



Equality and
Anti-Discrimination Ombud

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The Council of Europe Convention on preventing and combating violence against women and domestic violence

Input from the Norwegian Equality and Anti-Discrimination Ombud to GREVIO's monitoring procedure of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in Norway, 2020.

The Norwegian Equality and Anti-Discrimination ombud (the ombud) appreciates the opportunity offered by the European Council to provide input to GREVIO and the monitoring of the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence in Norway.

The ombud's mandate and role are stipulated under the Norwegian Anti-Discrimination Ombud Act. Our mandate includes the monitoring of Norway's fulfillment of its human rights obligations. The Ombud has an official role to ensure that Norway upholds its human rights obligations in line with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); Convention on Racial Discrimination (CERD); and Convention on Rights of Persons with Disabilities (CRPD). We report directly

to the UN on to what extent the Norwegian government upholds these three conventions.

The ombud also offers guidance, free of charge, to individuals, employers and organisations. Organisations and employers may also contact as for guidance on how to prevent harassment or discrimination.

Below follows the ombud's input to Grevio's monitoring procedure of the implementation of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence in Norway, 2020.

Chapter I – Purposes, definitions, equality and non-discrimination, general obligations

A. Revision of sexual offence legislation

There is an ongoing discussion about national sexual offence legislation in several countries, with a demand to ensure that the definition of rape is based on the absence of consent, in line with international standards. The ombud is of the opinion that rather than merely looking at the rape provisions, the government should consider whether there is a need for a revision of the whole chapter on sexual offenses in the Norwegian Penal Code.

Recommendation:

- I. Conduct a revision of the chapter on sexual offenses in the Norwegian Penal Code, in accordance with recommendation # 17 in the Government's action plan against rape 2019-2021.

B. Improve investigation of rape cases

A report from the Higher Prosecuting Authorities in 2020¹, shows several weaknesses in the handling of rape cases. Many cases remain unprocessed for over 4 weeks, making the investigation and gathering of physical evidence difficult.

There are also several challenges with regard to interrogation, such as low rate of follow-up interrogation of the offended, immediate

¹ Statsadvokatenes kvalitetsundersøkelse 2020: prioriterte voldtektssaker. Riksadvokatens skriftserie 1/2020.

interrogation of the accused when possible, and insufficient use of recording of interrogations when possible.

Recommendation:

- II. Implement measures to eliminate the investigative weaknesses as described in the Norwegian Higher Prosecuting Authorities quality-report into the investigation of rape cases.

C. Sami women and violence

The state has neglected the responsibility to protect and provide (equal) services for Sami women who have experienced violence and domestic violence.

Research shows significantly higher levels of violence and domestic violence against Sami women compared to women in the majority population.

Services do not *reach* them, and often do not *reach out* to them either. There are language barriers, a shortage of interpretation services, and a lack of cultural sensitivity and understanding from the public services in general. There is also a long-standing distrust (due to historical reasons) within Sami communities towards public authorities and -services.

The Ombud is concerned about the insufficient efforts and the shortage of measures to specifically provide women in Sami communities with the protection and services they need.

Recommendation:

- III. Take necessary steps to ensure that Sami women have equal access to services.
- IV. Implement measures to increase the Sami communities' trust in public services, steps taken to increase cultural knowledge and understanding in the population in general, and in public services in Sami areas in particular, and steps taken to reduce the language barrier.

D. Disabled women and violence

The ombud is concerned about the shortcomings in the services provided for disabled adults who are victims of violence and abuse. The Ombud has long been concerned about whether the investigation of cases of abuse and violence

against persons with intellectual impairments is satisfactory, and is also concerned that the criminal justice system does not have sufficient expertise in this field.² Official Norwegian Report NOU 2016:17 found that the police and the courts lack sufficient expertise in examining and dealing with people with intellectual impairments in the criminal justice process³.

According to the UN Committee on the rights of persons with disabilities, this weakens the due process protection of people with intellectual impairments throughout the legal system. In its concluding observations to Norway in 2017, the Committee on the Elimination of Discrimination against Women (CEDAW) recommended that the authorities '*evaluate the issue of investigations and prosecutions of cases involving sexual violence against women with cognitive and psychosocial disabilities*'.

A 2017 survey of municipal notification systems for uncovering violence and abuse showed that only a third of the municipalities included had notification and reporting systems in place specifically aimed at vulnerable adults. Only one in four municipalities had action plans against domestic violence specifically aimed at vulnerable adults. The Ombud is therefore pleased to note that the authorities have now developed a new model, called TryggEst, for the protection of persons who are less able to protect themselves. So far, however, the model is a pilot project with twelve municipalities/city districts participating.

