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**Promotion et protection de tous les droits de l'homme,  
civils, politiques, économiques, sociaux et culturels,  
y compris le droit au développement**

## Visite en Norvège

### Rapport de la Rapporteuse spéciale sur les droits des personnes handicapées\*, \*\*

#### Résumé

La Rapporteuse spéciale sur les droits des personnes handicapées, Catalina Devandas-Aguilar, s'est rendue en Norvège du 2 au 11 octobre 2019. Dans son rapport, elle prend note avec satisfaction des cadres juridique et politique solides du pays et de l'engagement et des efforts visant à promouvoir et à protéger les droits des personnes handicapées à la lumière de la Convention relative aux droits des personnes handicapées, notamment en ce qui concerne la protection sociale, les soins de santé, l'éducation et la coopération internationale. Elle insiste sur la nécessité de mener à terme le processus d'harmonisation de la législation afin de garantir aux personnes handicapées le droit à la pleine capacité juridique et de modifier les dispositions autorisant la privation de liberté, le traitement obligatoire et l'emploi de la contrainte au motif du handicap. Elle recommande au Gouvernement de redoubler d'efforts pour offrir des réponses et des solutions inclusives aux personnes handicapées au niveau national, au niveau des comtés et au niveau municipal.

\* Le résumé du rapport est distribué dans toutes les langues officielles. Le corps du rapport, annexé au résumé, est distribué dans la langue de l'original seulement.

\*\* Il a été convenu que le présent rapport serait publié après la date normale de publication en raison de circonstances indépendantes de la volonté du soumetteur.



## Annex

### Report of the Special Rapporteur on the rights of persons with disabilities on her visit to Norway

#### I. Introduction

##### A. Programme of the visit

1. The Special Rapporteur on the rights of persons with disabilities visited Norway, at the invitation of the Government, from 2 to 11 October 2019. She met with the Ministers of Culture, Education, Foreign Affairs and Health and Care Services; the State Secretaries for the Elderly and Public Health, Justice and Public Security and Labour and Social Affairs; representatives of the Ministries of Local Government and Modernization and of Foreign Affairs, of the Norwegian Agency for Development Cooperation and of Statistics Norway; the County Governor of Tromsø and Finnmark, the Deputy County Governor of Oslo and Akershus, and other central, county and municipal authorities. She met the Chief Justice of the Supreme Court, parliamentarians, a member of the Sámi Parliament and Sámi Council, the Equality and Anti-Discrimination Ombud, the Director of the Equality and Anti-Discrimination Tribunal, the Parliamentary Ombud, representatives of the Norwegian National Human Rights Institution and of the Ombudsman for Children, the Health and Social Services Ombudsman for Oslo, and a wide range of organizations of persons with disabilities and other civil society groups.

2. The Special Rapporteur travelled to Tromsø, Karasjok and to the municipalities of Asker and Bærum near Oslo. She visited the regional section for mental health, intellectual disabilities and autism of Dikemark Psychiatric Hospital in Asker, the Åsgård Psychiatric Hospital in Tromsø, the basalt exposure therapy department of Vestre Viken Hospital Trust in Blakstad, the residential facilities for persons with intellectual disabilities Emma Hjorth in Sandvika and Borgenbråten in Borgen, the Haug special school and resource centre in Bekkestua, the Manglerud school in Oslo and the sheltered workshop Fossheim in Oslo.

3. The Special Rapporteur thanks the Government of Norway for the transparency, openness and excellent cooperation extended to her prior to and during the visit. She particularly thanks all the persons with disabilities who shared their situations, concerns and desire for change, including children and youth with disabilities.

##### B. Context

4. Norway is a constitutional monarchy with a parliamentary democracy and the legislative powers are vested in a unicameral parliament, the Storting. It is a founding member of the North Atlantic Treaty Organization and a member of many multilateral organizations, including the United Nations, the Arctic Council and the Organization for Security and Cooperation in Europe.

5. Norway ranked first out of 189 countries and territories in the 2017 human development index, classifying it in the very high human development category. The gross domestic product in Norway was worth \$434.167 billion in 2018, while the value per capita stood at \$81,697.<sup>1</sup> Norway also ranks first in the World Economic Forum Inclusive Development Index. That made it the best performing advanced economy in 2018.<sup>2</sup> The poverty rate is low, calculated by the Organization for Economic Cooperation and

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<sup>1</sup> See <https://data.worldbank.org/country/norway> and <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD>.

<sup>2</sup> See Inclusive Development Index 2018, summary and data highlights, p. 3.

Development (OECD) at around 8.4 per cent in 2017.<sup>3</sup> According to Statistics Norway, in April 2019 6 per cent of the population belonged to a household with difficulty or great difficulty in making ends meet.<sup>4</sup>

6. On 1 January 2019, Norway had 5,328,212 inhabitants, of whom 50.4 per cent were male and 49.6 per cent were female, with 23.5 per cent aged below 19.<sup>5</sup> According to the 2018 labour force survey, an estimated 17 per cent of the population aged between 16 and 66 had a disability. Depending on how persons with disabilities are defined, they represent between 15 and 18 per cent of the population. The proportion of women with disabilities is higher than that of men.<sup>6</sup> According to information provided by the Sámi language service of the National Service for Special Needs Education (Statped), there are between 6,800 and 12,750 Sámi with disabilities in Norway.

## II. Situational analysis and achievements

### A. Legal framework

7. Norway ratified the Convention on the Rights of Persons with Disabilities in 2013 but not its Optional Protocol. The Government made interpretative declarations on articles 12, 14 and 25 of the Convention. The State is party to every other United Nations international human rights treaty, with the exception of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, and to most but not all of the Optional Protocols to such treaties. It has yet to ratify the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled administered by the World Intellectual Property Organization.

8. Norway regularly submits its reports to the treaty bodies on time. In 2015, it submitted its first report to the Committee on the Rights of Persons with Disabilities (CRPD/C/NOR/1), which was considered in May 2019. The Human Rights Committee, the Committee on the Rights of the Child and the Committee against Torture reviewed the country situation in 2018 and made specific recommendations concerning the rights of persons with disabilities (see CCPR/C/NOR/CO/7, CRC/C/NOR/CO/5-6 and CAT/C/NOR/CO/8). The human rights situation in Norway was also examined during the universal periodic review in 2019, including with regard to disability issues. The country has issued a standing invitation to the special procedures of the Human Rights Council and regularly hosts their visits.

9. At the domestic level, there is a strong legal framework to protect the rights of persons with disabilities. In section E of the Constitution discrimination is prohibited and fundamental human rights are guaranteed. The Equality and Anti-Discrimination Act specifically mentions disability as a ground of discrimination; recognizes the right to individual accommodation in respect of education, municipal services and employment; and states that the denial of reasonable accommodation amounts to discrimination. Additionally, it includes the duty for public authorities and employers to make active efforts to prevent discrimination. Under the Act, the roles of the Equality and Anti-Discrimination Ombud and the Anti-Discrimination Tribunal were streamlined. The Ombud continues to promote equality and combat discrimination on the basis of disability and other grounds. The individual complaint mechanism for cases of harassment or discrimination was transferred to the Tribunal, which now has the authority to award redress in employment discrimination cases and grant compensation for economic loss in specific contexts.

<sup>3</sup> See OECD, poverty rate for Norway, available from <https://data.oecd.org/inequality/poverty-rate.htm>.

