Civil Society’s Submission for the List of issues on Norway’s Initial Report to the UN Committee on the Rights of Persons with Disabilities

# **Introduction**

With this submission, civil society in Norway provides an input to the list of issues for the review of Norway’s initial report to the UN Committee on the Rights of Persons with Disabilities. The submission is based on a broad cooperation between organisations of persons with disabilities and other civil society organisations in Norway. These organisations will also submit a comprehensive alternative report to the CRPD Committee at a later stage.

The organisations are four umbrella organisations and ten other organisations. The umbrella organisations are the Norwegian Federation of Organisations of Disabled People (FFO) with 82 member organisations, the Norwegian Forum of Disabled Peoples’ Organisations (SAFO) with three member organisations, the Norwegian Association of Youth with Disabilities with 35 member organisations and the Atlas Alliance with 13 member organisations. The Atlas Alliance is an umbrella organisation consisting of DPOs that are involved in international work. Some of the organisations are member of several umbrella organisations.

Most of the organisations are representative organisations where persons with disabilities constitute a majority of the overall staff, board, volunteers and have persons with disabilities as members. Most of the organisations work at both national and local levels and several work internationally. An extensive list of the organisations[[1]](#endnote-1) can be found below.

The Norwegian Federation of Organisations of Disabled People (FFO)

ADHD Norway

The Aphasia Association of Norway

Association for Eating Disorders

Association for the Electro Hypersensitive

The Autism Society of Norway

Bardet-Biedl Syndrome Association

CarciNor

The Children’s Cancer Society

DEBRA Norway

Dyslexia Norway

HivNorway

LHL – the National Association for Heart and Lung Diseases

Little People of Norway (NiK)

Mental Health Norway

Momentum - Norwegian Association for Arm and Leg Prosthesis Users

The National Association for Kidney Patients and Transplant Recipients

Neuro Muscular Disorders Association of Norway (NMD Norway)

NOFUS, Norwegian Society for Patients with Urologic Diseases

NORILCO, Norwegian Association for People with a Stoma, Reservoir and Gastrointestinal Cancer

The Norwegian Addison's Association

The Norwegian Alopecia Areata Association

The Norwegian Association for Adults with Congenital Heart Disease

The Norwegian Association for Anal Atresia

The Norwegian Association for Children with Congenital Heart Disease

The Norwegian Association for Ehlers-Danlos Syndrome

The Norwegian Association for Neurofibromatosis

The Norwegian Association for Persons with Intellectual Disability and Relatives (LUPE)

The Norwegian Association for Spina Bifida and Hydrocephalus

The Norwegian Association for the Traumatically Injured

The Norwegian Association for Velo-cardio-facial Syndrome (VCFS)

The Norwegian Association for Visually Impaired

The Norwegian Association of Mental Health Family Carers (LPP)

The Norwegian Association of Sleep Disorders

The Norwegian Association of the Blind and Partially Sighted

The Norwegian Association of the Deaf

The Norwegian Association of the Hard of Hearing (HLF)

The Norwegian Association of Tuberous Sclerosis

The Norwegian Asthma and Allergy Association (NAAF)

The Norwegian Bladder Cancer Society

The Norwegian Brain Tumour Association (HsF)

The Norwegian Cerebral Palsy Association

The Norwegian Chronic Pain Association

The Norwegian Craniofacial Association

The Norwegian Cystic Fibrosis Association (NFCF)

The Norwegian Deafblind Association (LSHDB)

The Norwegian Diabetes Association

The Norwegian Digestive Diseases Association

The Norwegian Dysmelia Association

The Norwegian Dystonia Association

The Norwegian Epilepsy Association

The Norwegian Fibromyalgia Association

The Norwegian Fragile X Syndrome Association

The Norwegian Gynaecological Cancer Society

The Norwegian Haemochromatosis Association

The Norwegian Head and Neck Cancer Association

The Norwegian Hemophilia Society

The Norwegian Huntington Association

The Norwegian Ichthyosis Association

The Norwegian Immunodeficiency Organisation

The Norwegian Klinefelter Syndrome Association

The Norwegian Liver Association

The Norwegian Lymphoedema Association

The Norwegian Marfan Association

The Norwegian Multiple Sclerosis Association

The Norwegian Myalgic Encephalopathy Association

The Norwegian Obesity Association

The Norwegian Organisation for Stroke Survivors

The Norwegian Osteogenesis Imperfecta Association

The Norwegian Osteoporosis Society

The Norwegian Parkinson’s Disease Association

The Norwegian Porphyria Association

The Norwegian Prostate Cancer Association (NPCA)

The Norwegian Rheumatism Association

The Norwegian Spinal Association

The Norwegian Stuttering and Cluttering Association

The Norwegian Thyroid Association

The Norwegian Tourettes Association

The Psoriasis and Eczema Association of Norway (PEF)

The Society of Bipolar Disorders in Norway

The Teeth and Health Association

The Turner Syndrome Association in Norway

We Shall Overcome

The Norwegian Forum of Disabled Peoples’ Organisations (SAFO)

The Norwegian Association for Persons with Intellectual Disabilities (NFU)

The Norwegian Association of Disabled (NHF)

The Norwegian Association of the Deafblind (FNDB)

The Norwegian Association of Youth with Disabilities

ADHD Norway Adolescent

Bardet-Biedl Syndrome Association

Dyslexia Youth

LHL – the National Association for Heart and Lung Disease – youth section

Little People of Norway, youth section (UNiK)

Neuro Muscular Disorders Youth Association of Norway

NOFUS Ung, Norwegian Society for Patients with Urologic Diseases - youth section

NORILCO Ung, Norwegian Association for People with a Stoma, Reservoir and Gastrointestinal Cancer - youth section

The National Association for Kidney Patients and Transplant Recipients - child and youth section

The Norwegian Association for Adults with Congenital Heart Disease

The Norwegian Association for Children with Congenital Heart Disease - youth section

The Norwegian Association for Ehlers-Danlos Syndrome – child and youth section

The Norwegian Association for Neurofibromatosis – youth section

The Norwegian Association for Spina Bifida and Hydrocephalus

The Norwegian Association for the Traumatically Injured

The Norwegian Association of Blind and Partially Sighted Youth (NAPBY)

The Norwegian Association of the Deaf Youth section (NFDU)

The Norwegian Association of Youth Mental Health

The Norwegian Asthma and Allergy Association - youth section

The Norwegian Cerebral Palsy Association - youth section

The Norwegian Cystic Fibrosis Association (NFCF)

The Norwegian Digestive Diseases Associations - youth section

The Norwegian Dysmelia Association - youth section

The Norwegian Epilepsy Youth Association

The Norwegian Fibromyalgia Association

The Norwegian Multiple Sclerosis Association - youth section

The Norwegian Organisation for Children and Youth with Rheumatism (BURG)

The Norwegian Osteogenesis Imperfecta Association

The Norwegian Thyroid Association

The Norwegian Tourettes Association - child and youth section

The Norwegian Youth Association of the Hard of Hearing (HLFU)

The Norwegian Youth Coeliac Society

The Psoriasis and Eczema Youth Association of Norway (PEF-Ung)

Ung Kreft, the Norwegian Association for Youth with Cancer and Next of Kin

Ungdiabetes, the Norwegian Diabetes Association – youth section

The Atlas Alliance

Mental Health Norway

The Norwegian Association for Hard of Hearing (HLF)

The Norwegian Association for Persons with Intellectual Disabilities (NFU)

The Norwegian Association for Spina Bifida and Hydrocephalus

The Norwegian Association for the Traumatically Injured

The Norwegian Association of Disabled (NHF)

The Norwegian Association of the Blind and Partially Sighted

The Norwegian Association of the Deaf

The Norwegian Association of the Deafblind (FNDB)

The Norwegian Diabetes Association

The Norwegian Federation of Organisations of Disabled People (FFO)