In the Ombud's view, there is still a risk that many municipalities are failing to ensure that systematic efforts are being made to combat violence and abuse. In the Ombud's opinion, as long as it is not seen as compulsory to have guidelines in place for preventing and dealing with violence and abuse, there is a risk that such guidelines will not be prepared and implemented.⁴ The Ombud is also concerned that students and employees, for example in the health and care

² The Ombud has received two complaint cases (14/297 and 11/83) and several guidance cases concerning this issue. In June 2018, the Ombud sent another enquiry to a police district after two cases involving abuse of two persons with intellectual impairments were dropped.

³ NOU 2016:17 På lik linje p. 177

⁴ Pursuant to a new provision in the Health and Care Services Act Section 3-3a, the municipalities shall take steps to enable the health and care services to prevent, uncover and avert violence and sexual abuse. In the Ombud's view, this does not entail a concrete duty to have guidelines or other concrete measures in place.

services etc., are still not receiving sufficient and systematic training in the topic of violence and abuse.

Recommendation:

- V. Implement measures to strengthen the due process protection of and services provided for disabled victims of violence and abuse.
- VI. Implement measures to spread information about the support system so that it reaches particularly vulnerable persons.
- VII. Implement measures to ensure that all municipalities have the resources and tools necessary to prevent and uncover violence and abuse, that guidelines prepared by the authorities are used in practice and that the municipalities have good procedures in place for offering help.
- VIII. Implement measures to ensure that the municipalities provide systematic training to everyone who works in services for particularly vulnerable persons, for example people with intellectual or psychosocial impairments. Implement measures to ensure that crisis shelters are accessible to everybody, regardless of impairments.

E. Female prison inmates and violence

Four out of ten convicted women have been exposed to sexual violence as children, and six out of ten incarcerated women have experienced rape as adults⁵. There is variations with regard to the degree of contact between men and women in prisons where women and men do time in the same vicinity. In some prisons, women are placed in separate entities, and there is little or no contact between women and men. Other prisons arrange common activities and in one prison, men and women are placed in the same ward.

In cases of joined incarceration, men usually make up the majority of the prison population, which calls for vigilance and additional resources to ensure the safety of the female prisoners. In the cities of Stavanger, Bergen and Drammen, women have, on numerous occasions, stated that they do not feel safe together with male inmates. This can be due to prior experiences or because of the low number of guards present at these occasions. The prison management in Drammen confirms that harassment may occur in situations with few guards present or during hectic periods.

⁵ Amundsen: Kjønnforskjeller i psykisk helse i norske fengsler, Nordisk Tidsskrift for Helseforskning, nr. 2-2011

The state has an obligation to protect women against violence and assault. This obligation is compounded in situations where women are exposed to violence whilst being deprived of their liberty in state run prisons. The ombud is concerned however, that the Norwegian Correctional Service fails to uphold the responsibility to protect female prison inmates from violence and assault in Norwegian prisons.

Reccomendation:

- IX. The Norwegian Correctional Service need to organise the prisons in such a way as to protect women from harassment and violence, for instance by refraining from placing women and men in the same ward.
- X. National guidelines for the use of interpreters in prisons should be put in place, and the guidelines must encompass genderspecific needs.

F. LHBT+ prison inmates and violence

There is presently a lack of guidelines for how the Correctional Service should prevent and handle cases of harassment of particularly vulnerable groups of prison inmates. Instead, cases of harassment because of sexual orientation, gender identity and gender expression are dealt with separately as they occur.

This lack of an overall strategy, may lead to a more or less haphazard handling of such cases. For instance, an LGBT inmate who is exposed to harassment can be moved to another facility. It is important that the Correctional Service is cognisant of the fact that an LGBT prison inmate who is forced to move to another facility due to harassment on the basis of sexual orientation, gender identity or gender expression, may experience such a measure as illegitimate punishment.

- XI. Increased knowledge about LGBT-population in Norwegian prisons, and based on this knowledge, evaluate current situation for this group.
- XII. Increased knowledge about non-discrimination and equality with regard to LGBT within the Correctional Service.
- XIII. Guidelines for how to, in a systematic manner, prevent and counteract harassment of the LGBT prison population.

- XIV. In line with international recommendations, allow transgender inmates to be placed in facilities according to their gender identity.