<sup>4</sup> See Statistics Norway, poverty-related problems, survey on living conditions, April 2019, available from [www.ssb.no/en/sosiale-forhold-og-kriminalitet/statistikker/fattigdom](http://www.ssb.no/en/sosiale-forhold-og-kriminalitet/statistikker/fattigdom).

<sup>5</sup> See Statistics Norway, population, available from [www.ssb.no/en/befolkning/statistikker/folkemengde/aar-per-1-januar](http://www.ssb.no/en/befolkning/statistikker/folkemengde/aar-per-1-januar).

<sup>6</sup> See Directorate for Children, Youth and Family Affairs, statistics on disabilities, available from [www.bufdir.no/en/English\\_start\\_page/Disabilities\\_in\\_Norway/Statistics\\_on\\_disabilities\\_in\\_Norway/](http://www.bufdir.no/en/English_start_page/Disabilities_in_Norway/Statistics_on_disabilities_in_Norway/).

10. Norway does not have a specific law on the rights of persons with disabilities. Several laws contain provisions for persons with disabilities, such as the Education Act, the Child Welfare Act, the Election Act, the Planning and Building Act, the Dispute Act, the General Civil Penal Code and all legislation regarding legal capacity. However, some of them contain provisions that are neither comprehensive nor fully compliant with the Convention on the Rights of Persons with Disabilities, as explained in section C below.

## **B. Institutional and policy frameworks**

11. Since May 2019, the Ministry of Culture has been the Government focal point for matters relating to the implementation of the Convention, as provided for in article 33 (1), with coordination responsibility for disability policy and universal design. A coordination mechanism within the Government has yet to be established to enhance the interpretation and implementation of disability-related efforts across ministries and between central, county and municipal authorities.

12. The Equality and Anti-Discrimination Ombud is the designated independent mechanism to monitor the implementation of the Convention, as required in article 33 (2). The Ombud has its own users' committee for collaboration and exchange of experience with organizations of persons with disabilities, in line with article 33 (3). Furthermore, other independent monitoring mechanisms, such as the Norwegian National Human Rights Institution, the Parliamentary Ombudsman and the Ombudsman for Children contribute to monitoring the impact of State action on persons with disabilities within their respective mandates.

13. The Special Rapporteur welcomes the adoption, in December 2018, of the government strategy for the period 2020–2030 entitled “A society for all” for the inclusion of persons with disabilities, co-signed by nine ministers. The strategy rests on four pillars: (a) universal solutions and specific measures to reduce barriers; (b) enhanced participation and the inclusion of persons with disabilities; (c) better coordination between municipal, county and State services; and (d) a special focus on education, employment, health, culture and leisure. The Special Rapporteur was informed that an action plan for the period 2020–2025 to implement the strategy would be finalized by the end of 2019, but was not given concrete information about its content.

14. In addition, there are various disability-specific policies and plans, such as the action plan for universal design 2015–2019, the escalation plan for habilitation and rehabilitation 2017–2019 and several ongoing initiatives, white papers and reports to the parliament, including an equality reform to support children and families with complex needs. Many mainstream policies are inclusive of persons with disabilities, including the national inclusion initiative 2018–2021 on employment, the national strategy for housing and support services 2014–2020, the strategy against hate speech 2016–2020, the sexual health strategy 2017–2022, the competence strategy for kindergartens 2018–2022 and the strategy for an age-friendly society.

15. The Special Rapporteur welcomes the commitment to support the implementation of the 2030 Agenda on Sustainable Development both domestically and internationally. She stresses that efforts to implement the Sustainable Development Goals in national development policies and plans should always consider the rights of persons with disabilities in a cross-cutting manner, in order to leave no one behind and be in line with the Convention.

## **C. Legal and policy issues to be addressed**

16. The Convention on the Rights of Persons with Disabilities has yet to be incorporated into domestic law. This means that, unlike other international human rights treaties such as the Convention on the Rights of the Child, the provisions of the Convention do not take precedence in case of conflict with other legislative provisions. This lack of incorporation weakens the weight given to the Convention in areas of law where it conflicts with Norwegian law, as illustrated below.

17. While recognizing the country's strong, comprehensive legal framework and past efforts to bring domestic law into line with the Convention in accordance with its article 4, it has yet to complete the process of legal harmonization. That process requires, for example, that existing laws, regulations and practices that may discriminate against persons with disabilities are amended or abolished. The Special Rapporteur notes instances where laws contain provisions that are not compliant with the Convention. For example, legal provisions that are framed under the medical model of disability and establish restrictions to the full enjoyment of legal capacity of persons with disabilities, including those with intellectual and psychosocial disabilities, diverge from article 12 of the Convention, which recognizes the full legal capacity of persons with disabilities. Examples include provisions in the Dispute Act (for example, sections 2 and 24), the Penal Code (section 44), the Guardianship Act (sections 4, 22 and 33), the Patients' and Users' Rights Act (chapter 4), the Mental Health Care Act (sections 3 and 4). These laws also use pejorative language when referring to disability or persons with disabilities, such as "seriously mentally ill and mentally handicapped witnesses" (for example, the Dispute Act, section 24-11), "severely mentally disabled" and "insanity" (the Penal Code, sections 20 and 44 and the Inheritance Act, sections 52 and 62).

18. The Special Rapporteur is equally concerned about legal provisions that allow for the deprivation of liberty, compulsory treatment and/or the use of coercion on the basis of disability, contrary to articles 14 and 17 of the Convention. Examples include the Penal Code, the Mental Health Care Act, the Health and Care Service Act and the Patients' and Users' Rights Act, which are further discussed in section III below.

19. The Special Rapporteur is alarmed by the provisions of the Termination of Pregnancy Act stating that women with "serious mental illness" or intellectual disabilities can be subjected to abortion without their free and informed consent. Furthermore, the Sterilization Act allows the next of kin or guardian of a person with severe intellectual or psychosocial disabilities to apply for a sterilization procedure in cases where the person is "despite support, unable to understand the nature and consequences of sterilization". The Sterilization Tribunal then decides "whether sterilization is the best way to prevent a future pregnancy because the person concerned is incapable of looking after the child".

20. At the policy level, not all public policies, including disability-specific ones, include a human rights-based approach to disability. For instance, the definition of disability in the strategy "A society for all" is not framed from a human rights perspective, but rather a medical one. Discussions on persons with disabilities are often framed in terms of care and social assistance, and the notion of substantive equality introduced by the Convention is not well known. In order to ensure a systemic transformation of society, the human rights-based approach to disability needs to be strengthened, including by providing guidance and support to counties and municipalities to strengthen capacities and skills to implement policies that are inclusive of the rights of persons with disabilities.

### **III. Challenges and opportunities identified in Norway**

#### **A. Data collection**

21. At the request of the Norwegian Directorate for Children, Youth and Family Affairs, Statistics Norway prepares annually a set of approximately 70 indicators on living conditions for persons with disabilities. The indicators cover various aspects of life, such as family, health, participation, housing, education, employment and economic status, for persons with disabilities aged between 20 and 66 living in private homes. However, there is no official data available on children and youth with disabilities below 20 years of age, or on persons with disabilities aged over 67. Furthermore, as domestic legislation sets strict limits on the collection and distribution of personal data, there are challenges in the use of existing sociodemographic data and its disaggregation by disability. These limitations makes it difficult to inform, design and monitor adequate rights-based policies and responses for the diversity of persons with disabilities.

