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Human Rights Committee

Information received from Norway on follow-up to the concluding observations on its seventh periodic report*

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* The present document is being issued without formal editing.



The concluding observations of the Human Rights Committee – information on Norway’s implementation of certain recommendations

1. Reference is made to the Human Rights Committee’s concluding observations of 25 April 2018, following the examination of Norway in March 2018.

2. In those observations, Norway was requested in paragraph 39 to provide by 6 April 2020 information on the implementation of the recommendations made by the Committee in paragraphs 15 (violence against women and girls), 33 (asylum seekers and non-refoulement) and 37 (rights of indigenous peoples). Norway respectfully submits the following information to the Human Rights Committee. We apologize for the delay, which is due to the outbreak of COVID-19.

1. Violence against women and girls (the recommendations in paragraph 15)

“The State party should increase its efforts to prevent and combat all forms of violence against women and girls and, in particular

(a) Proceed with plans to launch a new national plan of action to eliminate violence against women and girls, with a focus on eliminating rape and other forms of sexual violence in the State party, including in the Sami community, in consultation with Sami peoples and other stakeholders;”

3. Combating violence against women and domestic violence is a priority for the Norwegian Government. In line with its policy platform, the Government will continue, intensify and improve the work against domestic violence. Despite many positive and significant achievements in policies and practices, violence against women in various forms remains widespread at all levels of society, in all countries in the world. Norway is no exception in this regard.

4. The Council of Europe Convention on preventing and combating violence against women and domestic violence (the Istanbul Convention) was ratified by Norway 5 July 2017 and entered into force 1 November the same year. The ratification of the Istanbul Convention is an important signal from the Norwegian Government that this work will be given high priority.

5. In March 2019, the Norwegian Government launched a national plan of action against rape for the period 2019–2022. One of the measures in this plan is to consider an overall review of the chapter in the Penal Code dealing with sexual offences.

6. In June 2019, the Norwegian Government decided to develop a sixth plan of action to combat domestic violence, including a specific part on violence and abuse in Sami communities. The plan will be launched in 2020 and is prepared in close cooperation with the Sami Parliament. It will meet the obligations of the Istanbul Convention and address issues under what is commonly known as the four P’s: Prevention, Protection, Prosecution and Integrated Policy.

7. In October 2018, the Government appointed a committee to review homicide cases where the perpetrator had been a current or former partner. The aim is to find out whether, to what extent, and in what ways the public services’ management of such cases have failed. The commission will make recommendations that may prevent and counter such cases from occurring in the future. The commission will submit its recommendations in 2020.

“(b) Amend section 291 of the Penal Code to ensure that the lack of free consent is at the centre of the definition of rape;”

8. The definition of sexual assault in the Norwegian Penal Code is intended to apply to sexual activity without consent. The purpose is to ensure that the sexual autonomy of the individual is respected. While the definition of rape does not include the wording ‘without consent’, the provision describes circumstances that imply a lack of consent, such as violence or threatening conduct or the victim being unconscious or for other reasons incapable of resisting the act.

9. In this way, the provision on rape already comprises almost all practical situations in which the sexual autonomy of others have been violated. In Norway's view, the current regulation is in accordance with our international obligations. Nonetheless, it could be the case that the need for a re-examination and possible revision of the legislation pertaining to sexual offences should be considered, in light of the general development of society and the law.

10. The issue of rape and consent has been considered by the Government several times. In 2013, a proposal to amend the definition of rape to expressly include lack of consent was sent for consultation. Several consultative bodies, such as the Director of Public Prosecutions, argued that there was no practical need for such a change. The Government decided not to propose such a change, as the proposal raised complicated questions that the Government wished to revisit at a later date. In March 2018, the Storting voted on a proposal from MPs asking the Government to propose an amendment of the legal definition of rape. This proposal did not pass.

