

26th June 2015

## **The Ombudsman for Children in Norway's supplementary report to Norway's combined twenty-first and twenty-second periodic report on the International Convention on the Elimination of all forms of Racial Discrimination (CERD)**

The Ombudsman for Children in Norway was established by the Parliament in 1981 as the first Ombudsman for Children in the world. The duties of the Ombudsman are to promote children's interests to public and private authorities and be a spokesperson for children's rights. The Ombudsman has the power to investigate, give recommendations and publicise matters important to improve the welfare of children and youth.

The following report is a supplement to Norway's 21st/22nd periodic report in the International Convention on the Elimination of all forms of Racial Discrimination.

### **1. Fundamental reasons for discrimination – knowledge, awareness and preventive measures (art. 7)**

The Ombudsman for Children in Norway has had two meetings with youth with ethnic minority background, discussing among other things stereotypes, safe school environments and bullying. A few of our young informants have experienced racist hate speech, and most have been in situations where they sense some kind of xenophobia, e.g. stares, people moving away. Many tell about a relatively sharp division between "Norwegian" youth and "foreigners" (in this case referring to youth with different ethnic backgrounds, but that might have lived all their lives in Norway). This division isn't necessarily seen as a problem, but some youth with ethnic minority background have experienced that it might take longer time to get new friends in schools or communities with a large majority of "Norwegian" youth.

The youth also report that belonging both to an ethnic minority and being "different" in other respects (e.g. having a different gender identity or a different religion), makes you vulnerable. Some girls with ethnic minority background report that they are subject to relatively strict social control, both by their peers, siblings and parents. Strict social control can lead to exclusion and/or bullying of a girl doesn't act "appropriately".

Teachers and other school employees are said not to have sufficient knowledge to understand the problems and worries of youth with ethnic minority background.

Available research is not conclusive that youth from ethnic minorities in Norway are more subjected to bullying in schools. Different studies conclude in different directions. However,

it seems quite clear that the nature of and reasons for bullying are different in the ethnic majority and in different minority groups. A government-appointed expert group on bullying in schools has recommended a four-year research-programme on bullying and discrimination.<sup>i</sup>

A report from the Institute for Social Research (2014)<sup>ii</sup> shows that there is a need for more knowledge and learning materials on national minorities and racism in Norwegian schools. Access to such knowledge is important in schools to prevent racial discrimination and hate speech.

### **1.1. Recommendations**

The Norwegian government should

- initiate research to get a better understanding of reasons and prevalence of ethnic discrimination among children and youth, e.g. vulnerable groups, double vulnerability and how schools can create including environments that promote understanding and tolerance
- make sure that schools have teachers and/or other employees with competence to understand and address the specific challenges of youth with minority backgrounds
- produce and make available updated learning materials on racial and ethnic discrimination, national minorities and racism

## **2. Interpreters (art. 2)**

There has been a rising awareness among professionals not to use children as interpreters. The Norwegian government is currently working on a law proposition to prohibit the use of children as interpreters, and on a new national legal framework for the use of interpreters. This work is important, as access to interpreters is a prerequisite to secure equal access to all services.

### **2.1. Recommendation**

The Norwegian government should impose legislation to make it illegal to use children as interpreters as soon as possible.

## **3. Discrimination against non-citizens, including migrants, refugees and asylum seekers (arts 2 and 4-7)**

### **3.1. The right to education (art 5 e) (v))**

#### **3.1.1. Kindergarten**

All children in Norway above the age of 1 have the right to kindergarten (Kindergarten Act section 12a). This right is, however, limited to children “residing” in Norway, “residing” is interpreted as having legal residence status and being settled in a municipality. Many small

children live in asylum centres for many years before being settled or returned to their country of origin. In this period they still have a right to education. Kindergarten is considered to be part of the educational ladder in Norway. Children living in asylum centres are in many ways vulnerable and excluded. Kindergarten is an effective way of including them.