22. To address these challenges, in 2015 the Directorate launched an online tool to systematize available administrative data on persons with disabilities and give a better overview of their situation to governmental bodies and local administrations. Statistics Norway and the Directorate are also developing new statistics on persons with disabilities, to be published annually from 2020 onwards, using an innovative methodology which combines sociodemographic data with administrative information collected from different official registries on health expenditure, services and benefits received, disaggregated by type of impairment. The Special Rapporteur looks forward to learning more about this methodology, which could help other countries to gather more accurate data on the situation and living conditions of persons with disabilities.

## **B. Inequalities in access to rights and services**

23. The Special Rapporteur noted significant disparities in access to social protection, user-controlled personal assistance, employment and education, depending on where a person with disabilities lived. As the availability and quality of services varies considerably from one municipality to another, persons with disabilities often have no other option than to leave their communities to gain better access to their rights elsewhere, sometimes very far away from their families and environment. There is an urgent need to enhance and guarantee effective and coordinated implementation of the rights of persons with disabilities in all counties and municipalities across Norway.

24. In that regard, the Special Rapporteur welcomes the Local Government Act of 2018, which requires municipalities and county authorities to establish councils for persons with disabilities as advisory bodies that could help identify the gaps and challenges in protection that persons with disabilities may face. However, she heard from members of such councils and other interlocutors that the councils are not yet operating properly and the authorities often neither take their recommendations into account nor allocate the necessary funding to enable them to function effectively.

25. The situation of indigenous Sámi with disabilities is particularly worrying, as they do not have access to the same services and opportunities in their own languages or within their own culture. Sámi with disabilities often have to choose between gaining access to the necessary health and other services they need by moving elsewhere, or maintaining their languages and culture but without access to such services. In practice, many feel they have no other option than moving to areas where few or no other Sámi live, where access to Sámi languages in schools and contact with Sámi social circles and family are very limited, in order to have better prospects of life. Sámi with disabilities, especially women and those with intellectual disabilities, are also particularly vulnerable to bullying, hate speech, violence and abuse.<sup>7</sup>

## **C. Accessibility**

### **1. Accessibility to the physical environment**

26. The State places accessibility and universal design high on its agenda as a means of eliminating existing obstacles and barriers in the physical environment. Policy in this area is governed primarily by the Equality and Anti-Discrimination Act, the Planning and Building Act and related technical regulations. The latter require that all new public and private buildings open to the public, including workplaces, have universal design. This requirement also applies to existing buildings that undergo renovation. Since 2003, the Government has adopted three consecutive action plans for universal design and increased accessibility, and a new plan of action for the period 2020–2025 was being finalized at the time of the visit. As the planning authorities and service providers, municipalities are the main agents for implementing universal design, while county governors monitor their actions.

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<sup>7</sup> See [www.samedigge.no/Politihkka2/Saker-og-dokumenter](http://www.samedigge.no/Politihkka2/Saker-og-dokumenter) (in Norwegian).

27. The Special Rapporteur welcomes the commitment of the Directorate of Public Construction and Properties (Statsbygg) to make all governmental buildings accessible by 2025 and the support provided to municipalities to make schools accessible. However, she is concerned that efforts in this area are advancing slowly, there are few municipal plans to make existing buildings accessible and municipalities increasingly grant exceptions to this requirement. Furthermore, the action plan for the period 2015–2019 no longer made reference to the goal of having a universally designed Norway by 2025 and lacked concrete and targeted measures across sectors with earmarked funds.

28. According to official information received during the visit, a mapping of 784 primary schools conducted in 2013 revealed that 78 per cent of them had significant physical barriers, while another mapping conducted in 2017 indicated that 75 per cent of entrances to public buildings were not accessible to electric wheelchair users and that only 28 out of 336 railway stations were universally designed in 2017. The Special Rapporteur had direct experience of barriers to the physical environment during her stay in Norway and received many complaints about the daily challenges persons with disabilities face to navigate the built environment and access transportation, workplaces, schools, hospitals and private facilities open to the public, including places of recreation.

29. The Special Rapporteur urges the Government to accelerate and complete the process of transformation of the physical environment as soon as possible, address the current accessibility shortcomings in the new action plan for the period 2020–2025 and adopt regulations setting deadlines for making existing buildings and transport accessible to all persons with disabilities.

## 2. Access to information and communication

30. The Equality and Anti-Discrimination Act contains provisions on universal design for information and communications technologies (ICTs). The technical regulations are limited to online solutions for enterprises providing services to the general public and the education sector, whereby existing ICTs must meet the requirements from 2021 onwards, with exceptions for captioning and audio-description. Norway also aims to implement the European Web Accessibility Act, which extends the requirements of universal design to ICTs in the public sector. However, according to information provided by the Ministry of Culture, only 30 per cent of governmental bodies that have adopted an ICT strategy have included universal design as a requirement.

31. In recent years, the Government has invested heavily in the digitalization of public services and the development of digital tools, inter alia to rationalize resources. Owing to this rapid process, persons with disabilities, especially the blind and older persons with disabilities, increasingly face barriers to accessing public services. For instance, persons with visual impairments cannot access touch screens that are increasingly installed in places such as hospitals, banks or train stations, because they lack spoken instructions. Many websites in Norway are not accessible even with screen-readers and are very complex to navigate for persons with intellectual and other disabilities.

32. The Special Rapporteur welcomes the revision, in June 2019, of section 2-19 of the Broadcasting Act, which expands the obligation of the Norwegian Broadcasting Corporation to make its programmes on national television channels available through closed captioning, to include sign language interpretation, audio-description and other means. The Act stipulates the same obligation for nationwide commercial television channels with an audience of 5 per cent or more of total viewers. The Special Rapporteur was informed that the related technical regulations would come into force in January 2020.

33. With regard to sign languages, in 2016 there were an estimated 600–700 professional Norwegian Sign Language interpreters for the deaf, hard-of-hearing and deafblind, with an average of 40–50 new interpreters graduating each year. In general, interpreting assignments are paid for by the Norwegian Labour and Welfare Organization and provided either by employees of the organization or by freelance interpreters.<sup>8</sup>

<sup>8</sup> See the reply of Norway to the questionnaire of the Special Rapporteur on the rights of persons with disabilities on the provision of support to persons with disabilities, 25 October 2016, p. 2.

However, Norwegian Sign Language is not yet formally recognized as an official language. The Special Rapporteur is concerned that the provision of sign language interpretation, relay services and captioning by the Labour and Welfare Organization remains limited. For instance, she was informed of the case of a candidate with disabilities who was running for re-election but who was not able to take an adequate part in election campaigns and attend political gatherings owing to the failure of the organization to provide sign language interpreters, and was not re-elected by a handful of votes. The Special Rapporteur recalls the responsibility of the Government to abide by its obligations stemming from articles 21 (b) and 24 (b) of the Convention, including by facilitating the use of the sign language of choice of deaf persons in official interactions and promoting the linguistic identity of the deaf community.

34. The Special Rapporteur welcomes the widespread use of alternative and augmentative technology for persons with disabilities in schools, but received little information about the development of plain language or easy-to-read materials for persons with intellectual disabilities.

## **D. Participation of persons with disabilities**

### **1. Right to vote and to be elected**

35. According to the Election Act, every Norwegian citizen who has attained the age of 18 by the end of the year in which the election is held has the right to vote. However, article 50 of the Constitution provides an exception whereby “rules may be laid down by law concerning the right to vote of persons otherwise entitled to vote who on Election Day are manifestly suffering from a seriously weakened mental state or a reduced level of consciousness”. The Election Act further stipulates that municipalities are responsible for the conduct of both local and parliamentary elections, which includes the duty to ensure that all registered voters can take part in the elections. In the event that voters with disabilities are unable to get to the polling station, they may request permission to vote at home or in an institution. Anyone who cannot mark their ballot personally may request assistance from polling officers to cast their vote. Furthermore, voters with severe psychosocial or physical disabilities can appoint an additional assistant among the persons present at the polling station.