The Norwegian Multiple Sclerosis Association

The Norwegian Stuttering and Cluttering Association

Civil Rights Foundation Stop Discrimination

The Norwegian Centre Against Racism

The Norwegian Health Association

The Norwegian Humanist Association

The Norwegian Psychological Association's Human Rights Committee

The Norwegian Union of Social Educators and Social Workers (FO)

Save the Children Norway

The SOR Foundation

Visually Impaired Academics

ULOBA - Independent Living Norway SA

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# **a. Main Concerns**

**1.** The two interpretative declarations done by Norway on Article 12 and on Articles 14 and 25 that expresses CRPD’s paradigm shift, restrict the Convention's legal protection in contradiction with the object and purpose of the treaty.[[2]](#endnote-2) The Optional Protocol has not been signed or ratified.[[3]](#endnote-3) CRC, CEDAW and CERD are implemented[[4]](#endnote-4) in Norwegian law through the Human Rights Act or other legislation.[[5]](#endnote-5) CRPD has not been incorporated into Norwegian law. It is a general principle that when there is an interpretative conflict between Norwegian law and a Convention, Norwegian law takes precedence unless the convention is implemented in the Human Rights Act. The Supreme Court has accepted the provision set out in the Guardianship Act authorising the deprivation of the legal capacity of the plaintiff even though it clearly violated CRPD.[[6]](#endnote-6)

**2.** Persons with disabilities are not considered in key studies, policies and programmes relating to power, democracy, equality and diversity. The Norwegian equality and diversity policies focuses mainly on gender and ethnicity, not on disability. This includes efforts to support the freedom of expression and impact, promote democracy in schools, and recruitment of diversity in the world of academics and the media.[[7]](#endnote-7)

**3.** The paradigm shift from ‘substituted decision making’ to ‘supported decision-making’ has not been implemented. Norwegian law authorises the use of force and the deprivation of self-determination on the basis of a diagnosis and functional ability, which contravenes the CRPD. See Articles 12 and 14. Illegal coercion against persons with cognitive disabilities and persons with psychosocial disabilities takes place in the health and care services, and in the education sector. See Article 14.

**4.** The rights of persons with disabilities are not necessarily observed, even though they have rights under the law. In areas where legislation is mostly in line with the Convention, the practices are incompatible with the CRPD. The experiences of DPOs, ombudsmen[[8]](#endnote-8) and public supervisory bodies[[9]](#endnote-9) show that such implementation is inadequate. This also applies to non-fulfilment of existing administrative decisions and ensuring that administrative decisions are indeed passed. Legislation is not followed. Restricted access to legal aid makes it difficult to demand one’s rights through the judicial system.

**5.** Municipal self-government leads to inequities in the allocation of services and benefits depending on where the person resides.[[10]](#endnote-10) The CRC Committee has pointed out the immense differences between the municipalities.[[11]](#endnote-11) Inadequate municipal follow up of national laws and guidelines have few or no consequences for the municipalities.

**6.** The principle of sectoral responsibility means that the responsibility each public sector (such as labour, education, transport, health, etc.) has for ensuring that persons with disabilities have the same rights as others, is limited to the sector itself. The coordination between different sectors is poor and a uniform professional approach is missing. Specific and measurable results do not exist.

**7.** It is unclear how municipalities and counties relate to the Convention and its principles, and what kind of CRPD training professionals working for the Government, counties and municipalities receive.

**8.** Documentation, research and statistics on discrimination against persons with disabilities are imprecise and lacking. Professionals and researchers do not relate to the CRPD.

# **B. Purpose, general principles and obligations (Article 1-4):**

* When will Norway withdraw its two interpretative declarations, which currently violate the object and purpose of the Convention?
* When and how will CRPD be incorporated into Norwegian law?
* Please provide information on how the Convention is systematically incorporated, implemented and coordinated among all devolved governments and local authorities and across all policy areas, and how organisations of persons with disabilities are consulted and included in such processes.
* What measures will Norway implement to reduce municipal differences in the services offered, and in what way will the scheduled strategy plan for persons with disabilities contribute to reducing these differences?
* How is CRPD training carried out for all individuals who have obligations under the Convention, both in the public and private sector, including in the police and judiciary?
* Please indicate what remedies are available for persons who claim protection of their rights under the Convention.

# **C. Specific rights (arts. 5-30)**

# **Article 5 Equality and Non-Discrimination**

**9.** The lack of opportunity to enforce sanctions and inadequate access to legal aid means that the protection against discrimination is not sufficiently effective. Legal aid is not granted in discrimination cases. The Anti-Discrimination Tribunal is an administrative body with limited powers to impose restitution and compensation. The Tribunal may make an administrative decision concerning redress in the context of an employment relationship and in connection with an employer's selection and treatment of self-employed persons and hired workers. The Tribunal may make a unanimous administrative decision concerning compensation if the only submissions made by the respondent relate to inability or pay or other manifestly untenable objections.[[12]](#endnote-12) Lodging complaints to the Tribunal is not mandatory before going to ordinary courts. Very few discrimination cases are brought before the courts.[[13]](#endnote-13)

**10.** Families with an immigrant background, who have children with disabilities, have less access to public services than other children in the same situation because of communication problems and poor knowledge of the welfare system.[[14]](#endnote-14) Persons with disabilities with a Sami background do not get equally adapted services because of cultural and language barriers within the support services.[[15]](#endnote-15)

* What plans do the Government have to expand the sanctioning authorities of the Tribunal beyond imposing redress in labour cases and compensation in simple cases?
* What measures are taken to inform indigenous peoples, national minorities and immigrants with disabilities about their rights, hereunder the right to public services and benefits?

# **Article 6: Women with Disabilities**

**11.** There is a lack of research on multiple discrimination. Norway does not have sufficient statistics on women with disabilities. A gender perspective is rarely included in research on persons with disabilities. Gender studies barely focus on women with disabilities.[[16]](#endnote-16) There are no studies on discrimination against girls/women with disabilities compared to discrimination against boys/men with disabilities.[[17]](#endnote-17) The most recent gender equality policy “Gender Equality 2014” stated that its approach was multidimensional and included disability, however had no initiatives or targeted measures that included disability.[[18]](#endnote-18)

* What measures have been taken to include a disability perspective in the Government's policy for gender equality in general, and intersectional equality policy in particular?
* What will be done to ensure that more research on multiple discrimination is carried out?

# **Article 7: Children with Disabilities**

**12.** The principle of the child's best interests is not mentioned in key laws for children and youth with disabilities, such as the Education Act[[19]](#endnote-19) and the Patients’ and Users’ Act.[[20]](#endnote-20) The CRC Committee urges Norway to highlight this principle in all legislation that may have an impact on children.[[21]](#endnote-21) Little research has been conducted on the fulfilment of the right of children with disabilities to be heard and make an impact. Existing research gives reason to believe that these children are less likely to have their right to be heard respected compared to other children. For example, children with disabilities are rarely involved in decisions that concern them in the education sector.[[22]](#endnote-22)

* What plans do the Government have to ensure that the principle of the child's best interests is incorporated in the Education Act and the Patients’ and Users’ Act? What plans do the Government have to ensure that children and youth with disabilities are heard on their own terms and on the same basis as other children?

# **Article 8: Awareness****-raising**

**13.** There are hardly any state-initiated public awareness campaigns to ensure awareness of non-discrimination regarding the rights of persons with disabilities. A number of major studies initiated by the Government have been conducted on the population’s attitudes towards minority groups, without including persons with disabilities.[[23]](#endnote-23) Persons with disabilities are not included in efforts to raise awareness amongst the population to combat stereotypes and negative attitudes.[[24]](#endnote-24) The media often presents persons with disabilities based on stereotypes and prejudiced language.

* What measures have been taken and will be taken by the Government to avert stereotypes and prejudices against persons with disabilities?

# **Article 9: Accessibility**

**14**. The Planning and Building Act sets requirements for universal design for new buildings, but no deadlines have been set for when *existing* buildings and modes of transport must have a universal design. Statutory deadlines set out in regulations were an assumption in the preparatory works of the Act in 2008, but have not been adopted.[[25]](#endnote-25)

**15.** In the Government's action plan for universal design 2015-2019, the time-specified vision of Norway being universally designed by 2025 has been removed and replaced with a vision of a society in which everyone can participate.[[26]](#endnote-26) The lack of deadlines constitutes a sharp depreciation of the statutory power to dismantle disabling barriers.