11. As mentioned above, the Government's Action Plan against Rape (2019–2022) states that the Ministry of Justice and Public Security will consider whether to revise the chapter on sexual offences in the Norwegian Penal Code. In connection with such an overall review, it would be relevant to consider the wording of the penal provision on rape. However, an issue of vital importance is to ensure that the definition of rape is sufficiently clear and unambiguous.

“(c) Facilitate the reporting of rape and gender-based violence cases by, inter alia, systematically informing women and girls of their rights and of the existing legal avenues through which they can access resources, services, protection and justice;”

12. The Government's action plan against rape launched in March 2019 (mentioned above) contains specific measures for victim support and assistance for victims who need to report rape and other sexual violence to the police.

13. Norway strives for equal access to justice for both men and women. General schemes like free legal aid, witness support and the appointment by court of defence counsel and counsel for aggrieved persons, to assist and safeguard the rights of offenders or survivors in criminal cases, provide support for all and are of particular importance for vulnerable persons and those less resourceful.

14. In February 2016, the Government established a new web portal on rape and domestic violence for persons exposed to such violence and for the support services, including the police. The web portal's purpose is to provide easy access to information about rights and assistance. The Norwegian Centre for Violence and Traumatic Stress Studies is tasked with developing and running the portal (<https://dinutvei.no/>).

“(d) Strengthen its efforts to raise public awareness of the adverse impact of sexual and gender-based violence. Continue to train judges, prosecutors and law enforcement officials on addressing sexual and gender-based violence and strengthen the investigative capacity of law enforcement for such cases. Ensure all reports are promptly and thoroughly investigated, that perpetrators are brought to justice and that victims have access to full reparations;”

Awareness raising

15. Several campaigns have been launched to raise awareness of the adverse impact of sexual and gender-based violence. The campaign ‘*How Little Should One Tolerate?*’ aims to increase knowledge of domestic violence and of the assistance which the police can provide and to facilitate that persons subjected to such violence can seek help to escape from a violent situation. The campaign ‘*Good Guy*’ targets young people and is intended to prevent so-called ‘party related rape’. The campaign emphasizes young men's own ability to take responsibility for themselves and others. The campaign has been directed especially towards youth about to finish high school, students as well as participants at music festivals. The website is also available on the Norwegian police intranet.

16. The website ung.no (young.no) runs the campaign #notokay on sexual abuse, party related abuse, dating violence and online violence. It is targeted to young people. Ung.no is

funded by the Ministry of Children and Families. It delivers public information for youth between 13 and 25 years on a large range of issues. Ung.no receives on average 450.000 visitors and over 2000 questions each month.

Training measures for judges

17. The training of judges is based on an initial training module and continuous training by way of judge seminars. The initial training module includes several gatherings throughout the first year after the appointment of a judge. One of the gatherings (of 4 days' duration) during the initial training includes and emphasizes human rights training with special focus on the European Convention on Human Rights. The training has a practical approach with focus on how to deal with human rights issues in both civil and criminal cases.

18. Both the national legal training common for all judges, as well as *ad hoc* seminars, cover national law related to the Covenant. There is also a focus on gender equality, multicultural society, family law and children's rights. Training is set up in such a way that judges will complement the common training with training based on their own individual needs, including the subject of addressing sexual and gender based violence. Generally, it is expected that judges also take individual responsibility for their own capacity building and training needs.

19. Furthermore, the Norwegian Court Administration supports regional conferences with participants from prosecution, lawyers, childcare services, healthcare services and judges, where one of the topics is domestic and relationship violence.

Measures concerning the police and the prosecuting authority

20. Police efforts to combat domestic violence have been strengthened substantially in recent years. All police districts in Norway have specialist teams dedicated to combating crime in the areas of economic crime, human trafficking, violence in close relationships, and sexual abuse. Another important measure is domestic violence coordinators in all police districts. The domestic violence coordinators perform coordination tasks and must have an overview of their police district's overall efforts related to domestic violence.

