

## **Incorporation case study: Norway**

Norway must adopt new legislation before an international human rights treaty becomes part of national law and is directly enforceable in courts. Treaties are given effect in domestic law either by a declaration of norm harmony or by incorporation into Norwegian law. Norway has directly incorporated several human rights treaties into national law.

### **Legal effect**

In 1999 Norway adopted a Human Rights Law which directly incorporated the ECHR with its additional protocols, the ICCPR and the ICESCR into Norwegian law. Norway has since directly incorporated the UNCRC and the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography, CEDAW, and the 13th and 14th Optional Protocols to the ECHR through amendments of the Human Rights Law. The Human Rights Law includes the directly incorporated treaties and optional protocols in annexes. Human rights are also protected in the Constitution, which was amended in 2014 to include a chapter on human rights. Incorporated human rights treaties rank higher than other domestic laws, allowing courts to strike down Norwegian laws that are incompatible with the incorporated human rights treaties. The ICERD has been directly but separately incorporated in the law on ethnic discrimination. The ICERD does not rank at the same level in legal hierarchy as the Human Rights Law, and thus has a lower level of protection than other incorporated treaties.

### **Enforcement by duty-bearers**

The Human Rights Law was accompanied by The Human Rights National Action Plan (HRNAP) of 1999/2000, which further implements the incorporated treaties. It was drafted together with civil society organisations. The HRNAP introduces human rights impact assessments, reviews and revises policies which are not human rights compliant, aims to implement the incorporated treaties, and to ensure that violations are prevented before they occur and before court procedures become necessary. In 2015, Norway's Institute for Human Rights (NIM) was established with the status of a National Human Rights Institute for the purpose of monitoring the implementation of human rights law, among other things.

### **Enforcement in courts**

Following incorporation, courts have seen an increase in human rights violation-based claims, and judges have increasingly relied on human rights law in decisions. In several cases, Norwegian laws have been overruled as a result of incorporation, due to incompatibility with the directly incorporated human rights law treaties. However, with economic, social and cultural rights, Norwegian courts have deemed them to be too vague to be justiciable, although the ICESCR was incorporated in the Human Rights Law. In sum, international human rights standards – with the exception of ICESCR rights – are increasingly enforced in courts post-incorporation.

### **Awareness and ownership of rights**

UNCRC incorporation and human rights education have increased awareness of children's rights among children and young people. The HRNAP includes a commitment to human rights education and training in schools and higher education, overseen by NIM. Thus, both the HRNAP and NIM have ensured that rights-holders gain a stronger grasp of their human rights.