### 3.1.2. Upper secondary education

All children above the age of 15 who have completed primary and lower secondary education have a right to upper secondary education (Education Act section 3-1). This right is limited to children with “legal residence status” – including children in the asylum process. There are, however, several children living in Norway illegally because their parents refuse to leave the country. Upper secondary education is part of the education ladder, and should be available to all children regardless of their immigration status.

### 3.1.3. Recommendation

The Norwegian government should initiate changes in the Kindergarten Act and the Education Act to secure all children within Norwegian jurisdiction equal rights to kindergarten and upper secondary education, regardless of their immigration status.

## 3.2. Deprivation of liberty – increase in use of detention and lack of regulation (art.5 a)

The procedural rules regulating deprivation of liberty for minor asylum seekers in Norway are unclear. Asylum seeking children are deprived of their liberty with their parents. The use of detention of children in asylum cases is increasing. In the report “Freedom first”<sup>iii</sup>, Norwegian Organisation for Asylum Seekers (NOAS) presents statistics on detention of children in asylum cases, showing a significant increase from 2013 to 2014 both in the number of children detained, and in the length of detention.

Tabell 2. Lengde på internering av barn i kategorien «asyl» og «Dublin»<sup>732</sup>

Lengde på innsettelse	2013	2014	2013	2014
	Asyl		Dublin	
0 - 1 døgn	74	165	101	53
1 - 2 døgn	8	75	6	
3 - 7 døgn		5	10	5
7 - 14 døgn			8	2
14 - 28 døgn		4	1	
Over 28 døgn		1		
<b>Totalt antall internerte barn</b>	<b>82</b>	<b>250</b>	<b>126</b>	<b>60</b>

Source: Freedom First – NOAS 2015, page 111.

The immigration act contains no specific rules regulating the detention of children. The act makes reference to several sections in The Criminal Procedure Act that shall apply “insofar as appropriate”.<sup>iv</sup> Here are some results of this lack of regulation:

- The age of criminal responsibility does not apply - children below the age of 15 are detained in prison-like institutions.
- The courts do not write an individual decision when detaining a child – the decision applies to the whole family.
- The child welfare services are not obliged to propose alternatives to detention, as they are in other cases.
- The maximum detention time of two weeks before renewed court hearing does not apply in all cases.

Hence minor asylum seekers do not seem to have the same legal safeguards as other children when detained.

### **3.2.1. Recommendations**

- The Norwegian government should seek to reduce the use of detention of minor asylum seekers.
- The Immigration Act should contain clear material and procedural rules on detention of minor asylum seekers.

## **4. Situation of Roma children (arts. 2-7)**

Roma is a national minority in Norway. It is estimated that approximately 120 Roma children live permanently in Norway – most of them live in the Oslo area.<sup>v</sup> The implementation of a specific action plan to improve living conditions for Roma in Oslo in 2009-2013, seems to have had very limited, if any, effect.<sup>vi</sup>

### **4.1. The right to education (art. 5 e) (v))**

For children, access to education is a prerequisite to improving living conditions. There are no official statistics on Roma in Norwegian schools, but in 2013 approximately 70 children were registered as native Romanés-speakers in public schools in Oslo<sup>vii</sup>. The average school absence in this group in 2011/2012 was 54 days, more than 25 % of the total number of days in the educational year (190 days)<sup>viii</sup>. The absence is not limited to the time periods Roma traditionally travel (March/April-October), but spread out throughout the year. The Ombudsman for children has no reason to believe that this situation has improved since 2013. On the contrary, in 2013-2014 a conflict between several Roma families resulted in a situation where most of the children left Oslo and were absent from school most of the year.

Lack of reliable data on the Roma population makes it hard to describe the situation and to see changes in the living conditions, but it is reported that few Roma pupils complete elementary education. Illiteracy is said to be quite common.