21. The principal instruments for increased awareness and quality within the public prosecution authority are general directives from the Director General of Public Prosecutions, specific directives and feed-back in individual cases or groups of cases, general meetings and inspections – all summoned up to what is referred to as professional guidance by the higher prosecution authorities. These are also the instruments used to prevent and combat all forms of violence against women and girls. There is no positive discrimination within the criminal law administration based on sex, yet statistics show that more men than women are investigated and prosecuted for spousal abuse and sexual assaults.

22. All forms of violence in close relationships as well as grave sexual offences are among the offences that are given the highest priority by the Director General of Public Prosecutions in the Priority Directive. These categories of offences include violence, including sexual violence, against women and girls. This national directive from the Director General implies that such priority cases are to be investigated and brought to trial – if necessary – at the sacrifice of non-preferred cases. This has been a standing directive for several years, baselined with the National Police Directorate which provides for the allocation of resources within the police. In the prolongation of this priority setting, substantial parts of the Director General's initiatives, directives etc. are directed towards these types of cases.

23. The Director General and the National Police Directorate's joint plan for higher quality in the investigative work, launched in 2016, influences the investigative work in all cases. The planned actions have been carried out, but they require continuous follow-up. The plan is, inter alia, followed up through a revised and comprehensive directive issued by the Director General in November 2018, specifying the concept of quality in investigative work. Safeguarding the aggrieved person is pointed out as an important quality objective.

24. Legal amendments in 2015 of the rules on the interrogation of children (so-called adapted examinations) require that police prosecutors leading these examinations have completed specialized training provided by the National Police Academy, covering inter alia knowledge of children's cognitive growth and examination methods. The amendments have contributed to improve the important cooperation between police investigators and the

prosecutors within the police, thus increasing – in particular – the quality of the investigative work in cases concerning violence in close relationships and sexual abuse of children.

25. The first methodical national quality review ever examined cases on violence in close relationships and aggravated sexual assaults (of adults). The review covered several hundred cases. The results were presented in a national report which thereafter was presented to and discussed within the entire public prosecution authority. The quality review of cases on aggravated sexual assaults is being repeated in 2020.

26. An annual national seminar on violence in close relationships is held by the National Criminal Investigation Service in cooperation with the National Police Directorate and the Director General of Public Prosecutions. Both prosecutors within the police and at the superior level attend this seminar. The seminar has dealt with a variety of topics, such as honour-related violence and violence in closed communities (inter alia within religious groups and minorities) – both types of violence that traditionally primarily hit girls and women.

27. For several years the Director General's annual directive on priority-setting has given instructions on both the use of restraining orders and expedient and resolute follow-up of breaches of such and the use of bans on contact with electronic monitoring of the offender. In 2019, the Director General issued a specific directive on the use of bans on contact with electronic monitoring. As of today, we are experiencing a substantial increase in the number of claims before the courts for the latter.

28. The penalties for violence in close relationships and grave sexual offences, including all sexual offences against children, have been substantially sharpened over the last decades, as a result of interaction between the prosecuting authority, the legislative authority and the courts.

Victims' access to full reparation

29. A person who has suffered bodily injury or impairment of health as the result of a violent crime that infringes upon life, health or freedom, may be entitled to criminal injuries compensation under the Compensation for Victims of Violent Crime Act. The scheme encompasses compensation for expenses, loss of income, loss of future income, damages for pain and suffering for permanent medical invalidity, reparation for nonpecuniary damage and compensation for surviving relatives. As a main rule, the perpetrator is financially responsible for his or her actions against victims. When compensation is paid by the state under the Compensation for Victims of Violent Crime Act, the state may seek regress from the perpetrator. The compensation scheme is a subsidiary arrangement, which means that when the appropriate level of compensation is determined, deduction is made by payment from the perpetrator, insurance payment and other compensation received from other parties in connection with the incident.

30. The maximum amount of compensation is at the time being nearly NOK 6 000 000 (€ 578 000). In addition, the authorities have an opportunity to give a higher compensation in certain serious cases. Other maximum amounts for compensation apply to injuries sustained before 2011.