**16.** Under pressure from civil society, the Ministry of Children and Equality initiated a project in 2008 to study a possible addition of an enhanced obligation in the former Anti-Discrimination and Accessibility Act to guarantee access to goods, services and information.[[27]](#endnote-27) Uncertainty about the costs for private sector providers led to abandonment of the proposal. The measures referred to in para 67 of the State report does not guarantee access to goods, services and information for those who cannot use self-service options. Nor has work on the new common Equality and Anti-Discrimination Act guaranteed access to goods and services**.**

**17.** Norway does not have a law governing general accommodation of information, communication or digital services.[[28]](#endnote-28) The regulations on the universal design of ICT are limited to enterprises aimed at the general public with the exception of the education sector.[[29]](#endnote-29) The regulations are limited to online solutions, including digital teaching aids and machines, and include exceptions for pre-recorded audio description or media alternatives and direct captioning.

* When will the Government introduce regulations with deadlines for universal design of existing buildings?
* When will Article 9 (2) b be incorporated into the Equality and Anti-Discrimination Act?
* What measures will be taken to ensure the right to information and communication ensured within areas not included in the regulation on universal design of ICT?

# **Article 11 Situations of risk and humanitarian emergencies**

* What measures have been taken to address the needs of persons with disabilities in relation to national security and emergency preparedness on a national and local level? How are deaf and persons hard of hearing alerted during risk situations and humanitarian emergencies?

# **Article 12: Equal recognition before the law**

**18.** Through the Guardianship Act the courts have authority to deprive a person wholly or partially his or her legal capacity due to cognitive or psychosocial disabilities.[[30]](#endnote-30) In these cases a guardian will be appointed, but a guardian can also be appointed for persons with legal capacity.

**19**. In practice persons with cognitive disabilities and persons with psychosocial disabilities often lose their legal capacity without the existence of a formal decision that may be contested and overruled.[[31]](#endnote-31) Based on a statement from a doctor the County Governor can make a decision on whether or not a person has the competence to consent. This means that persons with cognitive disabilities and persons with psychosocial disabilities can be deprived of their competence to give consent[[32]](#endnote-32) to determine whether a guardian should be appointed, who will be appointed and for what purpose. This also applies to a number of other decisions in their own lives. The decision on whether a person has the competence to consent or not is often made without meeting the person concerned.[[33]](#endnote-33)

**20.** Irrespective of the fact that withdrawal of legal capacity in itself is contrary to CRPD, there are several additional aspects of the guardianship system which are problematic. Guardianship assignments often have a general formulation. An assessment to determine whether a guardian is necessary, is often not performed.[[34]](#endnote-34) Permanent guardians can have up to 100 guardianship assignments,[[35]](#endnote-35) often without meeting those concerned. This practice makes it difficult to fulfil the Convention’s requirement to receive support based on one’s own will and preferences. There are specific and documentable examples from the organisations where permanent guardians, in contravention of the appointment, create visitation agreements between the person and relatives, re-address mail and authorise restricted telephone calls.[[36]](#endnote-36) These examples show that guardians go beyond their mandate and regulate areas of an individual's life that violate basic human rights.

**21**. The guardianship reform has not improved the legal protection and circumstances of persons who need support to exercise their legal capacity. Guardians are followed up in very different ways with few checks.[[37]](#endnote-37)

* When will Norway remove its declaration on article 12?
* What measures will be taken to oversee that legislation and practices go from substitute decision-making to enable people to make informed choices with the required support to exercise their legal capacity (supported decision-making)? How will the Government ensure that the person's will and preferences are realised? What measures will be taken to ensure that people who are considered not to have competence to give consent are able to appeal against the decision? How will the Government provide training based on human rights and supported decision-making?

# **Article 13: Access to justice**

**22.** Many persons with disabilities, who want to file a case before a county governor, conciliation board or the courts, cannot afford a lawyer. The Legal Aid Act[[38]](#endnote-38) does not cover areas of importance to persons with disabilities, such as education, health and care services, and discrimination. The UN Human Rights Committee has criticised the legal aid scheme as being too restrictive.[[39]](#endnote-39)

**23.** Persons with sensory impairments are denied the right to serve as a lay judge.[[40]](#endnote-40)

**24.** When questioning persons with impairments, specific non-discriminatory interrogation methods are required, but this is not always taken into account.[[41]](#endnote-41) Despite legal provisions,[[42]](#endnote-42) court rooms can be physically inaccessible with inadequate communication equipment. Persons hard of hearing find that the courts overrule the accommodation they need.[[43]](#endnote-43)

* What steps have the Government taken to follow up the recommendations on legal aid given in Concluding Observations of CCPR/C/NOR/CO/6 and what steps will be taken to ensure that education, health and care services, and discrimination are prioritised areas in the Legal Aid Act? What steps will be taken to enable persons with disabilities access to the legal system in a way that is adapted to their age and disability at all stages during the proceedings, including serving as a lay judge?

# **Article 14: Liberty and security of the person**

**25.** The Mental Health Care Act applies to persons who have been diagnosed with a “severe mental health disorder”.[[44]](#endnote-44) The Act regulates detention on the basis of psychosocial disability (“severe mental illness”) and additional criteria related to the need for treatment or self-harm or harm to others. The Act authorises extensive coercion in institutions, including compulsory medication and physical restraint, and coercion without having to stay at the institution for 24 hours.[[45]](#endnote-45) The coercive measures set out in the Act are based on broad discretionary interpretation, which involves arbitrary and undesired practices. Norway does not have adequate data on compulsory admission, compulsory treatment or coercive measures.[[46]](#endnote-46)

**26.** There are considerable documented and permanent differences in the utilisation of coercion in different units and hospitals in various regions.[[47]](#endnote-47) The figures have remained stable over time and do not show any significant decline.[[48]](#endnote-48) The development of volunteer and user-driven services, including services providing medication-free treatment is moving too slow and only applies to a few.[[49]](#endnote-49) Persons who have been detained or given compulsory medication in accordance with the Mental Health Care Act do not have the opportunity to use such services.

**27.** Even if the CRPD is invoked by the plaintiff in cases concerning a repeal of compulsory psychiatric care, the courts rarely consider the CRPD[[50]](#endnote-50) nor whether the coercion violates the CRPD. Except in one instance, such cases have been dismissed by the Supreme Court of Norway due to a lack of principal importance.[[51]](#endnote-51) In a Supreme Court ruling from 2016, the Supreme Court says that national legislation is considered to comply with the CRPD and that Norway has issued an interpretative declaration.[[52]](#endnote-52)

**28.** Five hours of free legal advice is given for complaints about compulsory medication and nutrition, but in practice it is not subject to judicial scrutiny, because it is not possible to get free legal representation to overrule the decision of a chief county medical officer.[[53]](#endnote-53) Free legal aid is not given for complaints about other coercive measures or protection.[[54]](#endnote-54)

**29.** Coercion is permitted in accordance with the Patients’ and Users’ Rights Act, Chapter 4A[[55]](#endnote-55) to give medical assistance to those who are considered incompetent to give consent, and in accordance with the Health and Care Services Act[[56]](#endnote-56) to those with an intellectual disability. Even though the purpose of the Health and Care Services Act, Chapter 9, is to avert the use of coercion and force, such measures have been registered considerably more. Examples from DPOs show that detention and coercive measures against the persons with intellectual disabilities are determined on weak grounds.[[57]](#endnote-57) What constitutes adequate coercive measures and the criteria to trigger implementation of such measures is unclear. Research shows that the municipalities do not have enough qualified staff, which violates the legal requirement to be qualified.[[58]](#endnote-58)

**30.** Use of force or physical chastisement is prohibited in schools, but it is possible to intervene in violent acts if necessary.[[59]](#endnote-59) A survey in Vestfold County showed that 73 per cent of the teachers had used illegal force, particularly against pupils with intellectual disabilities or autism who received special needs education.[[60]](#endnote-60) No similar surveys having been conducted in other counties, but the extent to which coercion is used in schools in general is considered high.[[61]](#endnote-61)

* When will Norway remove its declaration on article 14/25?
* What measures are being taken to repeal the legal provisions in the Mental Health Care Act, the Patients’ and Users’ Rights Act Chapter 4A, and the Health and Care Services Act to ensure that in no case a person can be deprived of liberty and be subject to coercion on the basis of impairments? When will legislation that permits the use of coercion based on a diagnosis be replaced with non-discriminatory legislation?
* What will the Government do to prevent the use of coercion in the educational system?
* When will an efficient judicial scrutiny of all forms of use of coercion against people with disabilities be put in place?

