

Norway

Norwegian National Human Rights Institution

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.

Impact of 2020 rule of law reporting

Follow-up by State authorities

The Norwegian NHRI (Norges institusjon for menneskerettigheter – NIM) is not aware of any particular initiatives on the part of the Government on the issues raised in the 2020 ENNHRI rule of law report.

Follow-up initiatives by the Institution

Rule of law is a priority for the NIM. The institution benefited from useful information contained in the 2020 ENNHRI Rule of law report, i.a. regarding issues of concern to different NHRIs, as well as common challenges. The institution has not, however, had any specific follow-up initiatives based on the report.

The main reason for not having taken any specific initiatives based on the report is that other priorities have taken most of NIM's time, including studies on the human rights implications of the measures taken to combat Covid-19.

Independence and effectiveness of the NHRI

Changes in the regulatory framework applicable to the Institution

There were no changes in the regulatory framework applicable to the Norwegian NHRI in 2020.

It should, however, be mentioned that when the NHRI was established, it was decided that the institution should be evaluated after four years of operation. The NIM has been in operation since 2016. This evaluation has now been carried out by an independent consultant and the report was handed over to the Presidency of Parliament on 18th December 2020. The report will be considered by the NIM and shall be considered by Parliament. It is, however, not yet known when this will take place.

The purpose of the evaluation has been to assess whether the NHRI, with its current organisation and use of resources, is carrying out its tasks in an appropriate and cost-effective manner, and in line with the main purpose of the establishment of the NHRI, which is to strengthen the implementation of human rights in Norway.

References

- Evaluering av NIM (nhri.no) (in Norwegian)

Enabling space

The conditions are good for the Norwegian NHRI to effectively carry out its work. Regarding follow-up to its recommendations, NIM has a constructive dialogue with the authorities also on issues where their opinions diverge.

Human rights are well integrated into the Norwegian legal system and Norwegian courts follow a general principle that domestic law should be interpreted in accordance with international law. The drafting and consultation procedures for new legislation also include a thorough consideration of human rights implications.

Developments relevant for the independent and effective fulfilment of the NHRIs' mandate

Apart from the general challenges due to Covid-19, there were no significant changes in 2020 in the environment in which the Norwegian NHRI operates.

The Norwegian NHRI submits its annual budget proposals to Parliament. The resources allocated to the Norwegian NHRI are sufficient to enable it to carry out its mandate in an efficient way. NIM has, however, proposed to Parliament to allocate increased resources to the NHRI in order to meet increased demands.

Human rights defenders and civil society space

The Norwegian NHRI has not found any evidence of laws, measures or practices that could negatively impact civic space or reduce human rights defenders' activities.

In 2019, the Norwegian NHRI conducted a survey on HRDs in Norway, in cooperation with the Norwegian NGO- Forum on Human Rights. NIM published a report based on the results of our survey. The results indicate that HRDs in Norway are not subjected to the same types of pressures than in many other countries. Nevertheless, it is important to map the situation in Norway and identify possible challenges for Norwegian HRDs in their daily work. Reference is made to the 2020 report for further information about the survey.

As concerns engagement with international mechanisms in support of HRDs, Norway has for several years had the responsibility for submitting draft resolutions on HRDs in the UN General Assembly as well as the Human Rights Council. The NHRI is consulted by the Norwegian MFA in the process of drafting these resolutions and is invited to submit comments and proposals.

Checks and balances

The Norwegian NHRI has not found any examples of laws, processes or practices impacting the system of checks and balances

The Norwegian NHRI does not have sufficient evidence to state whether the authorities do enough to foster a high level of trust. The general impression is, however, that there is a high level of trust in Norway.

Norway is a parliamentary democracy, with free and fair elections, robust institutions, a vibrant press and an active civil society. Norway has topped the UN's Human Development Index for over a decade and consistently ranks high in indicators of democracy, the rule of law and human rights. The Norwegian Constitution includes strong protections for civil and political rights and certain social and economic rights. The Constitution also provides a right to access public documents and requires the Norwegian State to facilitate 'open and enlightened public discourse'.

The drafting and consultation procedures for new legislation include a thorough consideration of human rights implications. The Norwegian NHRI is invited to submit comments and proposals to all relevant legislative initiatives. The drafting of such comments and proposals is a major part of its work.

NIM is in regular contacts with the authorities, in writing as well as through meetings, where we raise concerns and proposals. We also have frequent dialogue with Parliament on various human rights issues. In this connection mention should be made to proposals we have made to Parliament to consider inserting a derogation provision in the Constitution and to adopt a constitutional provision on independence of the prosecution authorities. Furthermore, the NHRI has proposed that a separate limitation provision be inserted in chapter E (on human Rights) of the Constitution. Such a provision should state that limitations of the constitution's rights have to be stipulated by law, respecting the core rights and be proportionate and necessary to safeguard public interests or other human rights. It should also specify which provisions cannot be subject of limitations (link to the letter to the Justice Committee of Parliament below).

According to the Act relating to the Norwegian National Human Rights Institution, the NHRI shall submit annual reports on its activities to Parliament. The report is first considered by the Justice Committee which makes proposals on how to follow up the report and its recommendations to the Parliament in plenary, which makes the final decisions.

NIM has not encountered obstacles to its work to support a strong system of checks and balances in Norway.

