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

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¹ Except where specifically indicated, any developments which occurred after 1 December 2016, the date on which the 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, have not been taken into account in this analysis.

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FOREWORD

As part of its fifth round of monitoring work, ECRI has renewed its process of interim follow-up with respect to two specific recommendations made in each of its country reports.

In line with the Information Document on ECRI's fifth monitoring cycle brought to the attention of the Ministers' Deputies on 14 November 2012¹, 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(2012)1154/4.2.

1. *In its report on Norway (fifth monitoring cycle) published on 24 February 2015, ECRI recommended that the authorities give the Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal the power to “recommend cases to court free of charge”, so that victims do not have to pay court fees and get their legal representation for free.*

The authorities informed ECRI that there have not been any changes to the criteria for receiving free legal aid in discrimination cases. At the same time, they point out that the Anti-Discrimination Ombud can already under the existing legislation bring cases to court on its own initiative and expense, free of charge for the person concerned. The Equality and Anti-Discrimination Ombud confirmed that the Civil Procedure Act should, according to the government, be interpreted as giving the Ombud the authority of bringing discrimination cases to the courts; however, she added that this competence is not explicitly mentioned in the new law on the Anti-Discrimination Ombud and that the Ombud institution did not receive any specific financial or human resources for taking cases to court.

The new Act on the Equality and Discrimination Ombud and the Discrimination Tribunal, which was adopted on 16 June 2017, reconfigures the mandates of the Anti-Discrimination Ombud and the Equality Tribunal as recommended in § 20 of ECRI’s report. ECRI also takes positive note of the fact that the proceedings before the Tribunal remain free of charge. At the same time, ECRI regrets that the bill does not contain an explicit competence for the Ombud to bring cases to the courts free of charge for victims, even though its explanatory memorandum extensively deals with this issue; it refers to a consultation note of the Ministry of Justice, according to which it follows from § 15-7 and § 15-8 of the Dispute Law (tvisteloven) that the Ombud has the competence to act as a “party helper” or as a “friend of the court” in discrimination cases. ECRI very much hopes that these parts of the explanatory memorandum will constitute a sufficient legal basis for the Ombud to bring discrimination cases to court free of charge for the person concerned.

ECRI finally notes that the Equality and Anti-Discrimination Tribunal has not been provided with the power to “recommend cases to court free of charge”. As, in addition, the Ombud has not been provided with dedicated human and financial resources to represent victims before the courts, the tribunal and other authorities, and as she has never used this power, ECRI considers that this recommendation has only been partly implemented.

2. *In its report on Norway (fifth monitoring cycle), ECRI recommended that the authorities set up an IT-based system for recording and monitoring racist and homo/transphobic incidents and their processing through the judicial system (§ 12 of ECRI’s General Policy Recommendation No. 11 on Combating racism and racial discrimination in policing).*

According to the authorities, statistics on hate crime will be published annually together with information about their processing through the judicial system. This measure is rooted in the government’s action plan to combat discrimination based on sexual orientation, gender identity and gender expression (2017-2020). The Equality and Anti-Discrimination Ombud informed ECRI in March 2017 that, at that time, no nationwide statistics existed that would allow the follow-up of hate crime cases from the stage of complaint throughout all stages of the criminal proceedings until the final decision.

ECRI welcomes the fact that the Police Directorate subsequently published a national hate crime report on 10 October 2017.¹ According to this report, 466 hate motivated incidents were registered in 2016, 347 in 2015 and 223 in 2014; the rise in numbers is mainly due to police authorities paying increased attention to the investigation and

¹ Politidirektoratet (2017), Hatkriminalitet – Anmeldelser 2016, <https://www.politi.no/globalassets/dokumenter/01-rapporter-statistikk-og-analyse/anmeldelser-hatkriminalitet/anmeldelser-med-hatmotiv-2016.pdf>, accessed on 10.11.2017.

registration of hate crimes. The report contains data for all police districts; the different types of hate motivated offences and on the different motives of the perpetrators. ECRI takes positive note of the intention expressed in this report to further improve reporting of hate crime and considers that this first part of its recommendation has been implemented.

In the second part, ECRI recommended that the recording system should also contain the necessary data to monitor the processing of the registered hate crime cases through the judicial system. ECRI notes that the report of the Police Directorate does not yet contain such data about the outcomes of the registered hate crime cases, as for example numbers of indictments, sentences and suspensions of criminal proceedings. For the time being, such data is only available for the Oslo police district, where, according to this district's 2016 hate crime report, an indictment was submitted in almost half of the cases and 24 perpetrators were fined.²

ECRI welcomes the substantial progress made. As the second part of this recommendation has not yet been implemented throughout the country, it considers that this recommendation has been partly implemented.

² Oslo politidistrikt (2017), Hatkriminalitet – Anmeldt hatkriminalitet 2016, <https://www.politi.no/globalassets/dokumenter/oslo/rapporter/anmeldt-hatkriminalitet-oslo/anmeldt-hatkriminalitet-i-oslo-2016-pdf>, accessed on 10.11.2017; nyheter (2017, april 19), Kraftig økning i anmeldt hatkriminalitet i Oslo.

