

Questionnaire on the use of legislation, including criminal legislation, to regulate the activities and work of human rights defenders:

Input from Norway:

1.

- a) Please indicate if your country has a specific legal framework, laws or regulations that aim to facilitate or protect the activities and work of human right defenders. Please cite the names of such laws or regulations in full.**

In Norway, human rights are protected under the Constitution, the Human Rights Act and specific legislation in certain areas. To strengthen the status of human rights in Norwegian law, the Norwegian Parliament passed the Human Rights Act in 1999, thereby incorporating the ECHR, ICESR, ICCPR, CRC and CEDAW into Norwegian law. In the event of conflict with domestic law, the provisions of the conventions incorporated through the Human Rights Act prevail over other Norwegian legislation. There is no specific legal framework, laws or regulations aiming directly at the activities and work of human rights defenders in Norway.

Human rights defenders play a key role in the realisation of human rights in Norway and has laid much of the foundation for democracy and welfare in Norwegian society. NGOs promote diversity, disseminate knowledge, stimulate debate on policies and priorities, contribute proposals to public consultations, engage in voluntary work and promote social cohesion. In many cases matters have been placed on the agenda as a result of initiatives taken by human rights defenders.

The Government wishes to involve a broad cross-section of society in the efforts to promote human rights and support and facilitate voluntary engagement and the development of a vibrant civil society. The state's provision of public funding for NGOs without imposing guidelines for their activities is an important means of achieving this objective. The Government organises regular meetings with human rights organisations, and all draft legislation is subject to a broad consultation process that includes human rights organisations, which often provide valuable input and are able to influence government policy. NGOs are also involved in the process of reporting to the treaty bodies.

- b) Please indicate how these laws and regulations are in line with international human right standards, including but not limited to, the Declaration on Human Rights Defenders.**

N/A

- c) Please also indicate what legal or administrative safeguards are put in place to prevent baseless legal action against and/or prosecution of human rights defenders for undertaking their legitimate work?**

The paramount objective of a constitutional democratic state is to protect individuals against abuse of power and arbitrary treatment by public authorities. Several legal safeguards are in place to prevent

baseless legal action and prosecution of the citizens, including those working to promote and protect human rights in Norway.

Both the Government and the public administration, including the Police, are bound by Norway's human rights obligations in the exercise of their authority. The same applies to the Parliament and the judiciary. The judiciary is independent of the executive and the legislature, and can review whether legislation is compatible with Norway's human rights obligations and have the power to review administrative decisions. In addition, administrative decisions may be appealed to the public administration itself.

The ombudsmen institutions play a key role in monitoring whether Norwegian authorities fulfil their human rights obligations. The Parliamentary Ombudsman for Public Administration has authority to consider all matters relating to public administration, and may deal with complaints and take up matters on his own initiative. This can include allegations of baseless legal action. The Ombudsman's remit is to ensure that individual citizens are not unjustly treated by the public authorities, and to help ensure that the public authorities respect and protect human rights.

2.

a) Please describe the measures taken, if any, to ensure that your country's national security-related laws (including laws on public order, public safety, respect for morals and counter-terrorism laws) are not used to unduly restrict the scope of activities of human rights defenders.

Norwegian criminal law contains provisions concerning criminal liability for terrorism, financing of terrorism and encouraging terrorism, etc. National security should not be a pretext to abandon the commitment to the rule of law which characterizes democratic states, even in extreme situations. The principle of legality is a principle of constitutional law as well as a fundamental human right principle, which under Norwegian law implies that all criminal law provisions must be defined and applied in accordance with this principle.

Norway firmly believes that all countering of terrorism, including prevention, investigation and prosecution, must ensure full respect for human rights. The most important human rights instruments have been incorporated as part of the domestic body of law and prevail over other legislation. A practice of judicial review ensures that the investigation and prosecution of acts of terrorism are conducted in accordance with relevant human rights principles such as the principle of a fair hearing and the rule of law, and that the laws passed by the legislator complies with the relevant human rights standards.