# **Article 15: Freedom from torture or cruel, inhuman or degrading treatment or punishment**

**31.** The use of electroconvulsive therapy (ECT) requires voluntary informed consent but can be carried out by force if authorised by the necessity provision of the Criminal Code.[[62]](#endnote-62) The statutory requirement is not met.[[63]](#endnote-63) If ECT is used based on legal necessity, it cannot be stopped or appealed.[[64]](#endnote-64)

* What has been and will be done to follow up the CESCR's recommendation from 2013[[65]](#endnote-65) and the CAT’s recommendation from 2018[[66]](#endnote-66) to incorporate into the law the abolition of the use of restraint and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and ECT?

# **Article 16: Freedom from exploitation, violence and abuse**

**32.** Individual cases[[67]](#endnote-67) have provided extensive documentation of prejudice-based discrimination, such as bullying, harassment, exclusion, violence, hate speech and hate crimes against persons with disabilities, because of their disability. A large scale study of hate speech against people with impairments shows that over 32% have been subjected to hate speech. It also shows that a third have contacted the police.[[68]](#endnote-68) Persons with disabilities are given low priority in efforts to combat hate crimes nationally. Hate crimes against persons with disabilities are neither identified nor investigated as hate crimes, as the police and courts do not have the necessary competence. A study based on interviews with employees of the police and the Norwegian Ministry of Justice confirms that there is a doubt within the criminal justice system that violence could be motivated by animosity towards omeone's disability. Violence against persons with disabilities is often registered and judged instead as other forms of crime, including violence against a “defenceless” person.[[69]](#endnote-69)

* What will be done to prevent persons with disabilities from becoming exposed to insults, threats and abuse, including hate crimes? What measures will be taken to train the police and the judicial system to ensure that such crime is identified, investigated and sanctioned?

# **Article 17: Protecting the integrity of the person**

**33.** The municipalities’ extensive construction and use of large homes, similar to institutions, for persons with psychosocial disabilities and persons with cognitive disabilities restricts the right to protect the integrity of the person. Everyday life might be characterised by power in the form of rigid structures, for example, weekly plans, rules about bedtimes, visits, and restrictions on food, beverages and spending. More than 85 per cent of employees working in homes said that they perform services for residents with conflicting needs.[[70]](#endnote-70) The right of residents to be independent and self-determined in their own daily lives must often be waived in consideration of shift rotas and the needs of employees to follow routines and to be in control.[[71]](#endnote-71)

**34.** Psychotropic drugs, especially depot injections with long lasting effects and ECT without consent, are invasive and potentially irreversible restraints that constitute violation of the right for the psychological and physical integrity of persons with psychosocial disabilities to be respected. Institutions also use ‘*shielding*’ to impose restrictions on activities in the unit’s shared environment or to keep people wholly or partly shielded from others, which frequently results in situations similar to isolation.[[72]](#endnote-72) Shielding usually involves phone control and restrictions on contact with the outside world. Patients are not allowed access to their own music, radio, television or other means of communication. Twenty to thirty-five per cent of patients in psychiatric emergency departments are shielded.[[73]](#endnote-73)

**35.** A guardian can apply for sterilisation on behalf of a person who has “a serious mental illness or intellectual disability or mental impairment that prevents the person from making an informed decision on the procedure”.[[74]](#endnote-74)  A guardian can also put forward a request for an abortion if the woman has a “serious mental illness or a severe development disability”.[[75]](#endnote-75) Persons with a guardian depend on the guardian's consent to enter into marriage if it falls under the guardian's mandate.[[76]](#endnote-76)

* What measures will be taken to ensure persons living in institutions and large homes, similar to institutions, respect of their psychological and physical integrity?
* What steps will be taken to ensure that the psychological and physical integrity of people admitted for psychiatric care is respected at all times, and that their right to communicate with the outside world never is denied?
* What steps will be taken to remove laws that allow compulsory intervention like abortion or sterilisation of persons with disabilities, and legislation that requires the consent of a guardian to enter into marriage?

# **Article 19: Living independently and being included in the community**

**36.** The obligation of municipalities to assist persons with disabilities with the acquisition of suitable housing is too weak.[[77]](#endnote-77)

**37.** Persons with disabilities are not assured self-determination when it comes to their living arrangements and municipalities often state how they should live in order to receive municipal services.[[78]](#endnote-78) Because of financial incentives, large buildings, similar to an institution, are provided as shared housing for different groups in need of municipal services, and these are often close to nursing homes for the elderly. See also Article 17.

**38.** Because of the de-institutionalisation reform in the early 1990-ies, persons with intellectual disabilities were moved from big regionalised institutions to live in the municipalities. However, shared housing has been the dominant form of accommodation in the municipalities for persons with intellectual disabilities since 2000. The percentage of persons with intellectual disabilities living in large shared housing establishments, with common areas and facilities for day activities, is increasing. Since 2000 more than half of those who moved, moved to a shared home with more than six residents.[[79]](#endnote-79)

**39.** The Health and Care Services Act states that municipalities must provide services to secure independent activities of daily living and participation.[[80]](#endnote-80) The management and provision of these services varies greatly because of municipal self-government.[[81]](#endnote-81)

**40.** Personal assistance from a municipality may be organised as user-controlled personal assistance (UPA), i.e. assistance organised and led by persons with disabilities themselves or if necessary by an individual on their behalf. The right to choose such an organisation for personal assistance was enacted in 2015, but large groups still fall outside the right to choose UPA.[[82]](#endnote-82) Surveys[[83]](#endnote-83) show that municipalities place more emphasis on assistance for basic needs when allocating UPA instead of the need for assistance to take part in society through social activities, work and study. Municipalities state when, where and how the assistance will be given, in addition to who is allowed to give the assistance, and user control is therefore not good enough.[[84]](#endnote-84) There are large differences between municipalities when executing the scheme.[[85]](#endnote-85)

**41.** Persons with sensory loss do not receive the services of an interpreter outside office hours.[[86]](#endnote-86)

* How will the Government ensure that persons with disabilities are given the right to freely choose their place of residence and living arrangements regardless of what services they need?
* How will user involvement and user control be secured when allocating and organising municipal services, so that persons with disabilities can live active independent lives and participate in society outside of the home? What measures will be taken to ensure that persons with disabilities in all cases are free to control their own UPA without constraints? What measures will be taken to ensure that the statutory right to UPA is expanded to people in need of a lower number of hours of assistance than 32 hours a week?
* What will be done to enable deaf and persons hard of hearing to receive interpreting services when needed, including outside of office hours and public holidays?

# **Article 21: Freedom of expression and opinion, and access to information**

**42.** No requirements have been set for the universal design of information and communication. See Article 9. The Broadcasting Act[[87]](#endnote-87) only requires Norwegian television broadcasters with more than five per cent viewers (250,000) to subtitle their broadcasts from 6pm to 11pm. The Norwegian Media Authority does not carry out any active checks and is not a sanctioning authority. Persons with visually loss and cognitive disabilities do not have full access to news broadcasts and other TV programmes in a language other than Norwegian, as there are no dubbing requirements.

**43.** No general interpreting services are available at public events - the individual has to apply for a personal interpreter.