Lack of confidence in the education system, the notion among parents' that formal education provided in Norwegian schools is of little relevance to Roma and the fact that Norwegian schools don't offer education in Romanés are reported to be some of the reasons for the low attendance. The need for more knowledge and learning materials on national

minorities and racism in Norwegian schools<sup>ix</sup> might also be a reason why some Roma parents do not see school as relevant for their children.

One of the measures implemented as a result of the action plan to improve living conditions was the use of “Roma guides” (Norwegian: romlos) in Oslo schools. The guides’ main function is to help children to get to school, and to build confidence and understanding between the school, family and child. This measure has had a positive effect on school attendance and in some cases on improving Roma parents’ view of formal education<sup>x</sup>. Currently there is only one Roma guide operating in Oslo. It is impossible for him to work with all the approximately 70 Roma pupils who attend different schools. Based in the experience of the current Roma guide, one person can give the necessary follow-up to around ten pupils.

#### **4.1.1. Recommendations**

The Norwegian government should

- make “Roma guides” available to all Roma children in Norwegian schools
- develop educational materials and educate teachers to teach Roma children Romanés in Norwegian schools

#### **4.2. Roma children in the child welfare services (Art. 5)**

Commissioner for Human Rights to the Council of Europe – Mr Nils Muižnieks – visited Norway in January 2015. In his report from the visit<sup>xi</sup>, he raises concerns about Roma children in foster care. Mr. Muižnieks is both concerned about the relative high number of children in foster care, and for these children’s possibility to maintain contact with their families, and to maintain their culture and language.

The Ombudsman for Children has not studied the reasons for the high number of Roma children in foster care, and at this point, we have no reason to believe that this is a result of discriminative practices. We are, however, concerned that the children who are in foster care have very limited contact with their families, and that for many, it is hard, or even close to impossible to maintain contact with their cultural background, e.g. speak Romanés regularly. The lack of a Roma cultural centre or a Roma youth centre makes the family the only realm where children and youth have a real opportunity to speak Romanés and practice their culture.

#### **4.2.1. Recommendations**

The Norwegian government should

- secure that child welfare services have the necessary competence and resources to work with and support Roma families, as effective, early intervention could be a way of preventing children from being separated from their families
- give Roma children living in foster care the opportunity to maintain contact with the Roma community, e.g. by establishing a Roma cultural centre or a Roma youth centre

## **5. Situation of Sami peoples (art. 5)**

### **5.1. Bullying in Sami schools (art. 5 e) (v))**

In 2014-15, The Ombudsman for Children has had several meetings with Sami children and youth. For some, bullying and discrimination in schools is a problem, especially in schools outside the Sami administrative area.

There is a lack of knowledge about bullying and discrimination against Sami children in schools. A government-appointed expert group on bullying in schools has reported this to the Ministry of Education and Research, recommending funding for research on bullying in Sami schools<sup>xii</sup>. The expert group also recommends that teaching materials on safe school environments and well-documented anti-bullying programmes are made available in Sami languages.

#### **5.1.1. Recommendations**

The Norwegian government should

- initiate and finance research on bullying in Sami schools and bullying and discrimination against Sami children outside the Sami administrative area
- make teaching materials and anti-bullying programmes available in Sami languages

### **5.2. Mental health among Sami youth (art 5e) (iv))**

The youth council to the Sami Parliament of Norway (SUPU) has expressed concern about the mental health situation among young Sami, and the access to mental aid with specialist competence on Sami youth.

There is a lack of knowledge about mental health among Sami youth in Norway, and we have no research showing that Sami youth in Norway are more vulnerable to mental health problems than other youth in Norway. However, a recent Swedish study made among young Sami indicates that Sami youth may be more vulnerable to mental health problems. In this study, Sami youth reported a higher degree of suicidal ideation, life weariness and death wishes than Swedish youth in the reference group. The prevalence of suicide attempts did not differ between Sami and other young Swedes<sup>xiii</sup>. In a recent study of emotional, physical and sexual violence among adults from Sami and non-Sami populations in Norway<sup>xiv</sup>, 45 % of the Sami respondents report that they have experienced violence. This percentage is significantly higher than in the non-Sami population, where 29,6 % report that they have experienced any form of violence. According to Norwegian law, children who witness violence are also victims of crime. Even though the study is conducted among adults, the reports of high levels of violence gives reason to believe that children and youth in the Sami population could be more vulnerable to both violence and psychological stress.