In Norway, as in many other countries, there has been a wide ranging debate on the content of Norwegian legislation regarding counter-terrorism. The Norwegian authorities have therefore involved civil society and human rights defenders in discussions on new anti-terror legislation, with a view to achieving a balanced law that meets international demands for combating terrorism without weakening human rights.

Vital in order to ensure respect for human rights in the activities of the security and intelligence services is also the practice of shared responsibility among the state powers. Systems of checks and balances are

established between the branches of state as a precaution against abuse of power. The executive superior power exercises direct control, determines the budget, and sets general guidelines and priorities for the activities of the security and intelligence services. The legislative power provides for parliamentary oversight and control by passing laws that define and regulate the security and intelligence services as well as their special powers, and by granting the corresponding budgetary means. The judiciary power both monitors the use of special powers by the security and intelligence services wrong-doing by their employees. This comes in addition to the services internal control, stimulated and initiated by the functioning of the executive, legislative and judicial powers.

b) Please also indicate in particular how these national security-related laws respect the human right to freedom of expression and opinion.

To strengthen the status of human rights in Norwegian law, the Parliament passed the Human Rights Act in 1999, thereby incorporating the ECHR, ICESR, ICCPR, CRC and CEDAW into Norwegian law. In the event of conflict with domestic law, the provisions of the conventions incorporated through the Human Rights Act prevail over other Norwegian legislation.

The statute of 1999 has empowered Norwegian courts to preform judicial review of statutory provisions, and we have several examples of where the Supreme Court as the Court of the last national resort, has held a statutory provision not applicable as contrary to obligations stemming from the incorporated human rights conventions.

Norwegian law is based on a dualistic system whereby international conventions to which Norway accedes must be incorporated or transformed into Norwegian law in order to have direct effect. However, Norwegian law is basically presumed to be consistent with international law. Moreover, the Immigration Act, the General Civil Penal Code, the Enforcement Act and criminal and civil procedural legislation contain special provisions to the effect that legislation in these fields apply subject to the limitations that follow from international law.

3.

a) Please describe the measures taken, if any to ensure that provisions of the criminal code, or other national laws, are not ambiguous or too broad to allow their arbitrary use, thereby restricting the activities of human rights defenders.

Please see answer to 2 b)

It is crucial that the process for enacting law is transparent, accountable and democratic. In Norway, laws are created and amended by the Parliament. The judiciary is independent of the executive and the legislature. A practice of judicial review ensures that the investigation and prosecution by the police is conducted in accordance with relevant human rights principles such as the principle of a fair hearing and the rule of law, and that the laws passed by the legislator complies with the relevant human rights standards.

The Government also organises regular meetings with human rights organisations, and all draft legislation is subject to a broad consultation process that includes human rights organisations, which often provide valuable input and are able to influence government policy.

- b) Please indicate what legal or administrative safeguards are in place in order to ensure that human rights defenders are not discriminated against in administration of justice, be it through the handing down of disproportionate sentences, the unreasonable prolongation of criminal or other trials, or any other means.**

The Norwegian Anti-Discrimination Act prohibits direct and indirect discrimination based on ethnicity, national origin, family background, skin colour, language, religion and belief. The purpose of the Act is to promote equality, ensure equal opportunities and rights and prevent discrimination. The Act applies to all public fields, including the police and the judiciary. It includes discrimination against everyone working to promote and protect human rights in Norway. The Equality and Anti-Discrimination Ombud supervises and contributes to compliance with the Act.

The Equality and Anti-Discrimination Ombud promotes equality and combats discrimination regardless of gender, ethnicity, religion, functional ability, sexual orientation and age. The Ombud enforces the anti-discrimination provisions in Norwegian legislation, gives advice and is a promoter of equality and diversity. Any person who feels discriminated against may lodge a complaint with the Ombud, who will request information from both parties, undertake an objective assessment of the case and make a statement on whether or not there has been discrimination.