* Please indicate measures to strengthen requirements by the Norwegian Broadcasting Act to ensure subtitling and dubbing of all broadcasters, not only the public broadcaster. What measures will be taken to ensure interpreting services at public events?

# **Article 23: Respect for home and the family**

**44.** Many families with children with disabilities experience that they are not given the necessary information, services and support from support services.[[88]](#endnote-88) The information they receive about various support measures and regulations is inadequate, the support services are fragmented and disorganised, and the process concerning applications and complaints about refused benefits and services is long.[[89]](#endnote-89)

**45.** Municipalities are required by law to have coordinating units with responsibility for ensuring that citizens receive a coordinator and an individual plan, see para. 242 of the State party report. Only one in five municipalities have such a unit, and the quality varies considerably.[[90]](#endnote-90) Many persons with disabilities who are entitled to an individual plan and coordinator, are given neither or experience that the plan only exists on paper, not in practice.[[91]](#endnote-91)

**46.** Children and young persons under the age of 18, who live or receive respite care in care homes for children with disabilities,[[92]](#endnote-92) spend a greater or lesser part of their childhood in an institution with other caregivers than their parents.[[93]](#endnote-93) The number of children’s care homes has increased.[[94]](#endnote-94) Figures from 2011 show that approximately 250 children lived in children's care homes permanently and that there were approximately 1,000 respite care places.[[95]](#endnote-95) A survey from 2007 showed that parents primarily wanted their children to live at home, but due to a lack of offered adapted services by the municipalities, a children’s care home was finally deemed the only alternative.[[96]](#endnote-96) Supervisory checks on children’s care homes revealed that the regulations were violated in three out of four undertakings.[[97]](#endnote-97) The checks found that many municipalities did not have adequate professional steering and were not generally concerned with the quality of services in children’s care homes.

**47.** DPOs are concerned about the child welfare[[98]](#endnote-98) service’s lack of expertise on disability.[[99]](#endnote-99) Interventions, such as taking children into care are implemented before other support measures have been tried.[[100]](#endnote-100) Little is known about the child welfare service in relation to intervention in families with children with disabilities.[[101]](#endnote-101)

* What measures will be taken to ensure that families with children with disabilities receive the support they need and services which are cohesive and easy-to-grasp, hereunder that the right to an individual plan and coordinator is fulfilled in practice and as intended in all municipalities?
* What measures will be taken to prevent children from being separated from their parents because of their own or their parents' disability, by placement in children's care homes or by being taken into care by the child welfare services?

# **Article 24: Education**

**48.** The Education Act[[102]](#endnote-102) establishes a universal right to adapted education and an individual right to special needs education regardless of diagnosis. Pupils entitled to special needs education have strong procedural rights, including an individual decision and access to complaint mechanisms. However the legal rights are not always followed in practice and there are big geographical variations.[[103]](#endnote-103) Special needs education can be either inclusive or segregated, but pupils with disabilities are offered training in other locations more often than other pupils.[[104]](#endnote-104) Over 60 per cent of pupils receiving special needs education receive most of their education in groups or alone with an assistant or teacher.[[105]](#endnote-105) More pupils have segregative solutions in upper secondary school than in lower secondary school.[[106]](#endnote-106)

**49.** The quality of special needs education varies.[[107]](#endnote-107) Many pupils meet employees in kindergartens and schools without pedagogical competence. Half of all special needs education is given by assistants.[[108]](#endnote-108)

**50.** Persons with disabilities do not complete upper secondary school as often as others. Sixty-four per cent of students with physical disabilities fail to complete upper secondary school compared to only 17 per cent of the general population.[[109]](#endnote-109) Consequently, they cannot apply for vocational training or higher education.[[110]](#endnote-110)

**51.** Teacher training programmes barely focus on how teachers should implement inclusive and adapted education. The professional instruments for adapted education are not included in the framework plans for teacher training. Special needs education initiatives are only topics on special needs education training programmes.

* What measures will be taken to include more pupils with disabilities in the school system's regular education? Please provide information on how the qualifications and competences of the headmaster, teachers, specialists and others regarding inclusion are guaranteed through education and courses to realize the vision of high-quality inclusive education in regular schools to the highest possible level.
* What measures will be taken to ensure that persons with disabilities complete upper secondary school and higher education to the same extent as other pupils?
* What measures will be taken to ensure an equal right to adapted education and special needs education regardless of municipality or county of residence, and that the education is given by teachers with relevant and formal educational training?

# **Article 25: Health**

52. Persons with disabilities are worse off than the general population in terms of dental, physical and psychological health.[[111]](#endnote-111) Compared to the general population, the health of persons with intellectual disabilities tends to be poorer and health services are not adapted.[[112]](#endnote-112) In 2016, the Offices of the County Governors carried out a countrywide supervision of municipal health and social services for persons with intellectual disabilities in 57 municipalities. Service errors were found in 45 municipalities, some of them serious.[[113]](#endnote-113)

* When will Norway remove its declaration on article 14/25? What will be done to ensure the right to voluntary informed consent according to Article 25 d)?
* What plans does the State party have to eliminate health inequalities for persons with disabilities, in particular persons with intellectual disabilities?

# **Article 27: Work and employment**

**53.** The proportion of employed persons with disabilities has been stable for decades, regardless of the economic situation and programmes in place.[[114]](#endnote-114) Little research has been done on discrimination against persons with disabilities in the workplace. The requirement of activity and reporting,[[115]](#endnote-115) as an instrument to promote employment and increase equality in the workplace is rarely implemented for persons with disabilities.[[116]](#endnote-116)

* What will be done to detect and prevent discrimination against persons with disabilities in the labour market? What will be done to ensure that the requirement of activity and reporting is actively enforced to promote employment of persons with disabilities in the private and public labour markets?
* What initiatives will be taken to significantly increase the percentage of persons with disabilities working in the open labour market?

# **Article 29: Participation in political and public life**

**54.** No status report exists regarding accessibility to venues used by elected bodies.[[117]](#endnote-117) DPOs have observed that venues and equipment used for the meetings of elected bodies at municipal, county and national level and for elections and political debates, still do not meet the requirements of universal design even 10 years after the obligation was enacted in anti-discrimination legislation.[[118]](#endnote-118) Case documents are not made available to blind and partially sighted politicians.[[119]](#endnote-119) Paper-based elections deprive the severely visually impaired from voting in secret and 40 per cent report that they have not cast a secret ballot.[[120]](#endnote-120) Even though the electronic voting trial was successful, it has not been introduced. Electronic pre-voting is not permitted either.

* What measures will be taken to secure diversity and increase the amount of persons with disabilities in elected bodies, hereunder measures to raise awareness and ensure accessibility to premises and information?
* Please provide information on how new technologies are used to eliminate different kinds of barriers that prevent persons with various types of disabilities to be able to carry out the voting procedure by themselves?

# **D. Specific obligations (art 31-33)**

# **Article 31: Statistics and data collection**

* Please provide information on whether sufficient documentation exists, hereunder statistical data and research data, regarding the situation of persons with disabilities compared to the general population. To what degree is this documentation sufficient in order to formulate and implement policies which give effect to the Convention? To what extent are the Washington Group Set of Questions on Disability planned used in statistics?

# **Article 32: International cooperation**

* What is being done to ensure that international cooperation, including programmes for development aid, are inclusive and accessible to persons with disabilities?

# **Article 33: National implementation and monitoring**

* How will the Government involve relevant communities of persons with disabilities and DPOs in the monitoring of the CRPD Committee's Concluding Observations?