31. A government-appointed committee published a report on the criminal injuries compensation scheme in 2016. The committee undertook a broad review of the scheme, and proposed several changes. The Ministry of Justice and Public Security is currently assessing how to follow up the report.

“(e) Investigate further the root causes of higher levels of violence against women in the Sami community. Take effective measures to address these root causes, eliminate cultural and linguistic barriers and build trust between the Sami community and authorities.”

32. The Government is aware that Sami women are more exposed to violence than ethnic Norwegian women are. On this background, as mentioned above, the Government decided in June 2019 to develop a new action plan on domestic violence, including a specific section on violence and abuse in Sami communities. The action plan will be launched in 2020 and is prepared in close cooperation with the Sami Parliament.

33. In March 2017, the Norwegian Centre for Violence and Traumatic Stress Studies issued a report on domestic violence in Sami communities. The report was the result of a one year research project initiated by the Sami Parliament and the Norwegian Ministry of Justice and Public Security. The study indicates that Sami persons experience special challenges and barriers in the interaction with the police and support services. This will be of special concern in the upcoming action plan.

34. Research on violence and abuse in Sami communities will form part of a five-year research program (2019–2024) on domestic violence, funded by the Ministry of Justice and Public Security. The purpose of the research program is to produce knowledge in a wide range of specific topics, such as the underlying causes, extent and consequences of domestic violence, welfare services' work with domestic violence and these services' encounters with persons exposed to such violence, as well as NGO efforts in this field.

2. Asylum seekers and non-refoulement (the recommendations in paragraph 33)

“The State party should amend the Immigration Act to ensure greater protection of asylum seekers from refoulement and chain refoulement, in accordance with international standards. It should consider all asylum applications on the basis of their merits and ensure an in-country appeals system for rejected applications. It should respect the principle of non-refoulement by ensuring that asylum seekers are not extradited, deported or expelled to a country in which there are substantial grounds for believing that there is a real risk of irreparable harm, such as that set out in articles 6 and 7 of the Covenant.”

35. Norway respects the principle of non-refoulement and emphasizes the importance of quality in all parts of the asylum procedure to secure this principle.

36. The majority of asylum applications will be examined on their merits in Norway, and as a main rule the asylum seeker will have the right to stay in Norway during the appeal procedure. However, this does not apply to cases that fall under the Dublin Regulation,¹ which is an agreement between the EU countries, Iceland, Switzerland, Liechtenstein and Norway. The Dublin Regulation establishes criteria and mechanisms for determining the member state responsible for examining an application for international protection lodged in one of the member states by a third-country national or a stateless person.

37. An asylum application may also be refused examination on its merits if the applicant has travelled to Norway after having stayed in a safe third country, or has been granted asylum or another form of protection in another country. The central point is whether the asylum seeker is considered to be in real risk of treatment contrary to Article 7 of the Covenant and Article 3 of the European Convention on Human Rights in the third country or of being sent onward to such treatment. If this is the case, the application will be examined on its merits in Norway.

3. Rights of indigenous peoples (the recommendations in paragraph 37)

“The State party should:

(a) Step up its efforts to combat stereotypical and discriminatory attitudes and discriminatory practices towards Sami individuals and the Sami peoples;”

38. The Equality and Anti-Discrimination Act (in force from January 2018) prohibits discrimination on inter alia the ground of ethnicity. The act also has provisions on active equality efforts. Reference is made to paragraph 35 in Norway's seventh periodic report for more detailed information about the Act and the enforcement system.

¹ Regulation (EU) No 604/2013 of the European Parliament and of the Council of 26 June 2013 establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

39. In January 2020, amendments to the Equality and Anti-Discrimination Act chapter four on active equality efforts came into force. The new rules strengthen public authorities' duties to make efforts against discrimination in all their activities on the basis of ethnicity and other protected discrimination grounds. The new rules clarify that the requirement to work actively, targeted and systematically to promote equality and prevent discrimination includes an obligation to counter stereotyping. This implies an obligation to identify and combat negative stereotypes in public services and all other activities.