The Equality and Anti-Discrimination Tribunal processes appeals of the statements and decisions made by the Equality and Anti-Discrimination Ombud.

A Law Commission established to propose consolidated legislation against discrimination on all grounds currently protected under Norwegian law is currently examining the question of the ratification of Protocol No. 12 to the European Convention on Human Rights (ECHR) and the need for additional safeguards against discrimination in the Norwegian Constitution.

Free legal aid is also an important measure that can apply in order to ensure indiscriminate access to justice.

- 4. a) Please indicate if your country has specific laws or administrative rules governing the registration, functioning and funding of non-governmental organisations. Please cite the names of any such laws or regulations in full.**

- b) Please explain how these legal or administrative provisions comply with your country's international human rights obligations regarding the right to freedom of association.**

In general, the right to freedom of association is protected through the incorporation into the Norwegian legal order, according to the 1999 Human Rights Act, of the UN Conventions (ICCPR and ICESCR). This also applies to the rights enshrined in ECHR Article 11.

Any restrictions on this freedom must, according to Norwegian law, be lawful and fulfill the conditions of Articles 21 and 22 of the UNCCPR as well as Article 11 of ECHR. The lawfulness, including the conformity of measures with the conventions, can be scrutinised by the courts.

Associations are free to decide on their objectives, activities and board composition. There is no general obligation in Norwegian law to register associations. However, various requirements of registration may apply in order to be eligible for certain advantages or privileges, inter alia public funding.

There are certain restrictions according to the General Penal Code of 2005, related to private organizations of a military character (Article 128), and related to associations/organizations of a violent character with certain political aims, if the association/organization has taken steps to realize the aim by illegal means (Article 129).

According to Articles 119 and 120 of the General Penal Code of 2005, persons who during war, in time of war, occupation or international armed conflict in Norwegian territory, or in imminent danger thereof, assists the enemy or the occupying power against Norway or hurt the Norwegian ability to resist, are criminally liable. The same applies to persons who hurt the ability to resist of a state which Norway is allied to or fighting together with. These provisions might in the circumstances restrict the right to freedom of assembly or association.

5. a) Are there criminal or other legal or administrative sanctions for human rights defenders who undertake activities on an individual basis or while the association they are members of is unregistered?

b) If such a legal framework exists, does it restrict type of activities that human rights defenders can undertake? If yes, please provide further details.

Please see answer to nr 4.

6. Please indicate the measures taken, if any, to ensure that internal security and official secret-related laws are not used to deny freedom of information to human rights defenders and to prosecute them for their efforts to seek and disseminate information on the observance of human rights standards

7. a) Please indicate the measures taken, if any, to avoid the use of defamation slander and blasphemy laws to unduly restrict the right to freedom of opinion and expression of human rights defenders.

b) How is it ensured that such laws, as well as laws on printing, publication and censorship, comply with international human rights standards and do not target human rights defenders carrying out their legitimate work?

Please see answers above to nr 1 and nr 2 regarding the status of human rights in Norwegian law.

Freedom of expression is safeguarded in Article 100 of the Norwegian Constitution. In recent years in Norway, as in other countries, there has been political debate on the limits of freedom of expression and its relationship to blasphemy and insult to religious sensitivities. In 2009 it was decided that a provision

concerning prosecution for blasphemy will not be included in the new Penal Code. Though the provision has not been applied for several decades, it was viewed to indicate limits for freedom of expression that were not regarded as being in accordance with the role of freedom of expression in a democratic society. At the same time, the provisions relating to hateful expressions in the Penal Code were strengthened.

8.

Please indicate if any other type of legislation is used to regulate the activities of human rights defenders in your country and how the application of the legislation mentioned affects the activities of human rights defenders. Please cite the names of any such legislations in full.

N/A