



UN Human Rights Council – UPR
On-line UPR Submission Registration System

Deres referanse:
Vår referanse: 2018/173
Dato: 25/09/2018

Stakeholder report from the Norwegian National Human Rights Institution in relation to the UPR 3rd cycle review of Norway in 2019

The Norwegian National Human Rights Institution hereby submits its stakeholder report to the UN Human Rights Council to the 3rd cycle of the Universal Periodic Review of Norway in 2019.

The Norwegian National Human Rights Institution (hereinafter: NIM) was established 1 July 2015 as an independent institution under new legislation adopted by Parliament. NIM has a specific mandate to protect and promote human rights in Norway, as well as to monitor how the authorities respect Norway's international human rights obligations. Submitting supplementary reports to international human rights monitoring bodies is an essential tool for a NHRI to fulfil its mandate.

In March 2017, we were granted A-status by GANHRI, thus recognising that NIM is fully compliant with the UN Paris Principles.

We hereby take the opportunity to draw your attention to various issues which we recommend be addressed in the Council's deliberations with Norway.

We have included brief information on the various issues and, when applicable, we refer to the recommendations given to Norway in the 2nd UPR cycle in 2014 (cf. A/HRC/27/3).

Please feel free to contact us at info@nhri.no in case of questions.

Yours sincerely
On behalf of the Norwegian National Human Rights Institution

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Framework

1. Withdraw reservations – ICCPR art. 10, paras. 2b and 3

(A/HRC/27/3, Recommendations no. 131.16 and 21, South Africa, Austria)

The number of minors in Norwegian prisons is very low. Still, as many as 15 of the total 25 youth in Norwegian prisons in 2015 were held for some time in adult prisons (cf. statistics annex to CRC in 2016, p.165-166). Normally, these children will face either de facto isolation to protect them from adult inmates, or they are not separated from adults.

- Consider withdrawing reservation to ICCPR art. 10 (2b and 3)

2. Follow-up of international recommendations

Norway's reporting to various monitoring bodies in the period 2017 – 2019 has identified a number of cross-cutting issues. To ensure effective implementation there is a need to improve coordinated follow-up among different ministries and relevant governmental agencies.

- Encourage putting in place a coordination mechanism to follow-up recommendations from international human rights monitoring mechanisms.

3. Human rights education

There is an ongoing education reform, including review of core elements of education and corresponding education plans. Specific attention should be given to the integration of human rights education in the overall framework for primary and secondary education as well as to professions such as police, health and social workers, teachers and others.

- Strengthen human rights education both in school programmes and higher education.

Specific rights

4. Remand in police custody for more than 48 hours

(Rec. 131.141-143, Italy, Netherlands, Switzerland)

The instances of individuals being held in police custody for more than 48 hours have been significantly reduced in recent years. However, the number of cases of prolonged police custody still appears relatively high. In June 2018, the Government addressed this issue by drafting a proposal for new legislation.

- Continue efforts to reduce occurrences of persons being held in police custody for more than 48 hours and adapt new legislation.

5. Isolation in police custody

(Rec. 131.141-144, Italy, Netherlands, Switzerland, France)

Individuals in police custody are normally faced with de facto isolation. This means that, in many cases, detainees are placed in isolation without this being deemed necessary for reasons relating to the investigation. The regulatory framework must be revised and implemented in order to reduce unjustified isolation in police custody. In June 2018, the Government addressed also this issue in its draft proposal for new legislation.

- Detainees in police custody should be given access to the company of others and to receive visitors, unless there is basis for the isolation and sufficient procedural safeguards in place.

6. Solitary confinement during pre-trial detention

(Rec. 131.143, Switzerland)

The courts can order partial or complete isolation of a detainee to secure the integrity of ongoing investigations. The number of detainees in full isolation in Norway remains high. The current wording of the Penal Act allows for grounds with a high degree of discretionary assessment.

- The Penal Act must provide clearer criteria for when isolation is absolutely necessary.

7. Solitary confinement in prison

(Rec. 131.140, Ireland)

The use of isolation in prison is a long-standing issue. Unfortunately, figures from the Correctional Services in 2016 registered 3,066 full exclusions and 958 partial exclusions. In 2017, 4 550 full exclusions and 1 833 partial exclusions were registered. A major issue has been the relatively high number of exclusions due to building conditions and staff shortages. In 2017 the Government enacted revised guidelines on the use of solitary confinement in order to reduce its use in practice.

- Limit the use of solitary confinement to situations which are strictly necessary. Ensure that solitary confinement is used only in exceptional circumstances and that shortages in infrastructure and staffing are not used as grounds for exclusion.

8. Mentally ill in prison

Although inmates in Norwegian prisons have a high rate of mental illness, reports show that access to adequate mental health care is inadequate. Measures such as placement in security cells is often used to resolve acute incidents. The handling of persons with symptoms of severe mental illness and aggressive behaviours in one specific prison, is of particular concern. Here inmates have often been isolated, some for years, instead of being given adequate mental health care.