40. A requirement for public authorities to issue a statement on what they are doing to fulfil their activity duty was also introduced in 2020. The statement shall be provided in the annual report or in another document available to the general public.

41. The Government is committed to combating hate speech. The Government's strategy against hate speech applies from 2016 to 2020. The strategy aims to prevent hate speech on the grounds of gender, ethnicity and religion, disability and sexual orientation.

42. The Norwegian Government has supported the Stop hate speech online movement in Norway since 2014. The campaign aims at combating discrimination based on gender, disability, sexual orientation, ethnicity and religion. In September 2017, the Stop Hate speech campaign organized a debate on harassment of Sami.

43. In the period 2014–2017 the Norwegian Directorate for Children, Youth and Family Affairs initiated a larger Nordic research project on living conditions for the Sami with disabilities. The project was implemented and coordinated by the Nordic Welfare Centre and generated five reports, two from Norway, two from Sweden and one from Finland. The findings of the research project show that the Sami population experience challenges from providers of services. Lack of cultural understanding and information in Sami language was pointed out as the main problem area. It was also focused on the need for more knowledge about the UN Convention on the Rights of Persons with Disabilities and how the convention could be a tool to implement an indigenous perspective in the welfare/health care system. The project has established a meeting place for knowledge development and exchange of experience for researchers from Norway, Sweden and Finland.

44. In 2017, the Sami Parliament and the Gender Equality and Discrimination Ombud signed an agreement on cooperation that aims to support each other's efforts on equality and anti-discrimination. One of the areas for cooperation is efforts against hate speech and racism against the Sami.

45. The Sami Pathfinders is an initiative where Sami youth inform Norwegian youth on Sami culture and society, from their own viewpoint. The Government has funded a website which is part of the Sami Pathfinders initiative. The website was launched in 2019 and contains information on Sami culture and society, aimed at youth in Norway.

46. In December 2019, the Government's Action Plan against racism and discrimination on the basis of ethnicity and religion 2020–2023 was submitted. The action plan is comprehensive and contains measures in many different areas, including work life, the education sector, public debate and knowledge. One measure is to gain more knowledge on racism and discrimination directed towards the Sami. The Sami parliament has been consulted in the preparation of this plan, and there has been a broad and good cooperation with and involvement of civil society organizations.

“(b) Ensure meaningful consultation with the Sami peoples in practice and adopt a law for consultations with a view to obtaining their free, prior and informed consent, in consultation with them;”

47. Reference is made to Norway's sixth periodic report, paragraphs 263–272, and previous reports for information on current procedures for consultation between state authorities and Sámediggi.

48. The Government is currently following up the proposals of the Sami Rights Committee II concerning statutory regulation of the right to consultation in matters that may directly affect Sami interests. The committee has proposed a separate act dealing with case processing and consultation.

49. The Sami Rights Committee II delivered an official report on Sami's right in December 2007. Amongst other suggestions, they proposed a new act relating to

consultations between the authorities on all government levels and representatives for Sami interests. In September 2018, the Government presented the Storting with a bill on amendments to the Sami Act (Prop. 116 L (2017–2018)) concerning consultations. This was a follow-up on the report from the Sami Rights Committee. The bill aimed at further strengthening and clarifying the Sami people's right to consult in matters that may affect them directly. Sámediggi and the organization for Norwegian reindeer herders were consulted in this process.

50. When the Storting's Standing Committee on Local Government and Public Administration issued its committee report on the matter on 30 April 2019, a wide majority was in favour of the main aspects of the proposition, in principle. However, the majority found that there was a need for a further public consultation of the proposals of the bill, because the previous public consultation on the matter had been held in 2008 and 2009, around 10 years ago. Based on that, the plenary of the Storting on 9 May 2019 voted on the matter, and decided to return the bill to the Government for a renewed public consultation. The Government sent the draft bill on a public consultation, with a deadline 29 February 2020. The Government aims to present the Storting with a bill on the matter during 2020. If the Storting adopts the bill, the statutory rules will replace the current Procedures for consultations between state authorities and Sámediggi.