36. The Special Rapporteur was informed that during the municipal elections of September 2019, some polling stations and electoral campaigns were not accessible to the diversity of persons with disabilities. For instance, Braille ballot papers were not available everywhere to enable blind persons to vote independently. Some persons with disabilities were obliged to request support for voting from polling officers and expressed concern about not being allowed into the election booth with a person of their choice. Similarly, some polling stations lacked signage, hearing loops and sign language interpreters to enable deaf and hard-of-hearing persons to have full access to information. The Government explained that a law commission had been established to review the Election Act and to address some of these shortcomings.

37. The Special Rapporteur welcomes the review of the Election Act as an opportunity to make the entire electoral process fully accessible and inclusive of persons with disabilities. As required by article 29 of the Convention, information about the electoral process and political campaigns should also be made accessible for all persons with disabilities, including in sign language, Braille and easy-read format.

38. Persons with disabilities are active members of political parties and regularly engage with Members of Parliament. While there are no rules preventing persons with disabilities from holding public functions, only a few of them do so. Special efforts should be made to facilitate and promote the participation of women and men with disabilities in holding public office.



## 2. Participation in decision-making processes

39. The Special Rapporteur was pleased to learn that in general the authorities consult with persons with disabilities and their organizations. This is done through direct consultations, regular meetings at the technical level and an annual high-level round table with the relevant ministries. Furthermore, all political initiatives and measures are subject to public hearings, in which all stakeholders can participate. The State provides substantial financial support to organizations of persons with disabilities through yearly grants of approximately Nkr 200 million, as well as travel subsidies to engage with the Committee on the Rights of Persons with Disabilities.

40. Organizations of persons with disabilities in Norway are strong, strategic and well organized. However, they informed the Special Rapporteur that they were not systematically included in all relevant expert committees tasked to prepare reports to the parliament, such as in the case of the expert group for children and adolescents with special educational needs, or the expert group appointed to analyse developments in employment. They also expressed the need to transition from simply consulting with them towards actively involving them in all decisions affecting them directly or indirectly.

41. The Special Rapporteur encourages the Government to make additional efforts to ensure the meaningful participation of the diversity of persons with disabilities in decision-making processes and to support the creation of organizations of persons with disabilities from underrepresented sectors, such as autistic persons and self-advocates with intellectual disabilities.

## E. Education

42. According to the Education Act, all children up to the age of 15, including those with disabilities, have the right to attend the school closest to their home and the right to an education suited to them through individual accommodation. Pupils who have Norwegian Sign Language as their first language have the right to primary and lower secondary instruction in the use of and through the medium of sign language. Pupils who do not make, or are unable to make, satisfactory use of the ordinary teaching programme can opt for special education. Special education should only be provided after giving due consideration to adjusted teaching in the main classroom and the conduct of a needs assessment. There are support systems for special education at both the national level (the Statped service) and at county/municipal level (the Educational and Psychological Counselling Service).

43. The Special Rapporteur commends Norway for providing education to pupils with disabilities in regular schools as the general rule and for allocating considerable means and resources to its implementation. Nonetheless, there are 56 special education schools (representing 2 per cent of all schools in Norway) and 298 schools with permanent special education classrooms. Almost 9 per cent of pupils with disabilities aged 6 to 15 years (a total of 3,993 children) received education in segregated schools or classrooms in the school year 2017–18. Data shows that the number of pupils receiving special education increases with age, from 4 per cent in first grade to 11 per cent in grade 10.<sup>9</sup> In relation to higher education, a significantly lower proportion of persons with disabilities access higher education compared to the general population. Data from 2015 shows that only 21 per cent of students with disabilities aged between 25 and 44 completed at least one year of higher education, compared to 45 per cent for students without disabilities.<sup>10</sup>

44. Notwithstanding the strong commitment of the State towards inclusive education, important challenges remain to be addressed to ensure that children with disabilities access education in regular classrooms on an equal basis with others. For instance, there are long waiting times to obtain individual accommodation, which can take six months or longer in

<sup>9</sup> See [www.udir.no/tall-og-forskning/finn-forskning/tema/notat-om-spesialundervisning/](http://www.udir.no/tall-og-forskning/finn-forskning/tema/notat-om-spesialundervisning/) (in Norwegian) and [www.bufdir.no/en/English\\_start\\_page/Disabilities\\_in\\_Norway/Statistics\\_on\\_disabilities\\_in\\_Norway/](http://www.bufdir.no/en/English_start_page/Disabilities_in_Norway/Statistics_on_disabilities_in_Norway/).

<sup>10</sup> See [www.bufdir.no/Statistikk\\_og\\_analyse/Nedsatt\\_funksjonsevne/Oppvekst\\_og\\_utdanning/Hoyere\\_utdanning/](http://www.bufdir.no/Statistikk_og_analyse/Nedsatt_funksjonsevne/Oppvekst_og_utdanning/Hoyere_utdanning/) (in Norwegian).

some cases. The lack of adequate services for pupils with disabilities and their families puts them under significant emotional and financial pressure. In fact, many schools lack specialized teachers, school aides and adapted materials and have limited capacity to provide curricular adaptations and accommodation in the classroom. Some parents struggle to navigate the local support system, including the division of responsibilities between the Labour and Welfare Organization, the Educational and Psychological Counselling Service and the National Service for Special Needs Education (Statped). The Special Rapporteur encourages the authorities at all levels to strengthen coordination among service providers in order to ensure a seamless transition between services and an integrated delivery system.

45. Sámi children with disabilities face additional challenges owing to the lack of competent teachers who speak Sámi languages and understand their culture, the lack of adequate support and adapted materials in Sámi languages and a teaching environment that is not always culturally sensitive. While the Statped has a Sámi department with eight advisors, there is no such equivalent for the Educational and Psychological Counselling Service, where there is limited knowledge of Sámi culture.

46. Children with disabilities are particularly vulnerable to bullying and violence at school. The process of inclusive education not only entails inclusion in the classroom, but also a change of culture and opportunities for children to socialize and participate in extracurricular activities. The Special Rapporteur received worrying reports from the Ombudsman for Children about the use of coercion in school, for example towards autistic children and those with attention deficit hyperactivity disorder, who are sometimes locked alone in rooms or physically held to the ground because teachers lack the skills to support them.

## F. Work and employment

47. Under the Equality and Anti-Discrimination Act, public and private employers have a duty to provide reasonable accommodation to workers and job seekers with disabilities (in line with articles 2 and 27 of the Convention), and to make active efforts to promote equality in the workplace. In June 2019, the Parliament amended the Act to strengthen the provisions on active equality efforts, such as clarifying the duty of employers to make efforts to prevent intersectional discrimination.

48. According to the 2019 labour force survey, the estimated employment rate among persons with disabilities was 43.8 per cent, compared to 74.1 per cent for the general population. For those aged between 25 and 39, the employment rate was 53.2 per cent, compared to 83.5 per cent for the general population.<sup>11</sup> The national inclusion initiative 2018–2021 aims to improve access to jobs on the open labour market for persons with disabilities and those with a “gap in their curriculum vitae”. The initiative strengthens services for certain groups of unemployed persons with disabilities and provides opportunities for adapted education and training. It also introduces a minimum recruitment quota of 5 per cent for workers with disabilities in the public sector. The Labour and Welfare Organization manages labour market policy and takes measures to enhance the participation of persons with disabilities in employment, including by giving them priority in labour market programmes, wage subsidies and temporary employment.