G. Minorities and empowerment

To avoid stigmatisation of minority groups, measures with the intention of providing and securing protection and services for minoritized women who are victims of violence against women and domestic violence, must focus on empowerment of women as opposed to a focus on control mechanisms. This may lead to further stigmatisation of an already stigmatized group. There is currently a lack of an intersectional and antiracist perspective and approach.

Recommendation:

- XV. Implement measures that ensures an intersectional approach in policies.
- XVI. Implement measures that ensures the empowerment of and facilitate self-expression among minority women who are victims of violence against women and domestic violence, so that they can make effective use of available services.

Chapter III Prevention

H. Domestic violence and violence against women during the corona pandemic/national emergencies)

The corona virus and the shut down of society for longer periods of time have caused great harm to vulnerable groups. In Norway, as in other countries around the world, the pandemic has exposed weaknesses within existing structures and recourses as regards domestic violence and violence against women. Similarly, measures to handle successfully direct consequences of such a pandemic for said group of people have also proved to be insufficient, including the government's information strategies during the pandemic.

Recommendation:

- XVII. Authorities must communicate to the public on a regular basis, which services are available for the public, with special focus on services provided to people exposed to domestic violence, violence against women and perpetrators of domestic violence.

- XVIII. The government must ensure that important information reaches all groups in society, and information must be available in several languages.
- XIX. Ensure sufficient resources to the police in situations that call for an intensified outreach efforts to families that are vulnerable to domestic violence, and to handle an ostensible increase in reported cases of domestic violence and violence against women.

I. Digital violence

In June 2018, the Norwegian Ministry of Justice and Public Security suggested in a draft resolution, the need to put in place legislation that specifically targets non-consensual dissemination of images that may violate the right to privacy. In current legislation, several provisions apply to cases of non-consensual dissemination of images, such as videos and pictures. However, it was argued that a provision with an explicit wording directly linking it to this particular practice would make the provision more accessible to the public and that this in turn would have favourable preventative effects.

In our written statement to the draft, the Ombud argued along similar lines and pointed out that, in addition, such a provision would strengthen the victims' legal and human rights.

Along with the widespread use of information and communication technology (ICT), there has been an increase of non-consensual dissemination of sexually charged images. The police report that sexual images are used to force victims to perform sexual acts on themselves; a practice that amounts to sexual assault and even rape in the Norwegian Penal Code. Girls and young women seem to be particularly vulnerable. Notwithstanding the seriousness of the situation, the proposed provision has yet to come into force. The Ombud is concerned about the seemingly increase in digital violence in general, and non-consensual dissemination of sexual images in particular. In some cases, the dissemination is well organised and at times part of a larger picture of sexual harassment, doxing and stalking. Simultaneously, we have very little knowledge about the extent of the phenomenon, no systematic information about the perpetrators or the victims. Nor do we know how the police handle reported cases of non-consensual dissemination of sexual images.

Recommendation:

- XX. Implement efforts to increase public awareness and knowledge that non-consensual dissemination of sexually charged images is illegal.

- XXI. Gathering and systemizing information and experiences of police handling of cases of non-consensual dissemination of images
- XXII. Implement a national strategy to enhance the accountability of ICT intermediaries

J. Combatting negative gender stereotypes

The Ombud is concerned about how childhood and adolescence has become increasingly commercialized, gendered and sexualized, resulting in omnipresent negative gender stereotypes and a youth culture that is increasingly marked by the objectification and sexualization of and the impact these trends may have on the extent of sexual violence.

Reports from both civil society and research centers paint a similar picture. These reports show for instance a widespread use of pornography among children and young people, that girls have more negative experiences with being exposed to pornography, that almost half of all young people (13-18 years) have received nudes and been asked to send nudes. More girls than boys receive unwanted sexual images. Another report found that teenagers, through algorithms, are met with gendered marketing on social media, which appear stereotypical and follows traditional gender roles.

Furthermore, an Official Norwegian Report about challenges to equality among children and youth, found that gender stereotypes permeate all aspects of the lives of children and youth. Through digital media and communications technology, children and youth, are exposed to an endless and constant stream of sexualized images and dissemination of unobtainable body ideals through retouched images from algorithm-driven advertisement. They also found that more girls than boys feel pressured into sending nudes, while more boys than girls watch pornography.

Based on their findings, the authors point out that we need more knowledge about how pornography affects children and youth, and pornography's impact on gender, perceptions about the body and sexuality, sexual practices, boundaries and violence in a gender perspective.