- The State should immediately take measures to ensure that all inmates receive adequate mental health care and are not subjected to isolation.

9. Women in prison

Several recent reports indicate that female inmates have less favourable conditions when serving their sentences as compared to males. Despite governmental efforts to improve prison conditions for women, concerns remain in terms of physical activities, vocational training and rehabilitation of substance abuse. Furthermore, women risk serving in prisons with a higher level of security than their cases indicate due to limited female prison capacity.

- Reinforce efforts to follow up recent findings and address the unequal conditions documented for women in Norwegian prisons.

10. Juveniles in police custody

(Rec. 131.146, 149, Canada, Austria)

The number of children in police custody has decreased in recent years and annual statistics on children in custody recently became available. There is still significant variation in the number of children detained and in the use of alternative measures between the different police regions. Children are still placed in police cells and detained for more than 24 hours without court hearing, contrary to the Criminal Procedure Act.

- Promote alternative measures to police detention when children are detained.

11. Use of isolation against juveniles in prison

(Rec. 131.149, Austria)

New legislation prohibits the use of isolation as a disciplinary measure against minors. The new legislation also states that isolation as a preventive measure must be limited to a maximum of seven days, however, this provision has not yet entered into force.

- Ensure that a legal provision which limits the preventive use of isolation of minors is put in place.

12. Trandum holding center – restrictive measures

(Rec. 131.139, Russia)

Reports on the Trandum holding centre for persons awaiting deportation indicate that there is a relatively high level of use of security cells. There are concerns that a large number of placements in security cells are due to detainees' mental health, self-harming and risk of suicide. Minors have also been placed in security cells. Hand cuffs in connection with transportation appears to be routine procedure.

- Implement further measures to prevent use of restrictive and coercive measures as well as increase focus on psychological support for detainees at Trandum.

13. Detention of children awaiting deportation

(Rec. 131.197, 200-201, Austria, Finland, Germany)

The government has enacted new legislation on detention of children in forced return processes which strengthen the rights of the child. Further, Parliament has asked the Government to study and propose further alternatives to detention of children in forced return processes. There is however no mechanism in place that would provide an overall assessment of the cumulative effects of all possible coercive measures in a forced return process, i.e. arrest, detention and deportation, in each individual case.

- Continue efforts to strengthen the rights of children in forced return processes.

14. Free legal aid

Current free legal aid practice in civil court cases is not sufficiently operationalized so as to ensure effective access to court. There is a governmental initiative to strengthen legal aid in civil cases.

- Strengthen free legal aid in civil court cases.

15. Violence against women – Police investigation of sexual violence

(Rec.131.30-31 and 133, 136, Poland, Honduras, Vietnam, Sri Lanka)

Official reports indicate challenges in the quality of police investigation of domestic violence and rape. Challenges include the use of police investigation methods, restraining orders in cases of rape and obtaining evidence in general.

- Strengthen investigative capacity on domestic and sexual violence.

16. Violence against children, Sami and elderly

(Rec.131.129-130, Algeria, Azerbaijan)

Various reports indicate existing weaknesses in the prevention, protection and redress to vulnerable groups such as children, Sami and elderly exposed to violence and sexual abuse, including domestic violence.

- Implement effective measures to ensure protection, prevention and redress to children, Sami and elderly exposed to violence and sexual abuse, including developing a specific action plan for Sami victims of such violence.

17. Hate speech and hate crimes

(Rec. 131.97, 102, 109, Pakistan, Israel, Turkey)

In 2016 the Government launched a strategy against hate speech (2016-2020) with the intention to implement a set of comprehensive measures, including statistics and reporting as well as strengthening the investigative capacity of the police. The Government has started implementing these measures, however there are still outstanding issues which require follow-up.

- Take further measures to combat hate speech and hate crimes, with a particular focus on strengthening police investigative capacity and to ensure comprehensive, reliable and standardized statistical data.

18. Privacy and surveillance measures

The right to privacy is increasingly challenged by new developments in the field of surveillance to prevent serious criminal offences and terrorism as well as to protect national security. New national legislation has introduced new police methods, allowing for monitoring of communication, house searches and data surveillance.

- Ensure that surveillance systems, as well as the use and development of such systems, do not unduly infringe on the right to privacy.

19. Freedom of speech and technological development

The significant technological development and the widespread use of internet and social media in recent years opens new challenges in the field of media and communication. Norwegian legislation in this field has not kept abreast of new technological development, which has resulted in legislative gaps. The editorial responsibility of media is one area of concern.

- Further strengthen media legislation, in particular editorial responsibility.

20. Human rights and business

(Rec. 131.186, South Africa)

In 2015, Norway issued its first National Action Plan (NAP) for implementing the UN Guiding Principles (UNGPs). One key goal of the NAP was to ensure that Norwegian companies would be given coherent guidance on the human rights responsibilities of companies, and therefore to establish a national center for such guidance. Such a guidance center has not been established, and there appears to be no plan to do so.

- Follow up commitment to ensure coherent guidance to Norwegian companies on their responsibilities to respect human rights according to the UNGPs.