49. While welcoming these initiatives, the Special Rapporteur was informed that their impact is limited and that intersectional inequalities remain. In 2018, the Office of the Auditor General criticised the Labour and Welfare Organization for inadequately following up on their programmes, stating that three quarters of persons with “reduced working capacity” who completed labour market programmes were still unemployed one year later and 65 per cent two years later.<sup>12</sup> The Special Rapporteur also received complaints that the national inclusion initiative was mainly based on the goodwill of employers.

<sup>11</sup> See [www.ssb.no/en/arbeid-og-lonn/statistikker/akutu](http://www.ssb.no/en/arbeid-og-lonn/statistikker/akutu).

<sup>12</sup> Office of the Auditor General of Norway, investigation into the Norwegian Labour and Welfare Administration’s management and use of market initiatives (2018), available from

50. The Special Rapporteur is particularly concerned that persons with intellectual, psychosocial or severe disabilities are mostly excluded from the open labour market. Most of them receive a disability pension from when they reach the age of 18, or are employed in sheltered workshops. During her visit to Fossheim the Special Rapporteur was informed of long waiting lists and of a general shortage of approximately 10,000 workplaces for persons with disabilities willing to join the labour market. In that regard, she welcomes the *Helt med!* strategy to increase the participation of persons with intellectual disabilities in ordinary work life.

51. The Government needs to make more efforts to enable the effective inclusion of persons with disabilities in the workplace, particularly youths and persons with intellectual or psychosocial disabilities. She suggests assessing the socioeconomic cost of excluding persons with disabilities from employment.

## G. Social protection

52. Norway has a very comprehensive and robust social protection system, which includes various types of income support and benefits targeting persons with disabilities, which are regulated by the National Insurance Act. They include universal national insurance scheme benefits (such as work assessment allowances, health-care benefits and cash benefits) as well as disability-specific schemes (for example, disability benefit, basic benefit, attendance benefit and technical aids). Parents of children with disabilities can also access other benefits, such as care, training and attendance allowances.

53. Under the universal scheme, disability benefit is granted to compensate for work loss capacity to any person aged between 18 and 67 whose income capacity is permanently reduced by at least 50 per cent owing to illness, injury or impairment. Determination of disability involves an assessment of work capacity conducted by professionals with different backgrounds from the Labour and Welfare Organization. There are approximately 340,000 beneficiaries of disability benefit. The Special Rapporteur particularly appreciates as good practice the flexibility of the disability benefit, which can be adjusted monthly, based on additional income earned, and allows beneficiaries to adjust how much they work. When the benefit is granted, a limit for additional income is determined. If the person has a pensionable income above this limit, the benefit will be reduced proportionally.

54. The Special Rapporteur was informed that owing to the low levels of employment among persons with disabilities, many depend entirely on social protection schemes. In 2017, the national insurance scheme was the main source of income for 29 per cent of persons with disabilities compared to 8 per cent of the general population.<sup>13</sup> Consequently, the standard of living of persons with disabilities in Norway is lower than that of persons without disabilities and some of their extra expenses may not be adequately covered. In that respect, the lack of appropriate support services in the community often increases the extra cost of having a disability. The Special Rapporteur encourages the Government to pay close attention to the economic differences between persons with and without disabilities and to take measures to address this imbalance.

## H. Living independently in the community

55. Since the deinstitutionalization process carried out in the 1990s, municipalities have been responsible for ensuring the provision of most benefits and services to persons with disabilities, either directly or indirectly through third-party providers. Such benefits and services, which include housing, loan schemes, residential support, in-home support, personal assistance and other community services to support independent living, are regulated in the Health and Care Service Act, the Labour and Welfare Administration Act

[www.riksrevisjonen.no/rapporter-mappe/no-2017-2018/forvaltning-og-bruk-av-arbeidsmarkedstiltak-i-nav/](http://www.riksrevisjonen.no/rapporter-mappe/no-2017-2018/forvaltning-og-bruk-av-arbeidsmarkedstiltak-i-nav/) (in Norwegian).

<sup>13</sup> See [www.bufdir.no/Statistikk\\_og\\_analyse/Nedsatt\\_funksjonsevne/Okonomi/Inntekt\\_og\\_ytelser/](http://www.bufdir.no/Statistikk_og_analyse/Nedsatt_funksjonsevne/Okonomi/Inntekt_og_ytelser/) (in Norwegian).

and the Patients' and Users' Rights Act. The latter grants persons aged less than 67 who have a substantial, long-term need for assistance the right to receive user-controlled personal assistance. That right also includes respite care for parents of children with severe disabilities living at home.

56. While welcoming these positive initiatives, the Special Rapporteur noted significant gaps in the provision of such services, whereby municipalities have discretionary power in deciding the types and amount of services and benefits to be provided. For instance, persons with disabilities expressed concern that some municipalities granted an insufficient number of hours of user-controlled personal assistance and limited the scope of its use to basic needs. Because some municipalities provide very few options to those in need of support, often coupled with long waiting times to access services, some persons with disabilities decide to move another jurisdiction to gain access to better quality support. Others opt to file a complaint to access the rights and benefits they are entitled to, which could take a long time, even years, before the final decision is taken, while others take no action for fear of losing other entitlements. In its 2018 report, the Health and Social Services Ombudsman notes a 14 per cent increase in complaints concerning user-controlled personal assistance between 2017 and 2018, which includes both applications that were denied and the allocation of fewer hours than the person in question believed were warranted.<sup>14</sup>

57. The fragmentation of support services also makes it very difficult for persons with disabilities with lower levels of education and economic resources to navigate the system, understand their entitlements and how to access them, and claim their rights; while those who are more educated and better off financially face fewer challenges in that regard.

58. According to data provided by the Ministry of Health, in 2018 there were 66,046 persons living in institutions where health-care services were provided. There were 41,791 persons living in nursing homes (mostly older persons with dementia) and 24,255 in residential care homes, including persons with intellectual, psychosocial and severe physical disabilities. The Special Rapporteur is particularly concerned that an increasing number of persons with intellectual disabilities live in compounds or group homes exclusively for persons with disabilities, with common areas and facilities for daily activities. Often these are former institutions of varying sizes converted into single apartments, or new buildings especially designed to host persons with disabilities with high-support needs, with staff on duty 24 hours a day seven days a week. In other municipalities, the reception of services is conditional on living in a specific setting or facility, thus denying persons with disabilities the right to choose where to live.

59. The Child Welfare Act states that children and youth who live in conditions that may be detrimental to their health and development should receive the necessary assistance, care and protection in a timely way. As a measure of last resort, that can include the placement of a child in institutional care. In January 2019, there were 419 child welfare facilities in Norway (excluding Oslo) hosting some 1,154 children. The number of children with disabilities among them is unknown. The Directorate for Children, Youth and Family Affairs stated that two new childcare institutions with a total capacity of 12 children were being built to meet the needs of children with disabilities in need of health-care services and long-term out-of-home care.

60. The Special Rapporteur urges the Government to take immediate measures to address this trend that could lead to the reinstitutionalization of persons with disabilities and, in coordination with all municipalities and county governors, implement supported housing programmes that ensure the right of all persons with disabilities to live independently in the community with choices equal to others. In relation to children with disabilities, efforts should be redirected to investing in family and community-based support and services, such as day care, respite care, therapeutic services, foster and kinship care.