# **END NOTES**

1. Some names of organisations are unofficial translations.

 [↑](#endnote-ref-1)
2. The Declarations:

*“Article 12
       Norway recognises that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. Norway also recognizes its obligations to take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity. Furthermore, Norway declares its understanding that the Convention allows for the withdrawal of legal capacity or support in exercising legal capacity, and/or compulsory guardianship, in cases where such measures are necessary, as a last resort and subject to safeguards.*

*Articles 14 and 25
       Norway recognises that all persons with disabilities enjoy the right to liberty and security of person, and a right to respect for physical and mental integrity on an equal basis with others. Furthermore, Norway declares its understanding that the Convention allows for compulsory care or treatment of persons, including measures to treat mental illnesses, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards.”*

A/HRC/37/56, Report of the Special Rapporteur on the rights of persons with disabilities, para. 37: <http://www.ohchr.org/EN/Issues/Disability/SRDisabilities/Pages/Reports.aspx>

Vibeke Blaker Strand: Norway's Ratification of the UN Convention on the Rights of Persons with Disabilities: Highlighting Current Discourses in the Field of Human Rights in Norway, Nordic Journal of Human Rights, Vol. 32, No. 1 2014 pp. 75-83 - (NMR-2014-75), 2014. [↑](#endnote-ref-2)
3. White Paper No. 39 (2015–2016) [Meld. St. 39 (2015–2016)]: <https://www.regjeringen.no/no/dokumenter/meld.-st.-39-20152016/id2513020/>

Recommendation of the Norwegian Parliament, 161 S (2016–2017) [Innst. 161 S (2016–2017)]: <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Stortinget/2016-2017/inns-201617-161s/?all=true> [↑](#endnote-ref-3)
4. CEDAW and CRC is incorporated through the Human Rights Act and the Racial Discrimination Convention (CERD) is incorporated through the Act relating to equality and a prohibition against discrimination (Equality and Anti-Discrimination Act):

<https://lovdata.no/dokument/NL/lov/2017-06-16-51?q=likestilling>

English version: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51> [↑](#endnote-ref-4)
5. Law on the strengthening of human rights in Norwegian law, LOV-1999-05-21-30:

<https://lovdata.no/dokument/NL/lov/1999-05-21-30?q=menneskerettslov> [↑](#endnote-ref-5)
6. In HR-2016-2591-A, the Supreme Court of Norway concluded that the legal capacity to manage one’s own financial affairs should be taken away from a female psychiatric patient. The provision set out in the Guardianship Act, Section 22, Subsection 1 authorising such intervention had to be used even though it clearly violated the UN’s Convention on the Rights of Persons with Disabilities. The Supreme Court of Norway referred to the UN CRPD Committee’s general comments No. 1 (2014) and found that although the Committee’s interpretation was clear, it could not be considered as long as the CRPD had not been incorporated into Norwegian law and legislators clearly expressed a different interpretation of national rules applicable to the implementation of the Convention.

Vibeke Blaker Strand: Norway's Ratification of the UN Convention on the Rights of Persons with Disabilities: Highlighting Current Discourses in the Field of Human Rights in Norway, Nordic Journal of Human Rights, Vol. 32 No. 1 2014, pp. 75-83 - (NMR-2014-75), 2014. [↑](#endnote-ref-6)
7. See <https://press.nordicopenaccess.no/index.php/noasp/catalog/book/16> and Norwegian Official Reports: NOU 2011:18 Structure for Equality, NOU 2012:15 Equality Policies, Status of Free Speech, 2014-17, Committee for Gender Balance and Diversity in Research (KIF) 2014-17: Violence in Close Relationships [↑](#endnote-ref-7)
8. Everyone has a Story, Annual Report 2016, Oslo and Akershus Health and Social Services Ombudsman, the Ombudsman for Social Services and the Elderly in Oslo 2017: [https://www.oslo.kommune.no/getfile.php/13113204/Innhold/Politikk og administrasjon/Etater og foretak/Pasient- og brukerombudet i Oslo og Akershus og Sosial- og eldreombudet i Oslo/Årsmelding 2016 ombudet.pdf](https://www.oslo.kommune.no/getfile.php/13113204/Innhold/Politikk%20og%20administrasjon/Etater%20og%20foretak/Pasient-%20og%20brukerombudet%20i%20Oslo%20og%20Akershus%20og%20Sosial-%20og%20eldreombudet%20i%20Oslo/A%CC%8Arsmelding%202016%20ombudet.pdf)

Annual Report of the Buskerud Health and Social Services Ombudsman 2017. See p. 13: [https://helsenorge.no/SiteCollectionDocuments/pasient-%20og%20brukerombudet/Årsmelding%202017%20Buskerud.pdf](https://helsenorge.no/SiteCollectionDocuments/pasient-%20og%20brukerombudet/%C3%85rsmelding%202017%20Buskerud.pdf) [↑](#endnote-ref-8)
9. See, for example <http://www.nfunorge.org/Nyheter/Gjor-Fylkesmannen-jobben-sin/> which was based on a series of articles in Bergens Tidende newspaper.

Nationwide supervision of health and care services for persons with disabilities in 2016 showed that 45 of 57 municipalities violated the law. See the summary of the nationwide supervision of municipal health and care services for persons with disabilities in 2016: It Concerns Lives. Norwegian Board of Health Supervision Report 4/2017.

Norwegian Board of Health Supervision Annual Report 2016:

<https://www.helsetilsynet.no/upload/Publikasjoner/aarsrapporter/aarsrapport2016.pdf>

Norwegian Board of Health Supervision Annual Report 2017: <https://www.helsetilsynet.no/upload/Publikasjoner/aarsrapporter/aarsrapport2017.pdf>

See also, for example, The Norwegian Board of Health Supervision 2014/889, discussed in a note to Article 14. [↑](#endnote-ref-9)
10. Experiential knowledge from DPOs and UNICEF Norway’s surveys demonstrate this. See:

<https://www.unicef.no/nyheter/15330/store-forskjeller-barn-i-kommunene> [↑](#endnote-ref-10)
11. CRC/C/NOR/CO/4: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/NOR/CO/4&Lang=En>

CRC/C/NOR/CO/5-6: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/NOR/CO/5-6&Lang=En> [↑](#endnote-ref-11)
12. Act relating to Equality and Anti-Discrimination Ombud and the Anti-Discrimination Tribunal (Anti-Discrimination Ombud Act), LOV-2017-06-16-50, Section 12:

English version: <https://lovdata.no/dokument/NLE/lov/2017-06-16-50> [↑](#endnote-ref-12)
13. Else McClimans: Legal Practice and Anti-Discrimination Laws. Submitted to the Anti-Discrimination Law Committee in August 2008. We are not aware of newer reports on this topic. [↑](#endnote-ref-13)
14. Sylvia Söderström, Anna Kittelsaa and Berit Berg (2011): Are we talking about the same thing?

Minority group families with children with disabilities when encountering the support services, Norwegian University of Science and Technology (NTNU): <https://samforsk.no/Sider/Publikasjoner/Snakker-vi-om-det-samme.aspx>

Jan Tøssebro and Christian Wendelborg (Eds.): Childhood with a Disability (Oppvekst med funksjonshemming). Publisher: Gyldendal

akademisk, 2014, Chapter 8: <http://www.gyldendal.no/Faglitteratur/Sosial-og-helsefag/Vernepleie/Oppvekst-med-funksjonshemming> [↑](#endnote-ref-14)
15. Line Melbøe, Bjørn-Eirik Johnsen, Gunn Elin Fredreheim, Ketil Lenert Hansen: The Situation of Sami People with Disabilities, Nordic Welfare Centre 2016.