References

- <https://www.nhri.no/en/2019/norways-strong-human-rights-record/>
- <https://www.nhri.no/wp-content/uploads/2020/09/Brev-til-justiskomiteen-om-derogasjon.pdf> (In Norwegian)

Functioning of the justice system

The Norwegian NHRI has, on several occasions, made statements on the system of legal aid. In its submission to the UN Human Rights Committee in connection with the Committee's consideration of Norway's 7th periodic report, it stressed that legal aid in civil cases may, under certain circumstances, be a prerequisite for the right to access to court. NIM suggested that the Committee recommend that the "State party should put in place a statutory framework and administrative practice which ensures legal aid that guarantees the right of effective access to court".

The system of legal aid is currently under review by the Government. In this connection, the Norwegian NHRI has submitted comments (see references below) to make sure that human rights aspects related to legal aid are adequately addressed. At the same time, the institution questioned whether the needs of vulnerable groups are sufficiently addressed in the process. The NIM has also pointed out that legal aid should have a wider scope of application in certain disputes between former spouses, i.a. property disputes and disputes concerning child custody.

It should be added that the Norwegian NHRI does not have competence to hear individual cases concerning violations of human rights.

As mentioned in the 2020 ENNHRI rule of law report, the NIM expressed concerns over the inadequate funding of the Norwegian courts and how this has led to longer case processing times, that in some cases 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 the 2020 ENNHRI report, the NIM also noted that it had provided the Courts Commission (which was appointed by royal decree to investigate the organisation and independence of the Norwegian courts), 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 as recommendations from international human rights bodies. The NHRI 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. For more details, see the ENNHRI 2020 rule of law report.

References

- <https://www.nhri.no/2020/rettshjelpsutvalgets-utredning-nou-20205/> (In Norwegian)
- NIM brev (nhri.no) (In English)

Media pluralism and freedom of expression

The Norwegian NHRI has not found evidence of laws, measures or practices in Norway that restrict a free and pluralist media environment. However, the institution has in previous years

commented on some legislative and policy developments with a view to further strengthening media pluralism in Norway. More detailed information is included in the chapter on Norway of the 2020 ENNHRI Rule of law report.

Corruption

NIM monitoring has not detected any evidence of corruption in Norway.

Impact of measures taken in response to COVID-19 on the national rule of law environment

Most significant impacts of measures taken in response to the COVID-19 outbreak on the rule of law and human rights protection

The Norwegian NHRI has undertaken several activities during Covid-19 (link to NIM Covid-19 related work in references): for instance, NHRI's submission to the Parliamentary Committee on Special Issues Concerning the Corona Crisis, as well as written hearing submissions regarding temporary regulations made pursuant to the Corona Act. One of these submissions concerned measures to strengthen the efficiency of the judicial system and the other concerned the enforcement of penalties in the criminal justice system. The report to the Parliamentary Committee is also issued as a special thematic report (link in references). In this report NIM addresses how human rights have been safeguarded by the authorities' handling of Covid-19. NIM recently issued a report on vaccination and human rights, where it i.a. explain what measures a state can use to ensure that a desired vaccine programme is implemented, see link to the report below.

In the consultations concerning a proposal from the Government to insert a provision on curfew in the Infection Control Act., the Norwegian NHRI, in a letter of 29 January 2021, advised against such a provision. In NIM's view, it seems that a curfew enacted in connection with Covid-19 would not be a necessary measure, and thus not a lawful restriction on human rights. However, the Government has now withdrawn this proposal.

The Norwegian NHRI sent on 13 January 2021 a letter to the Minister of Education and the Minister of Children and Families on involvement of children in designing measures to combat Covid-19 , and on 26 January 2021 a letter to the Minister of Children and Families, emphasising the rights of the child during Covid-19. (links in references).

NIM has not done any particular study on long term impacts of the pandemic . This is, however, an interesting question that should be addressed.

The Norwegian NHRI had meetings with the Minister of Children and Families and the Minister of Health and Care Services where it addressed human rights implications of the combat against Covid-19. The institution also has a constructive dialogue with the Norwegian Institute of Public Health on these issues.

In Norway, the municipalities have an important role in combatting infectious disease. NIM has recently sent a letter to Oslo Municipality on their human rights obligations in combatting Covid-19 (link below), and is in the process of preparing a similar letter to all other municipalities in Norway.

References

- NIMs Work During Coronavirus (COVID-19) Pandemic - NIM (nhri.no)
- <https://www.nhri.no/2020/ivaretakelsen-av-menneskerettighetene-ved-handteringen-av-utbruddet-av-covid-19/> (The Covid-19 report. Norwegian)
- Vaksinasjon og menneskerettigheter - NIM (nhri.no) (Norwegian)
- NIM brev (nhri.no) (Norwegian)
- <https://www.nhri.no/wp-content/uploads/2021/01/Norges-institusjon-for-menneskerettigheter-Vedrorende-involvering-av-barn-og-unge-under-covid> (Letter to Minister of Education and Minister of Children and Families. Norwegian)
- NIM brev (nhri.no) To the Minister of Children and Families. In Norwegian.
- NIM brev (nhri.no) Letter to the municipality of Oslo. (Norwegian).

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

In Norway, the National Preventive Mechanism is part of the mandate of the Parliamentary Ombudsman.

The main challenges for the NHRI derive from the fact that meetings, seminars, etc. must be conducted online, and that the staff must work from home.