<sup>14</sup> The Health and Social Services Ombudsmen, annual report 2018, p. 10.

## I. Health

61. The right to health is referred to in several pieces of legislation, including the Patients' and Users' Rights Act, the Health and Care Services Act, the Specialist Health Service Act, and the Dental Health Services Act. Norway spends 10 per cent of its gross national product on health care, resulting in very good health-care infrastructures, distributed among primary health-care services at the municipal level and specialist health-care services provided by the State through four regional health authorities.

62. The Government endeavours to provide universal access to quality health care to the general public, including persons with disabilities, most of which is free of charge. It is also making efforts to improve the competence and professional development of the municipal health-care sector, for instance through the strategy entitled "A society for all", the care plan 2020, the dementia plan 2020 and the quality reform for older persons. According to 2018 data from the Ministry of Health, municipalities provided 24-hour health and care services to 209,369 persons through home care services.

63. Despite those efforts, persons with disabilities continue to face challenges in accessing the right to health on an equal basis with others, including physical, mental and dental health. A survey conducted by the Norwegian Board of Health Supervision in 2016 in 57 municipalities revealed serious failures in the provision of municipal health and care services for persons with intellectual disabilities in 45 of them.<sup>15</sup> The Special Rapporteur received similarly worrying reports about persons with intellectual disabilities receiving poor quality health care and support in residential homes and from home-care services, ranging from staff who were poorly informed about the health condition of the users they should assist, to lack of competence and training, language barriers that impeded communication, high staff turnover (up to 40–50 different people in a month) and negligence (for example, staff not informing families when their relatives were injured and the circumstances of the injury, or about poor diet and undernourishment).

64. Culturally safe practices at the institutional, group and individual levels are essential to the well-being of Sámi peoples. Sámi with disabilities reported concerns regarding health-care services that are not culturally sensitive and health professionals lacking cultural knowledge and language skills in encounters with patients, which had led to misunderstandings and wrong diagnoses in some cases. Furthermore, autistic and other persons with disabilities reported being reluctant to disclose sensitive information about their health condition to doctors and nurses in the presence of a Sámi interpreter, feeling uncomfortable that members of their community would know about such personal matters.

65. In the area of sexual and reproductive health and rights, the Special Rapporteur was informed that sexual education programmes are not tailored to the needs of youth with disabilities, including autistic girls, and they are often taken out of class when sexuality is discussed, owing to the assumption that it is not relevant for them. Information about pregnancy and motherhood is not available in an accessible manner to the diversity of persons with disabilities. Campaigns to prevent sexual violence against children and youth are also not inclusive, thus boys and girls with disabilities, including the deaf, do not know what to do if they are subjected to such abuse.

## J. Coercion in mental health and social care

66. Norwegian mental health and social care legislation permits the use of coercive measures against persons with psychosocial disabilities, intellectual disabilities and dementia. The Mental Health Care Act (ch. 4) allows for the involuntary admission and treatment of persons with "severe mental disorders" on the basis of lack of capacity to consent, need for treatment, and/or danger to self or others. Permitted coercive interventions include involuntary admission, shielding and isolation, mechanical and chemical restraints, forced intake of drugs, restricted contact with the outside world and

<sup>15</sup> See [www.helsetilsynet.no/upload/Publikasjoner/rapporter2017/helsetilsynetrapport4\\_2017.pdf](http://www.helsetilsynet.no/upload/Publikasjoner/rapporter2017/helsetilsynetrapport4_2017.pdf) (in Norwegian).

outpatient commitment. The Health and Care Services Act (ch. 9) and the Patients' and Users' Rights Act (ch. 4) also allow for the use of coercion and force against persons with intellectual disabilities and those deemed unable to consent. Many national and international human rights experts and bodies have extensively criticized these provisions and their implementation.

67. During the visit, the Special Rapporteur was informed that, despite efforts to reduce the number of coercive measures employed, they had remained steady over the years. In 2018, a year after the Mental Health Care Act was amended, there were 7,849 involuntary admissions to psychiatric hospitals compared to 7,704 in 2017. The number of patients aged more than 16 with one or more decisions on coercive orders issued for them also increased, from 1,995 in 2017 to 2,164 in 2018.<sup>16</sup> The total number of coercive admissions for the first quarter of 2019 amounted to 2,520, i.e. 16 per cent of a total of 15,934 admissions to mental health care.<sup>17</sup> Furthermore, electroconvulsive therapy continues to be applied without free and informed consent on the basis of the principle of medical necessity in criminal law, despite the general prohibition of treatment that constitutes a serious intrusion in section 4-4 (2) of the Mental Health Care Act. Coercion of persons with intellectual disabilities, autism and dementia is also widespread and of concern. For instance, in a report of August 2019, the Equality and Anti-Discrimination Ombud found serious weaknesses in the administrative review of decisions on coercive measures against persons with intellectual disabilities in the county of Hedmark.<sup>18</sup>

68. The Special Rapporteur acknowledges the leadership of the Ministry of Health and its commitment to reducing coercion. In that context, in 2017 the Government appointed a law commission to review and propose amendments to the regulation of coercion in the health and care services contained in four laws, in order to enhance legal safeguards and reduce the use of coercion.<sup>19</sup> In June 2019, the commission submitted a report proposing a new act on the limitation of coercion, which contains important proposals and conclusions. However, unless a human rights-based approach is integrated throughout, it will fall short in protecting the rights of persons with disabilities. Coercive measures are not only contrary to human rights law, but evidence shows that they are ineffective in protecting individuals and can prevent them from seeking support.

69. Instead of regulating exceptions to the use of coercion, discussion should focus on systemic changes to prevent and end coercion. That includes the development of community-based services and the provision of support, including supported decision-making and non-coercive responses to mental health crises. As demonstrated by the very successful experience of two different coercion-free services the Special Rapporteur visited in Norway – the basalt exposure therapy department of Vestre Viken Hospital Trust in Blakstad and the medication-free department of Åsgård Psychiatric Hospital in Tromsø – it is possible to provide quality mental health and psychosocial support without using any form of coercion in even the most complex cases. The Special Rapporteur's report on disability-specific forms of deprivation of liberty contains further useful guidance (A/HRC/40/54).

70. The paradigm shift introduced by the Convention requires that support be provided to those who might need it, while at the same time fully respecting their human rights, including the right to freely decide about their lives and care options. Coercion is not a "necessary evil", but a consequence of the failure of States to ensure their human rights obligations towards persons with disabilities, particularly in relation to the rights to legal

<sup>16</sup> See [www.helsedirektoratet.no/statistikk/statistikk/kvalitetsindikatorer/psykisk-helse-for-voksne/tvangsinnleggelse-i-psykisk-helsevern-for-voksne](http://www.helsedirektoratet.no/statistikk/statistikk/kvalitetsindikatorer/psykisk-helse-for-voksne/tvangsinnleggelse-i-psykisk-helsevern-for-voksne) (in Norwegian).

<sup>17</sup> See <https://statistikk.helsedirektoratet.no/bi/Dashboard/028e6f20-6846-46df-9f3b-7cf1e2c011d8?e=false&vo=viewonly> and

[www.helsedirektoratet.no/statistikk/statistikk/kvalitetsindikatorer/psykisk-helse-for-voksne](http://www.helsedirektoratet.no/statistikk/statistikk/kvalitetsindikatorer/psykisk-helse-for-voksne) (both in Norwegian).