The report shows that focus on diagnoses and disabilities overshadows an approach that understands, values and emphasises the cultural aspect of the Sami people in the way they think, their values, history and daily living: <https://www.bufdir.no/Nedsatt_funksjonsevne/Aktuelt/Ny_rapport_Samer_med_nedsatt_funksjonsevne/> [↑](#endnote-ref-15)
16. Anna Kittelsaa, Guro Korsnes Kristensen and Sigrid Elise Wik: Gender in Research on Disability. A Literary Study 2016. NTNU Report. ISBN 978-82-7570-477-9: <https://www.bufdir.no/global/Kjonn_i_forskning_om_funksjonshemming_NTNU.pdf> [↑](#endnote-ref-16)
17. Anna Kittelsaa, Guro Korsnes Kristensen and Sigrid Elise Wik: Gender in Research on Disability. A Literary Study 2016. NTNU rapport. ISBN 978-82-7570-477-9:

<https://www.bufdir.no/global/Kjonn_i_forskning_om_funksjonshemming_NTNU.pdf> [↑](#endnote-ref-17)
18. See <https://www.regjeringen.no/globalassets/upload/bld/likestilling/likestilling_2014.pdf> [↑](#endnote-ref-18)
19. Act relating to Primary and Secondary Education and Training (Education Act), LOV-1998-07-17-61: <https://lovdata.no/dokument/NL/lov/1998-07-17-61> [↑](#endnote-ref-19)
20. Act relating to Patients’ and Users’ Rights (Patients’ and Users’ Rights Act), LOV-1999-07-02-63:

<https://lovdata.no/dokument/NL/lov/1999-07-02-63> [↑](#endnote-ref-20)
21. CRC/C/NOR/CO/4: <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC/C/NOR/CO/4&Lang=En> [↑](#endnote-ref-21)
22. Mona Asbjørnslett, Gunn Helene Engelsrud and Sølvi Helseth (2014): Inclusion and participation in everyday school life: Experience of children with physical (dis)abilities. International journal of Inclusive Education, Vol. 19, Issue 2, 2015. Thirty-nine children with disabilities were interview about their experiences at school. They said they were rarely allowed to take part in formal meetings that would enable them to have an impact on their own education or individual support. See: <https://www.tandfonline.com/doi/full/10.1080/13603116.2014.916353?scroll=top&needAccess=true> [↑](#endnote-ref-22)
23. Examples of attitude surveys that exclude persons with disabilities include those from the Center of Studies of Holocaust and Religious Minorities 2017:

Attitudes towards Jews and Muslims in Norway 2017 Population and minority group study: <http://www.hlsenteret.no/forskning/jodisk-historie-og-antisemittisme/befolkningsundersokelse%3A-holdninger-til-joder-og-a/resultater-holdningsundersokelse.html>

Status of freedom of speech in Norway 2015-2017: <http://ytringsfrihet.no/>, in English:

<https://press.nordicopenaccess.no/index.php/noasp/catalog/book/16>

Fafo Report 2016:43: Assimilation in Norwegian: <http://www.fafo.no/index.php/nb/zoo-publikasjoner/fafo-rapporter/item/assimilering-pa-norsk>

Attitudes towards homosexuals: <https://www.nrk.no/livsstil/fire-av-ti-synes-homosex-er-feil-1.11342314>

 [↑](#endnote-ref-23)
24. See <https://press.nordicopenaccess.no/index.php/noasp/catalog/book/16> and, for example, courses for lower secondary schools on democratic preparedness against racism and anti-Semitism at: <http://www.hlsenteret.no/undervisning/dembra/>

The Political Platform of the Government formed by the Norwegian Conservative Party, the Norwegian Progress Party and the Norwegian Liberal Party, 14 January 2018: “The Government will combat racism, religious discrimination, antisemitism, social control and prejudice based on gender, sexual identity and ethnicity.” See:<https://www.regjeringen.no/no/dokumenter/politisk-plattform/id2585544/#k3> [↑](#endnote-ref-24)
25. Proposed bill to the Norwegian Odelsting, Proposition No. 44 (2007-2008) for a Discrimination and Accessibility Act. The act was adopted in 2008 and entered into force in 2009.

Innst. O. nr.68 (2007–2008): <https://www.stortinget.no/no/Saker-og-publikasjoner/Publikasjoner/Innstillinger/Odelstinget/2007-2008/inno-200708-068/?lvl=0> [↑](#endnote-ref-25)
26. Government’s Plan of Action for Universal Design 2015-2019: <https://www.regjeringen.no/no/dokumenter/regjeringens-handlingsplan-for-universell-utforming-2/id2473299/>

<https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=67428> [↑](#endnote-ref-26)
27. See Ann Helen Aarø: Legal right to goods, services and public information. An unpublished report commissioned by the Norwegian Ministry of Children, Equality and Social Inclusion, dated 8 December 2008, prior to enforcement of the former Anti-Discrimination and Accessibility Act. The report stressed that this could mean that the Act would not be applied to all the situations that the Act actually covers.

PROBA social analysis. The Impact of Improved Access to Goods and Services on Socioeconomics. Report 2010 – 02. Prepared for the Norwegian Ministry of Children, Equality and Social Inclusion 2010: <http://proba.no/app/uploads/sites/4/rapport-2010-02-samfunnsokonomiske-virkninger-av-styrket-tilgang-til-varer-og-tjenester-.pdf>

The Act relating to Equality and a Prohibition against Discrimination (Anti-Discrimination and Accessibility Act), LOV-2008-06-20-42, was abolished and replaced with a new Anti-Discrimination and Accessibility Act (LOV-2013-06-21-61), which in turn has been replaced with the Act relating to Equality and a Prohibition against Discrimination (Equality and Anti-Discrimination Act), LOV-2017-06-16-51. [↑](#endnote-ref-27)
28. Act on Equality and a Prohibition against Discrimination (Equality and Anti-Discrimination Act), LOV-2017-06-16-51. See, Section 18: <https://lovdata.no/dokument/NL/lov/2017-06-16-51>

English version: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51> [↑](#endnote-ref-28)
29. Regulations on universal design of information and communication technology (ICT) solutions, FOR-2013-06-21-732: <https://lovdata.no/dokument/SF/forskrift/2013-06-21-732?q=FOR-2013-06-21-732> [↑](#endnote-ref-29)
30. Act relating to Guardianship (Guardianship Act), LOV-2010-03-26-9, Section 22 and Section 68: <https://lovdata.no/dokument/NL/lov/2010-03-26-9> [↑](#endnote-ref-30)
31. See the ruling of Sør-Østerdal District Court on 19.10.2015 for case 15-14738ENE-SOST. [↑](#endnote-ref-31)
32. Act relating to Guardianship (Guardianship Act), LOV-2010-03-26-9, Section 33, Subsection 2, Sentence two and three: <https://lovdata.no/dokument/NL/lov/2010-03-26-9> [↑](#endnote-ref-32)
33. Experiences of the Norwegian Association for Persons with Intellectual Disabilities (NFU) and Investigation of the Office of the Auditor General of Norway on how the guardianship reform has been effectuated. Document 3:6 (2017-2018): <https://www.riksrevisjonen.no/rapporter/Sider/Verjemal.aspx> [↑](#endnote-ref-33)
34. See Kjersti Skarstad, Realizing the human rights of persons with disabilities. From political ideals to political practices, PhD, 2018: <https://www.tandfonline.com/doi/full/10.1080/13642987.2018.1454903>

The judgment of Eidsivating Court of Appeal LE-2017-73276;

Judgment of Agder Court of Appeal LA-2017-30975

Judgment of the Supreme Court of Norway HR-2017-275-A;

Investigation of the Office of the Auditor General of Norway on how the guardianship reform has been effectuated. Document 3:6 (2017-2018): <https://www.riksrevisjonen.no/rapporter/Sider/Verjemal.aspx> [↑](#endnote-ref-34)
35. The Norwegian Civil Affairs Authority, Annual Report 2016 on guardianship: [https://www.vergemal.no/getfile.php/4085733.2573.spmzaajuti7lms/%C3%A5rsmelding+2016.pdf](https://www.vergemal.no/getfile.php/4085733.2573.spmzaajuti7lms/%C3%A5rsmelding%2B2016.pdf) [↑](#endnote-ref-35)
36. Examples of cases submitted to the Norwegian Association for Persons with Intellectual Disabilities (NFU): The permanent guardian of a 22-year-old man prevented him from seeing his mother more than once per week and no more than one weekend each month. A forty-year-old woman’s permanent guardian re-addressed all her post without informing her. She has to pay the additional postage costs for sending her Christmas cards and gifts to her own address. She is not allowed to spend her own money nor is she allowed to move. The permanent guardian of another man is subjected to access agreements with his parents; he has restricted telephone access and is not allowed to talk to the media. [↑](#endnote-ref-36)
37. Office of the Auditor General of Norway’s investigation on how the guardianship reform has been effectuated. Document 3:6 (2017-2018): <https://www.riksrevisjonen.no/rapporter/Sider/Verjemal.aspx> [↑](#endnote-ref-37)
38. Act relating to Legal Aid, LOV-1980-06-13-35:

