

Norway

Norwegian National Human Rights Institution

Independence and effectiveness of the NHRIs

International accreditation status and SCA recommendations

The Norwegian NHRI was accredited with A status in March 2017. The SCA acknowledged that, in practice, the selection and appointment process is conducted in an open and transparent manner. However, it called for the formalisation of a clear, transparent and participatory selection and appointment process for an NHRI's decision-making body in relevant legislation, regulations or binding administrative guidelines, as appropriate. The SCA also welcomed the engagement of the NHRI with other human rights actors while, at the same time, encouraged the NHRI to continue to develop and formalise such working relationships.

Changes in the national regulatory framework applicable to the NHRI change since the last review by the SCA

The regulatory framework applicable to the Norwegian National Human Rights Institution (Norges institusjon for menneskerettigheter - NIM) is set out in the NIM Act of 22 May 2015, which has remained unchanged since NIMs establishment.

References

- NIM Act of 22 May 2015 (NIM-loven), see <https://lovdata.no/dokument/NL/lov/2015-05-22-33>.

Human rights defenders and civil society space

In February-March 2019, NIM conducted a survey on human rights defenders in Norway in cooperation with the Norwegian NGO Forum on Human Rights. The questions in the survey were based on the provisions of the UN Declaration on Human Rights Defenders and covered issues such as violence, threats, harassment, discrimination, freedom of

assembly and association, access to information, participation and the right to apply for and receive funding.

While the survey results indicate that there are generally good working conditions for human rights defenders in Norway, the following issues were identified:

- Human rights defenders are not always satisfied with participating in various consultation processes. They feel that the most meaningful consultations are with other NGOs and independent institutions, followed by state and local authorities, and finally the private sector.
- About half of the organisations are satisfied with their financial situation, while the other half considered their financial situation as unstable, deteriorating or critical.
- Some groups experience challenges related to threats and harassment, and some smaller interest organisations report experiencing violence. The respondents feel that most of these events take place on the internet and that private individuals are usually responsible.

NIM has published a report based on the results of our survey. The results indicate that human rights defenders in Norway are not subjected to the same types of pressures that human rights defenders experience in many other countries. Nevertheless, NIM believes that it is important to map the situation in Norway and identify possible challenges for Norwegian human rights defenders in their daily work.

We also hope that the report will raise awareness of these issues, particularly as a key challenge in conducting the survey was identifying actors that could be defined as "human rights defenders". There is a great diversity of people and organisations involved in human rights work in Norway, but little awareness or understanding of the international framework regarding human rights defenders. NIM has found that actors who obviously fall into this category often do not define themselves as human rights defenders in Norway.

References

- NIM Report on Human Rights Defenders in Norway (in Norwegian), see <https://www.nhri.no/2020/menneskerettighetsforsvarere-i-norge/>

Functioning of justice systems

In our Annual Reports from 2017 (p. 129) and 2018 (p. 30), NIM highlighted the issue of inadequate funding for the Norwegian courts and how this was leading to longer case processing times. In some cases, longer processing times may have amounted to violations of the right to a judicial decision within a reasonable time, which is recognised in both the Norwegian Constitution and the European Convention on Human Rights (ECHR).

In response to NIM's 2017 Annual Report, the Norwegian Parliament asked the Norwegian Government to ensure that the courts are organised and funded adequately so that cases can be decided in a timely manner as required by human rights law. In August 2017, a Courts Commission was appointed by royal decree to investigate the organisation and independence of the Norwegian courts.

In February 2018, the Courts Commission asked NIM for assistance in investigating the human rights framework applicable to the Norwegian courts. On 1 October 2018, NIM provided the Commission with a report entitled *The Human Rights Framework for the Independence of the Courts*, which discussed relevant legal requirements set out in the Constitution, the ECHR and the ICCPR, as well recommendations from international human rights bodies.

NIM emphasised the need for stability and predictability in the financing of the courts, recommending that funding should be based on objective and predictable criteria so as not to be affected by policy changes or discretionary decisions of other authorities. We also highlighted that the courts should have a sufficient number of judges and qualified support staff to enable them to work effectively. NIM's report does not assess whether the current organisation of the Norwegian judicial system is consistent with the human rights framework, as these are considerations for the Commission.

The Commission's interim report was released in October 2019 and the next report is due by September 2020. The interim report recommends, among other things, to expand the jurisdictions of the district courts and land courts, with the aim of promoting better utilisation of resources. A survey conducted by the Office of the Auditor General (Riksrevisjonen) in 2019 has again highlighted the issue of case processing times, noting that in some cases statutory deadlines are being violated.

References

- NIM Report on The Human Rights Framework for the Independence of the Courts (in Norwegian), see <https://www.nhri.no/2019/temarapport-2018-menneskerettslige-rammer-for-domstolenes-uavhengighet/>.
- NIM annual report 2017 (in Norwegian), p. 129, see <https://www.nhri.no/2018/arsmelding/>.
- NIM annual report 2018 (in Norwegian), p. 30, see <https://www.nhri.no/2019/nims-arlige-rapport-om-menneskerettighetene-til-stortinget-nims-arsmelding-2018/>

Media pluralism

NIM has not found evidence of laws, measures or practices in Norway that restrict a free and pluralist media environment. However, we have commented on some recent legislative and policy developments, with a view to further strengthening media pluralism in Norway.