<sup>18</sup> See [www.ldo.no/globalassets/brosjyrer-handboker-rapporter/rapporter\\_analyser/tvang-og-makt-mot-personer-med-utviklingshemming-etter-helse--og-omsorgstjenesteloven-kapittel-9.pdf](http://www.ldo.no/globalassets/brosjyrer-handboker-rapporter/rapporter_analyser/tvang-og-makt-mot-personer-med-utviklingshemming-etter-helse--og-omsorgstjenesteloven-kapittel-9.pdf) (in Norwegian).

<sup>19</sup> See [www.regjeringen.no/contentassets/46b1d575199f4322b113887452e8b382/nou-2019-14.pdf](http://www.regjeringen.no/contentassets/46b1d575199f4322b113887452e8b382/nou-2019-14.pdf) (in Norwegian).

capacity, living independently in the community, the highest attainable standard of health, an adequate standard of living and social protection. The discussion on the proposed law is an important opportunity for Norway to further advance in its commitment to promoting and protecting human rights for everyone on an equal basis, in line with the Convention.

## **K. Denial of legal capacity**

71. The Guardianship Act, reformed in 2013, regulates two types of guardianships: “ordinary” guardianship based on an administrative decision by county governors and guardianship with restrictions of legal capacity through a court decision. In the first instance, a broad range of persons with disabilities, especially those with intellectual disabilities, psychosocial disabilities, dementia, high support needs and autistic persons, can have a guardian appointed to manage their personal and/or financial affairs. While, as a general rule, this regime is voluntary, formal consent is not required if the person is deemed “unable to consent”, which contradicts its voluntariness. In the second instance, a district court can order the restriction of a person’s legal capacity through guardianship against their will. The Act further stipulates that county governors are the local authority for “ordinary” guardianships, with responsibility to appoint, recruit, train and supervise guardians and manage the funds of persons under guardianship. The Norwegian Civil Affairs Authority is the national guardianship authority, responsible for overseeing the performance of county governors and is the appellate body for guardianship decisions.

72. Although the 2013 reform aimed to address the paradigm shift of the Convention, in practice the guardianship system focuses on representation rather than on supported decision-making and still allows for limitations in the exercise of legal capacity. According to the Ministry of Justice and Public Security, as of October 2019 there were 236 adults with court-ordered restrictions on their legal capacity and 40,775 adults under ordinary guardianship, of whom 40 per cent (some 17,000) were considered unable to consent and had thus been placed under ordinary guardianship involuntarily. The Special Rapporteur was informed that most mandates are not tailored to specific circumstances, but are rather general and broad. In many cases, county governors appoint guardians without interviewing the persons concerned. There is also a reliance on professional guardians, many of whom are lawyers, who each handle a large number of cases. For example, in the county of Oslo and Akershus there are approximately 13,000 persons under guardianship, with 214 professional guardians collectively representing 5,542 persons, an average of 26 persons for each guardian. Under such circumstances, it is unlikely that an individual’s will and preferences can be adequately attended to and respected.

73. According to its interpretative declaration on article 12 of the Convention, Norway considers that the treaty does not require States parties to repeal all legislation and regimes of substitute decision-making, in open disagreement with the interpretation of the Committee on the Rights of Persons with Disabilities. The Special Rapporteur welcomes the openness, genuine interest and efforts of the Government to discuss this disagreement in a constructive manner. In her view, concerns regarding the elimination of all forms of supported decision-making are unfounded, as Norway has all the conditions to develop formal and informal supported decision-making arrangements of varying types and intensity to support the exercise of legal capacity. In cases where a person’s will and preferences cannot be established after significant efforts, a “best interpretation of their will and preferences” should ascertain what the person would have wanted, instead of deciding on the basis of their best interest. Supported decision-making can also play an important role in situations of emotional crisis or distress, facilitating non-coercive responses within or outside the mental health sector. Moreover, advance directives allow persons with disabilities to give instructions on how to deal with future crises and/or appoint someone to support them during those times. The Special Rapporteur’s report on the right to equal recognition before the law contains further useful guidance (A/HRC/37/56).

## IV. International cooperation

74. The Special Rapporteur notes with appreciation the efforts of the Ministry of Foreign Affairs and the Norwegian Agency for Development Cooperation to make its official development assistance increasingly accessible and inclusive of persons with disabilities, in line with article 32 of the Convention and the Sustainable Development Goals. Norway promotes the rights of persons with disabilities in the Global Partnership for Education and other multilateral forums, supports the United Nations Partnership to Promote the Rights of Persons with Disabilities and engages in the Global Action on Disability Network. The country has adopted the policy marker created by the Development Assistance Committee of the Organization for Economic Cooperation and Development to track development finance that promotes the inclusion and empowerment of persons with disabilities, and in its international assistance efforts it considers disability inclusion as a cross-cutting human rights issue. Norway is also considering hosting the Global Disability Summit in the future.

75. The Special Rapporteur welcomes the inclusion and participation of persons with disabilities in all the initiatives undertaken by the Agency for Development Cooperation, as well as the longstanding cooperation through grants with Atlas Alliance, an umbrella organization of persons with disabilities engaged in international development work. Furthermore, in 2019, Norway allocated NOK 400 million over four years to three Norwegian organizations of persons with disabilities and to two international NGOs to implement projects in sub-Saharan Africa, where persons with disabilities are at the forefront in the design and implementation of projects.

76. The Special Rapporteur recommends that Norway strengthen its efforts to track how beneficiaries of its multilateral assistance ensure that persons with disabilities are the real recipients of assistance, including by providing data disaggregated by disability. In the context of the recently adopted United Nations disability inclusion strategy, in cases where Norway sits on the executive boards of United Nations entities, it could request them to track implementation of the strategy and devote resources to its implementation.

## V. Conclusions and recommendations

### A. Conclusions

**77. Norway has shown a strong, high-level political commitment to promoting and protecting the rights of persons with disabilities, which is reflected in its comprehensive normative system, policies and programmes, a generally robust social protection system and the allocation of considerable resources to achieve the social inclusion of persons with disabilities. It also strives to provide an education system in which children with disabilities attend regular school as a general rule, to make all its international cooperation efforts inclusive and to have universal design initiatives at all levels of governance.**

**78. That strong commitment to the rights of persons with disabilities needs, however, to be better reflected in day-to-day implementation. While persons with disabilities in Norway enjoy a higher quality of life compared to their peers in other countries, practice shows that they still do not have access to the same rights and opportunities on an equal basis with their fellow citizens without disabilities. That is still the case, for instance, in the areas of employment, independent living and legal capacity. The State has an obligation to ensure that persons with disabilities in Norway have the same opportunities as anyone else in the country. In the context of the recent work of some of its law commissions, the State also has an important opportunity to adjust its legislation in the areas of legal capacity, coercion, mental health and social care in order to integrate a rights-based approach and fully embrace the paradigm shift of the Convention on the Rights of Persons with Disabilities.**



79. The Special Rapporteur looks forward to a continued dialogue and collaboration with Norway on the implementation of her recommendations. She hopes that her visit and report will assist the country to continue advancing towards the establishment of a fully inclusive society.