Groups

21. Women – pay gap

(Rec. 131.152-157, Timor-Leste, Benin, Malaysia, Rwanda, Sri Lanka, Paraguay)

Statistics show that women's hourly pay on average is 88% that of men. Research indicates that one of the main reasons for this difference is a gender-segregated work market as well as the effect of family life on women.

- Implement further measures which encourage more equal participation of both parents in family life.

22. Children - LGBTI

New legislation has strengthened the rights of transgender children and studies show that negative attitudes are decreasing. However, young transgender people still experience discrimination, transphobia, suffer from poor mental health and the number of suicide attempts is high. There is a lack of knowledge in institutions such as schools and the public healthcare services

- Increase the knowledge concerning transgender children in schools and public health care services.

23. Disability - reduce use of coercion in mental health treatment

(Rec. 131.165-167 New Zealand, Switzerland, New Zealand)

Reports indicate that the use of coercion in mental health care remains high. Reports on practice (including on coercive medication, coercive ECT (electroconvulsive treatment), shielding of patients from other patients and the use of mechanical instruments such as belts) emphasize the need to strengthen both procedural safeguards for the patients and

increase focus on considering less intrusive measures before using force. The use of non-consensual ECT is of particular concern since it is not sufficiently regulated, and the extent of use is not known.

- Take steps to reduce the use of coercion in mental health care, to further strengthen legislation and refrain from any undue use of coercion.

24. Disability – intellectual impairment and coercion

(Rec. 131.165, 167 New Zealand)

The Health and Care Services Act allows for the use of coercion and force against persons with intellectual impairment to protect against serious harm to themselves or others. The rules apply only to persons with intellectual impairments. The use of coercion against these persons is high and has increased. These measures are often carried out by unskilled personnel and decisions on the use of coercion often seem to lack sufficient justification.

- Take measures to reduce the use of coercion against persons with intellectual impairment.

25. Minorities - Discrimination in housing and employment

(Rec. 131.84, 91, Canada, Austria)

Studies indicate that persons with immigrant backgrounds face multiple discrimination in various spheres of life, including housing and employment. The Government has taken various initiatives to combat prejudices and provide direct support to overcome these difficulties.

- Intensify efforts to ensure non-discrimination of persons with immigrant backgrounds, both in housing and employment sectors.

26. National minorities – language and culture

(Rec. 131.172, 178, Iran)

There are five officially recognized national minorities in Norway, other than Sami. These are Jews, Forest Finns, Kven, Roma and Romani/Tater. Consultations with national minorities indicate that there are challenges linked to maintaining cultures and languages. Studies also reveal that there is little knowledge of these groups among the general public.

- Intensify efforts to further support language and culture of national minorities.

27. Commissions of enquiry on National Minorities

The Norwegian Government and Parliament, respectively, have initiated the establishment of two commissions of enquiry to examine consequences of past assimilation policies. The first commission was set up to look into policies towards Tater/Romani, and recently one to examine past human rights abuses and their consequences towards Kven and Sami peoples.

- Ensure follow-up of recommendations from Tater/Romani commission and adequate support to the commission of enquiry on Kven and Sami peoples.

28. Indigenous / Sami rights

(Rec. 131.176, 177, 181, 182, 185, 188, 194, Timor Leste, Benin, Mexico, Cote d'Ivoire, Germany, China, Slovenia)

Sami is recognized as an indigenous people in Norway, including legislation which aims to secure their rights as indigenous people. However, a number of challenges still remain. These include the follow-up of the report from the Sami Rights Committee NOU 2007:13 to ensure full enjoyment of indigenous peoples' rights outside the Finnmark county and the recognition of Sami historical and cultural fishing rights in the coastal sea areas. Studies also show that Sami women and children are more exposed to domestic violence than the population at large.

- Take further steps to extend the scope and area of protection of the indigenous Sami peoples' rights.

29. Unaccompanied asylum-seeking children

(Rec. 131.197, 200, 201, Austria, Finland, Germany)

Reports indicate that there are significant differences in the accommodation and care given to unaccompanied asylum-seeking children under the age of 15 and those 16-18. Younger asylum seekers are under the care of the Child Welfare Services whereas the older children are the responsibility of the immigration authorities. The reception centres for those 16-18 years old, have a lower standard in terms of staffing levels, staff competence requirements and physical conditions as well as regulatory framework. Furthermore, a large number of unaccompanied asylum-seeking children have disappeared from the reception centres and their whereabouts are unknown.

- Provide unaccompanied asylum-seeking minors aged 15-17 a standard of care equivalent to that offered to other children under the responsibility of the Child Welfare Services. Ensure prevention of, and effective follow-up on disappearance-cases.

30. Citizenship for stateless children

Children born in Norway are not ensured Norwegian citizenship unless at least one parent has Norwegian citizenship. A report from the UNHCR concludes that there are gaps in the actual implementation of the international treaties relevant to the prevention and reduction of statelessness.

- Ensure that the Norwegian Act on Nationality provides stateless children with citizenship as required by Norway's international obligations.