“(c) Address any outstanding concerns and facilitate the speedy adoption of the Nordic Sami Convention;”

51. Norway, Sweden and Finland have concluded negotiations over a Nordic Sami Convention. The leaders of the negotiation delegations from the three Nordic countries approved the wording of the negotiated convention in January 2017.

52. The text of the convention states that the convention shall be submitted to the three Sami parliaments, and the preamble presupposes that ratification is contingent on the endorsement of the Sami parliaments in the three states. Only once the Sami parliaments have given such endorsement can the three states sign and ratify the convention.

53. The Sami Parliamentary Council (which is a cooperative body for the assemblies in Norway, Sweden and Finland) has announced that they wish to make a few changes to the text of the convention.

54. The three state parties are considering this request both nationally and in Nordic meetings.

“(d) Enhance the legal framework on Sami land, fishing and reindeer rights, ensuring in particular that fishing rights are recognized by law;”

55. Access to land is essential for the reindeer husbandry to be able to continue with the nomadic mode of operation. This mode of operation forms the basis for ecologically sustainable pasture usage, and the Norwegian Government will therefore continue to prioritise efforts in this area. However, the Norwegian Government does not agree that there is a need to further enhance the legal framework on Sami reindeer rights.

56. The Reindeer Husbandry Act of 2007 ensures the Sami reindeer husbandry's right to land, and the use thereof. Further, the Planning and Building Act is the central legislation applying to administration of land in the reindeer pasture areas. The Planning and Building Act entails provisions ensuring that the reindeer husbandry is both safeguarded and promoted through regional and municipal planning. The municipality has an important role as responsible for plans according to the Planning and Building Act. If the county municipality is the competent authority for a plan pursuant to the Planning and Building Act, it must ensure that the provisions of the regulations (Regulations on Environmental Impact Assessment for Plans) are followed in relevant cases. The county council is responsible for the regional plans and the Ministry of Local Government and Modernisation for the state's land use plans. Both the Reindeer Husbandry Act and the Planning and Building Act is applied in accordance with international law. Further the Norwegian authorities consult the Sami in accordance with Article 6 of ILO Convention No. 169.

57. Concerning Sami fishing rights, reference is made to Norway's seventh report paragraphs 182–185. The Government considers the existing rules for regulations of, and the

participation in, fisheries, to be in accordance with international law regarding minorities and indigenous people.

“(e) Ensure effective and speedy follow-up to the proposals of the Sami Rights Committee of 2007 regarding land and resource rights in Sami areas outside of Finnmark;”

58. The Government continues to address the Sami Rights Committee’s proposal for rights surveying south of Finnmark.

“(f) Increase the recruitment and training of Sami language teachers and increase the availability of Sami language instruction for Sami children in kindergarten in all regions.”

59. A new framework plan for content and tasks in kindergarten was established in 2017. The Norwegian Directorate for Education and Training collaborates with the Sami Parliament on support for the implementation of the framework plan, including guidance and information material. The Sami Parliament was further strengthened with funds from the Ministry of Education and Research to be able to develop a project to increase the quality of Sami day care facilities.

60. Three higher education institutions currently offer education in Sami. The Sami University College/Sámi allaskuvla and the University of Tromsø – The Arctic University of Norway (UiT) provide education in Northern Sami, while Northern University provides education in Lule Sami and Southern Sami. According to the Sami analysis group’s report Sami figures tell II there has been an increase in the credits in Sami in recent years. Nevertheless, there are still relatively few Sami students. Data from the Norwegian Center for Research Data show that in the period 2016–2018 there were many students who took individual courses in Sami subjects, but few who completed a degree in Sami.