## **B. Recommendations**

### **Legal and policy framework**

80. The Special Rapporteur recommends that the Government:

(a) Ratify the Optional Protocol to the Convention on the Rights of Persons with Disabilities, the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention on the Rights of the Child on a communications procedure and the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled;

(b) Withdraw its interpretative declarations on articles 12, 14 and 25 of the Convention on the Rights of Persons with Disabilities and incorporate the treaty into domestic law;

(c) Conduct a comprehensive review of the national normative framework to fully harmonize it with the Convention, including the Constitution, the Penal Code, the Termination of Pregnancy Act, the Sterilization Act, the Health and Care Service Act, the Patients' and Users' Rights Act, the Mental Health Care Act, the Guardianship Act, the Inheritance Act and the Dispute Act;

(d) Consider establishing a governmental coordination mechanism with the responsibility of ensuring that all line ministries and authorities at county and municipal levels interpret and implement disability-related legislation and policies in line with the Convention, as required by its article 33 (1). That could be done through the nomination of disability and accessibility focal points at ministerial, county and municipal levels;

(e) Ensure that all public policies, including disability-specific ones, include a human rights-based approach to disability;

(f) Adopt as soon as possible the action plan 2020–25 for the strategy “A society for all” and ensure that it contains specific measures to implement the strategy at central, county and municipal levels, with time-bound benchmarks and accountability frameworks, along with the necessary budgetary and fiscal measures;

(g) Increase the awareness, knowledge and capacity of government officials, civil servants, service providers and civil society to implement articles 4 (1) and 8 of the Convention and engage in wide-scale public awareness campaigns on the Convention and the rights-based approach to disability.

### **Data collection**

81. The Special Rapporteur recommends that the Government:

(a) Collect data and statistics on persons with disabilities aged less than 20 and over 67 and use existing data on the situation and living conditions of persons with disabilities to better inform public policies and their implementation;

(b) Continue its efforts to develop better statistical tools and methods to obtain data disaggregated by disability status.

### **Inequalities**

82. **The Special Rapporteur recommends that the Government:**

(a) **Ensure the effective and coordinated implementation of the rights of persons with disabilities in all counties and municipalities, including by strengthening the councils for persons with disabilities, taking into account their recommendations and allocating funding for their adequate functioning;**

(b) **Provide access to language and culturally-sensitive services for indigenous persons with disabilities and the necessary resources to support the Sámi population in developing their own disability services.**

### **Accessibility**

83. **The Special Rapporteur recommends that the Government:**

(a) **Accelerate and complete the process of transforming the built environment and public transportation, as required by existing legislation, regulations and plans for universal design, allocate funds and make them fully accessible for the diversity of persons with disabilities by 2025;**

(b) **Ensure that county governors effectively monitor the incorporation of universal design in all municipal plans under their jurisdiction;**

(c) **Take measures to make digital and online public services accessible to the diversity of persons with disabilities, including older persons;**

(d) **Formally recognize Norwegian Sign Language as an official language, facilitate its learning and use in official and other interactions, including by increasing the provision of sign language interpretation services by the Labour and Welfare Organization.**

### **Participation**

84. **The Special Rapporteur recommends that the Government:**

(a) **Review the Election Act to enable persons with disabilities who cannot vote independently to seek the support of a person of their choice;**

(b) **Ensure that all municipalities take measures to guarantee the right to vote for all persons with disabilities in future elections, including by providing accessible information and materials, signage, Braille ballots and accessible booths;**

(c) **Increase the participation of women and men with disabilities holding public office;**

(d) **Consider establishing a formal mechanism to consult and engage actively with the diversity of organizations of persons with disabilities in decision-making processes and bodies;**

(e) **Support the creation of organizations of persons with disabilities from underrepresented sectors, including autistic persons and self-advocates with intellectual disabilities, and develop their skills.**

### **Education**

85. **The Special Rapporteur recommends that the Government:**

(a) **Take measures to improve the provision of quality inclusive education through: (a) enhanced coordination among education service providers to enable a seamless integrated delivery system; (b) prompt provision of individualized support and accommodation for all pupils with disabilities in regular schools and, where applicable, in a culturally-sensitive environment, and the training of supporters; and (c) the adaptation of educational materials and learning methodologies, including in Sámi languages;**

(b) **Remove barriers that prevent students with disabilities from accessing higher education on an equal basis with others and provide the support they may need.**

#### **Work and employment**

86. **The Special Rapporteur recommends that the Government:**

(a) **Enforce the application of the national inclusion strategy, including the 5 per cent quota for employment of persons with disabilities in the public sector;**

(b) **Assess the socioeconomic cost of excluding persons with disabilities from employment and take targeted measures to enable their effective inclusion in the public and private labour markets, especially the youth and those with intellectual and psychosocial disabilities;**

(c) **Provide the Labour and Welfare Organization with adequate resources to follow up on their programmes for persons with reduced work capacity and improve their employment opportunities.**

#### **Social protection**

87. **The Special Rapporteur recommends that the Government take measures to address the economic imbalance between persons with and without disabilities, and consider the extra cost of living borne by persons with disabilities in social protection policies and programmes.**

#### **Living independently in the community**

88. **The Special Rapporteur recommends that the Government:**

(a) **Remove the upper age limit of 67 in the Patients' and Users' Rights Act for receiving user-controlled personal assistance and take measures to increase the availability of such assistance in the municipalities;**

(b) **Continue to progressively reduce the number of residential institutions, following a time-bound plan with concrete benchmarks;**

(c) **Implement, in coordination with county and municipal authorities, family and community-based services for children and adults with disabilities, including supported housing programmes.**

#### **Health**

89. **The Special Rapporteur recommends that the Government:**

(a) **Improve access to health-care services and facilities for persons with disabilities as close as possible to their homes;**

(b) **Provide youth and women with disabilities with sexual education programmes and information regarding sexual and reproductive health and rights in accessible formats;**

(c) **Train health professionals to provide culturally-sensitive health-care services for indigenous persons with disabilities.**

#### **Coercion**

90. **The Special Rapporteur recommends that the Government:**

(a) **Enact legislation to prohibit all forms of coercion of persons with psychosocial disabilities, intellectual disabilities and dementia, and guarantee that all mental health and social care services are provided on the basis of free and informed consent;**

(b) End the use of coercive interventions for persons with psychosocial disabilities, intellectual disabilities and dementia, including involuntary admissions, shielding and isolation, restraints, forced medication and outpatient commitment;

(c) Invest in the mapping, systematization and scaling-up of non-coercive interventions and initiatives, such as basalt exposure therapy and medication-free wards, and allocate adequate financial resources to replicate successful practices.

#### **Legal capacity**

91. The Special Rapporteur recommends that the Government:

(a) Appoint a law commission to review the current legal framework, which allows the restriction or deprivation of legal capacity of persons with disabilities, with the aim of abolishing or revoking all laws and regulations on substitute decision-making, including guardianship, and replace them with supported decision-making arrangements;

(b) Guarantee the exercise of full legal capacity to all persons with disabilities, including those with psychosocial or intellectual disabilities, in all aspects of life, and provide them with access to the support they may require to take informed decisions;

(c) Implement a pilot project on supported decision-making and undertake research on formal and informal support arrangements (for example, support networks, support agreements, independent advocacy, peer and self-support groups and advance directives) with the participation of persons with disabilities;

(d) Promote and provide training on the rights of persons with disabilities to equal recognition before the law and on supported decision-making arrangements for public officials, service providers, persons with disabilities and their families, and other relevant actors.

#### **International cooperation**

92. The Special Rapporteur recommends that the Government:

(a) Request recipients of multilateral and official development assistance to disaggregate information by disability and report on how persons with disabilities have benefited from such assistance;

(b) Request United Nations entities to report on the implementation of the United Nations disability inclusion strategy in cases where Norway sits on their executive boards.

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