Recommendation:

- XXIII. Promote comprehensive studies about the possible connections between sexualization and pornography and the persistence of sexual violence and gender-based violence.

Chapter IV – Protection and support

K. Fragmented approach in efforts to combat domestic violence and violence against women

The commonly held notion that Norway has achieved gender equality, has led to gender-neutral policies as the norm. Simultaneously, little attention is afforded the root causes of violence against women and domestic violence. This leads to a fragmented approach at all levels – policy making, prevention work, services and prosecution.

The Ombud is concerned about the lack of a holistic approach and coordination, and the division of areas of responsibility between various ministries at the government level, and how this reflects negatively into all levels of delivery – with femicide numbers not decreasing as the worst consequence.

A recently published official report from the Norwegian government on intimate partner homicide, shows that in all the cases the Intimate Partner Homicide Committee went through, there had been one or several incidents of domestic violence prior to the homicide. Also, in all cases, the police had failed to use accessible measures that could have helped prevent the homicide. The report offers 70 measures to improve the governments efforts to prevent intimate partner homicide and include all relevant public institutions.

Recommendation:

- XXIV. Include a strategy for the implementation of measures recommended in the official report on intimate partner homicide in the Government's upcoming action plan against domestic violence.
- XXV. An incorporation into said action plan, measures to combat root causes to violence against women and domestic violence, measures to combat root causes to gender-based violence, and measures to secure good, inter-ministerial organizing and coordination at the highest level of government.

L. National standards

The provision of protection and services to victims of violence against women and domestic violence varies depending on where you live in Norway. The individual municipality has autonomy in the distribution of funds. The national law and binding international conventions obligate the State to keep the population safe, and that the delegated responsibility to the individual municipalities in providing this, including the provision of a chain of services that cooperate and communicate to give the best prevention, protection and help possible, is ensured.

Despite this, there are few inspections, sanctions and no national standard. The Ombud is concerned about the lack of national standards binding each municipality to equal services, hence making it easier to cut costs and redistribute resources.

- XXVI. Consider an introduction of national standards and ear-marked funding from the central authorities.

M. Municipal plans of action

Less than half the municipalities have responded to the authorities' call to develop holistic plans for how to fulfil their duty to protect and provide services to victims of violence against women and domestic abuse. The municipalities that have developed plans, in many cases have not implemented them, nor given the plans a timeframe or evaluated them. Plans have also in many cases been developed without consulting the various service providers and fail to include a strategy for cooperation between the services and how to give information to the public.

Recommendation:

- XXVII. Provide information about concrete steps taken to ensure that the municipalities develop and implement holistic plans to prevent and stop violence against women and domestic violence including all aspects of prevention, protection, providing services and prosecution.

N. Police priorities

Despite directives and instructions from the highest levels and the proclaimed commitment by the police authorities themselves, prevention work and the actual cases involving violence against women and domestic violence are not

given priority by local police. Other forms of crime jump the queue and there are no effective time limits set to handle cases.

There are significant challenges in the Police regarding resources and their possibility to actually give priority to cases involving violence against women and domestic violence.

Also, the ambition to shift the burden from the victim to the abuser with regard to restrictions to the freedom of movement, is moving too slow. Systems are in place, legislation is in place, instructions are given from the highest level to use reverse attack alarm systems, but still only a handful of rulings have been implemented.

Recommendation:

- XXVIII. Provide information about concrete steps taken to secure police resources and focus so that work to prevent and protect women against violence and domestic violence will be given priority. Further, the state should be asked why there is no deadline on these cases.
- XXIX. Provide concrete information as to why attack alarm system on the abuser has yet to become a widely used measure of prevention.

Chapter V – Substantive law

O. Sexual harassment in the workplace

A low-threshold offer has now been established for persons who are subjected to sexual harassment by allowing the Anti-Discrimination Tribunal to handle cases from 1. January 2020, and to impose redress and compensation in matters relating to employment. The Tribunal is an alternative to the court system and is free of charge. Many employers are still unfamiliar with their obligations under the Equality Act's provision to prevent sexual harassment.

Recommendation:

- XXX. Enshrine in law an obligation for employers, employee representatives and safety delegates to undergo training in how to promote gender equality and prevent discrimination and harassment in the workplace.
- XXXI. Ensure that training becomes part of the health, environmental and safety work which is statutory in the Working Environment Act and associated regulations.

Yours sincerely,

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This document is approved electronically and is valid without signature.