For example, in 2018, the Norwegian Government released proposals for a new law on editorial independence and media liability for consultation. The main purpose of the legislation was to support the media's role in facilitating open and enlightened public discourse in accordance with Article 100 of the Norwegian Constitution.

NIM welcomed the new law on editorial independence and media liability, which was later adopted in 2019. During the hearing process, NIM made submissions recommending that the legislation should (a) allow for future developments in technology and digital media; (b) remove legal uncertainty, particularly in relation to the responsibility of online editors for user-generated content; (c) ensure protection of journalistic sources in accordance with the practice of the ECtHR and the Supreme Court of Norway; and (d) strive for a reasonable balance between freedom of expression and other considerations or rights. The Norwegian Government made several changes to the final law before it was adopted, incorporating suggestions made by NIM and others, such as our recommendation that the scope of the legislation not be construed too narrowly.

In December 2019, the Norwegian Government established a Freedom of Speech Commission to conduct a broad review on the position of freedom of expression in Norway today. NIM has also welcomed this announcement. A lot has changed in this area since the previous Freedom of Expression Commission delivered its investigation over 20 years ago, particularly in relation to new technologies and media platforms. The Commission's work will provide important insights on the complex balance between

freedom of expression, privacy and other human rights, and on the role of high-quality, independent journalism in facilitating open and enlightened public discourse.

References

- NIM Annual Report 2017 (in Norwegian), p. 36-40, see <https://www.nhri.no/2018/arsmelding/>.
- NIM Annual Report 2018 (in Norwegian), p. 52-58, see <https://www.nhri.no/2019/nims-arlige-rapport-om-menneskerettighetene-til-stortinget-nims-arsmelding-2018/>.
- NIM Annual Report 2019 (in Norwegian), p. 21, <https://www.nhri.no/2020/nims-arsmelding-til-stortinget-2019/>

In-focus section on COVID-19 measures

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law in the country

On 21 March 2020, the Norwegian Parliament unanimously adopted emergency legislation to assist in responding to the Coronavirus (COVID-19) pandemic. The Corona Act stipulates that the Government can, through the adoption of temporary regulations, supplement or derogate from over 60 laws as far as is necessary to safeguard the purpose of the Act. On 24 March 2020, the Parliament also amended their Rules of Procedure to ensure such regulations can be dealt with swiftly and effectively. Regulations can be repealed if parliamentary representatives, who together represent at least one third of the Parliament's members, state in writing that they do not support all or part of the regulations. The Corona Act also stipulates in Section 2 that any temporary regulations adopted must not contravene the Constitution, the Human Rights Act and Norway's obligations under international law.

NIM has emphasised the need for public authorities to publish information on the assessments they make as the basis of temporary regulations made pursuant to the Corona Act. While such regulations are now made publicly available for short hearings before they are adopted and sent to the Parliament, they are not always accompanied by detailed information on the assessments made in drafting the regulations. NIM believes this is an important part of building trust and confidence in the Government's response and ensuring that democratic principles remain in place during a time of crisis, without limiting the ability of the State to act swiftly in securing critical social functions.

NIM has made several hearing submissions regarding the temporary regulations made pursuant to the Corona Act. These regulations have covered issues such as measures to strengthen the efficiency of the judicial system, the enforcement of penalties in the criminal justice system, the child welfare response and the handling of residence permit cases during the COVID-19 pandemic.

We have also written letters to public authorities on issues such as the right to privacy and protection of personal data in connection with Norway's infection tracking app, visitation bans and social isolation in long-term care facilities, securing the rights of vulnerable groups and implementing adequate processes for public participation during the COVID-19 pandemic.

One of NIMs priorities during this crisis has been to raise public awareness of the human rights implications of the COVID-19 pandemic and to promote respectful and informed public debate. NIM has written several opinion pieces and has appeared in interviews regarding human rights and COVID-19. We have also launched a webinar series on our social media channels called "Human Rights in the Garden", which takes place outdoors with a four to five person panel, and addresses human rights issues during the COVID-19 pandemic.

Most important challenges due to COVID-19 for the NHRI's functioning

Like all workplaces, NIM has faced some challenges in adjusting to the new infection control measures introduced by public authorities, but these have not significantly impacted our ability to fulfil our functions. Throughout the COVID-19 pandemic, NIM has continued our regular monitoring, advising and reporting work to protect and promote human rights in Norway. In addition to this, we have been monitoring legislative and other measures adopted in Norway in response to the COVID-19 pandemic.

References

- NIMs website, Human Rights and the Fight Against COVID-19 (in Norwegian), see <https://www.nhri.no/menneskerettighetene-og-kampen-mot-COVID-19/>.
- NIMs website, Our Work During the COVID-19 Pandemic (in English), see <https://www.nhri.no/en/nims-work-during-the-coronavirus-COVID-19-pandemic/>

