strongly recommended that the Norwegian authorities draw inspiration from its General Policy Recommendation No.11, which provides extensive guidelines in both areas*

In its report ECRI invited the Norwegian authorities to explore all possible measures to address the problem of racial profiling, since it was not possible for the police to carry out their tasks effectively without the co-operation of the members of society, including minority groups. ECRI notes that, since the publication of ECRI's report on 24 February

2009, the Government has continued to support measures to improve the level of trust between police and vulnerable groups, involving immigrant organisations.

Concerning racial profiling, the authorities informed ECRI that such practice does not exist in the police's "modus operandi". However, other sources have referred to complaints that public security officials have used racial profiling techniques to stop and search members of vulnerable groups. Unfortunately, ECRI notes that the lack of public police records of stop and search activities makes it difficult to ascertain the existence and/or monitor the extent of such practices.

ECRI, therefore, concludes that its recommendation has not been implemented, in particular with regard to the requirement to monitor police activities in order to identify racial profiling practices, including by collecting data related to police activities which are broken down by ethnic origin, language, religion and citizenship. However, ECRI notes with interest the Norwegian authorities' statement that they are aware that the way in which persons with immigrant background are perceived by the police may pose problems.