### 5.2.1. Recommendation

- The Norwegian government should initiate and finance research in mental health among Sami youth, aiming to investigate both prevalence of mental health problems and vulnerability- and resilience-factors among Sami youth.

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<sup>i</sup> NOU 2015: 2 – Å høre til – Recommendations from a government-appointed expert group on bullying in schools.

<https://www.regjeringen.no/contentassets/35689108b67e43e59f28805e963c3fac/no/pdfs/nou201520150002000dddpdfs.pdf>

<sup>ii</sup> Midtbøen, Arnfinn, Julia Orupabo and Åse Røthing 2014: Etniske og religiøse minoriteter i læremidler (Ethnic and religious minorities in teaching materials). Oslo: Institutt for samfunnsforskning  
file:///C:/Users/el34/Downloads/ISF-rapport%202014%2011\_Nett.pdf

<sup>iii</sup> «Frihet først» - Norsk organisasjon for asylsøkere (NOAS) 2015: <http://www.noas.no/wp-content/uploads/2015/02/ATI.pdf>

<sup>iv</sup> Immigration Act – section 106: <https://www.regjeringen.no/en/dokumenter/immigration-act/id585772/>

<sup>v</sup> Council of Europe – Commissioner for Human Rights to the Council of Europe: Report following visit to Norway from 19 to 23 January 2015:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2751937&SecMode=1&DocId=2272542&Usage=2>

<sup>vi</sup> Fafo report 2414: 50 – Et skritt på veien (Evaluation of the action plan to improve living conditions for Roma in Oslo) 2014: <http://www.fafo.no/images/pub/2014/20397.pdf>

<sup>vii</sup> Letter from Oslo Municipal Educational Authorities (Bryådsavdeling for kunnskap og utdanning) to the Ombudsman for Children in Norway, dated 2. July 2013.

<sup>viii</sup> Ibid.

<sup>ix</sup> Midtbøen, Arnfinn, Julia Orupabo and Åse Røthing 2014: Etniske og religiøse minoriteter i læremidler (Ethnic and religious minorities in teaching materials). Oslo: Institutt for samfunnsforskning

<sup>x</sup> Fafo report 2414: 50 – Et skritt på veien (Evaluation of the action plan to improve living conditions for Roma in Oslo) 2014: <http://www.fafo.no/images/pub/2014/20397.pdf>

<sup>xi</sup> Council of Europe – Commissioner for Human Rights to the Council of Europe: Report following visit to Norway from 19 to 23 January 2015:

<https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2751937&SecMode=1&DocId=2272542&Usage=2>

<sup>xii</sup> Fafo report 2414: 50 – Et skritt på veien (Evaluation of action plan to improve living conditions among Roma in Oslo 2009-2013)

<sup>xiii</sup> NOU 2015: 2 – Å høre til – Recommendations from a government-appointed expert group on bullying in schools.

<https://www.regjeringen.no/contentassets/35689108b67e43e59f28805e963c3fac/no/pdfs/nou201520150002000dddpdfs.pdf>

<sup>xiv</sup> Omma, Lotta (2013) Ung same i Sverige (Young Sami in Sweden). Umeå: Institutionen för klinisk vetenskap og psykiatri. <http://umu.diva-portal.org/smash/get/diva2:585920/FULLTEXT01.pdf>

<sup>xv</sup> Eriksen, Astrid M.A., Ketil L. Hansen, Cecilie Javo and Berit Schei 2015, Emotional, physical and sexual violence among Sami and non-Sami populations in Norway: The SAMINOR 2 questionnaire study. Scandinavian Journal of Public Health