<https://lovdata.no/dokument/NL/lov/1980-06-13-35?q=rettshjelplov>

Free legal aid in accordance with the Legal Aid Act is a social support scheme aimed at providing necessary legal assistance to people who do not have the financial means to pay for legal assistance connected to legal proceedings that are highly important both personally and from a welfare perspective. Free legal aid is paid fully or partially by the Government in the form of free legal advice, free court case proceedings or exemption from court costs. [↑](#endnote-ref-38)
39. Concluding observations of the Human Rights Committee, CCPR/C/NOR/CO/6. [↑](#endnote-ref-39)
40. HR-2014-01118-U based on LB-2014-51994 and TOSLO-2103-168908. A blind man could not be a lay judge, as he was not personally suitable to assess visual evidence and non-verbal communication from the accused and witnesses. The District Court interpreted Article 13 of the CRPD as follows: In connection with this matter, the Court notes that Article 13 of the Convention “Access to justice” is insignificant to the assessment the Court shall carry out here. Reference is made to the purpose of this provision being the safeguarding of persons with disabilities’ access to justice On an Equal Footing with others. For example, persons with disabilities must be able to access the conditions inside courtrooms through the installation of hearing loops in all district courts, and public schemes shall be utilised for people who need assistance during the legal process.”

The District Court came to the same conclusion about a woman’s suitability to be a lay judge. She was hard of hearing and th Court concluded that she was not personally suitable, as she needed a speech-to-text interpreter. See TOSLO-2013-171716. [↑](#endnote-ref-40)
41. Case 14/2012 of the Anti-Discrimination Tribunal concerned discrimination of a five-year-old child with cerebral palsy in connection with the cancellation of questioning by a judge. The case was filed because the parents had reported that her kindergarten support teacher had sexually abused their daughter. The child could hear, but not talk, and therefore communicated through sign language and mimicking. Due to some motor skill problems, the signs could look different to the norm for sign language. Two interpreters were appointed for the girl’s interview with the judge and they were asked to get to know her in a pre-meeting. After the pre-meeting the interpreters said that it was difficult to communicate with the child and they withdrew from the assignment. Consequently, the interview with the judge was cancelled and the police closed the case. The Tribunal found that the case should not have been closed as it contravened the former Anti-Discrimination and Accessibility Act, as the interview with the judge was cancelled because of the child’s disability.

Equality and Anti-Discrimination Ombud (LDO) case no. 14/297 concerned discrimination of a child (X) in that the child was not questioned in a sexual abuse case. X has an intellectually disability and lacks verbal language skills. X and another pupil (B) have one-to-one staffing, but were left alone unsupervised on school grounds. B wheeled X into a room inside the school and when they were eventually found, X was laying half undressed on the floor. B apparently stated after the even that he had taken off X’s clothes on her lower body and touched her genitalia. Prior to the event, B had made sexual gestures to X. He had verbally said and written down his fantasies and what he might do. The police did not obtain a statement from X or the suspected in the case, but they interviewed the assistant who found them, the parents, and they gathered statements from the health service. The counsel of the victim, X, asked the police to instigate investigative measures with the aim of a potential corporate penalty for the school. The police decided not to implement investigative measures to clarify whether there was a basis for a corporate penalty. The police closed the case with reference to the evidence in the case. When assessing whether to interview X, emphasis was placed on her inability to talk. Therefore, it served no purpose for the judge to interview her. The police say that a judge interview is not a given right; it is an assessment that is carried out if it will produce significant information for the case in determining guilt/punishment. LDO concluded that closure of the case contravened the former Anti-Discrimination and Accessibility Act of 2008 when investigating a report of sexual abuse. [↑](#endnote-ref-41)
42. Act relating to the Courts of Justice (Courts of Justice act), LOV-1915-08-13-5, Section 137: “Where a party who is deaf or dumb is to testify before the court, this may be achieved by way of written questions and responses, or through an interpreter.” (Unofficial translation)

Act on Equality and a Prohibition against Discrimination (Equality and Anti-Discrimination Act), LOV-2017-06-16-51, Section 17 Universal Design:

Norwegian version: <https://lovdata.no/dokument/NL/lov/2017-06-16-51>

English version: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51> [↑](#endnote-ref-42)
43. See LB-2015-52915 regarding a hearing impaired man, who petitioned for the presence of a speak-to-text interpreter during the main hearing of a case at Sarpsborg District Court. The District Court said that the courtroom had an audio booster through headphones and that the plaintiff had accepted this solution when the solution was tested. The plaintiff refused such a solution, as his prior experience with headphones in court hearings was poor. The Court of Appeal concluded in its ruling that the District Court not had ignored the Anti-Discrimination and Accessibility Act, as the Court had provided alternative adaptation during the main hearing. An appeal to the Supreme Court of Norway was denied, see HR-2015-1370-U.

The former Anti-Discrimination and Accessibility Act Section 13, is now replaced by the Equality and Anti-Discrimination Act, but the obligation to ensure universal design is the same. [↑](#endnote-ref-43)
44. Act relating to the establishment and implementation of mental health care (Mental Health Care Act), LOV-1999-07-02-62: <https://lovdata.no/dokument/NL/lov/1999-07-02-62> [↑](#endnote-ref-44)
45. A Norwegian concept called TUD, is an outpatient compulsory health care that signifies that a person, while living at home, is ordered to come to an institution for treatment on given days.

The regulation on the establishment and implementation of mental health care, FOR-2011-12-16-1258: <https://lovdata.no/dokument/SF/forskrift/2011-12-16-1258> [↑](#endnote-ref-45)
46. See the report of the Norwegian Directorate of Health on the Use of Force in Adult Mental Health Care, IS-2243 of 1 November 2014, which uncovered significant gaps in the reporting of used force to the Norwegian Patient Registry (see page 5). [↑](#endnote-ref-46)
47. See the reports of the Norwegian Directorate of Health on the Use of Force in Adult Mental Health Care 2011, IS-2035, and IS-2243 of 1 November 2014. [↑](#endnote-ref-47)
48. See the report of the Norwegian of Directorate Health, Assessment of the Continuation of ‘Better Quality – Increased Volunteerism’. A National Strategy for Increased Volunteerism in Mental Health Care (2012–2015), Norwegian Ministry of Health and Care Services 2015, Item 4.1, page 14, and Better Quality – Increased Volunteerism: National Strategy for Increased Volunteerism in Mental Health Care (2012–2015) at: <https://www.regjeringen.no/globalassets/upload/hod/bedrekvalitet-okt_frivillighet.pdf> [↑](#endnote-ref-48)
49. See <http://www.medisinfrietilbud.no> [↑](#endnote-ref-49)
50. See cases LB-2013-91092, LB-2015-13924, LG-2015-46654, LB-2017-186895 and LA-2017-51897. Here a plaintiff claimed that Article 14 of the CRPD had been breached, but the Court of Appeal did not assess the reality of the matter. In the latter case, the Court of Appeal considered the following in relation to Article 14 of the CRPD: *“The Court of Appeal finds that such intervention is not illegal either just because it breaches the UN Convention on the Rights of Persons with Disabilities. The Norwegian Parliament ratified the Convention on 3 June 2013, but the Convention has not been incorporated into Norwegian law through amendments to the Act on Mental Health Care.”* [↑](#endnote-ref-50)
51. See: HR-2014-602-U, HR-2015-1091-U, HR-2015-1728-U, HR-2017-1811-U and HR-2018-399-U. [↑](#endnote-ref-51)
52. HR-2016-1286-A [↑](#endnote-ref-52)
53. Act relating to Free Legal Aid [Legal Aid Act], LOV-1980-06-13-35, Section 11(1), No. 8: <https://lovdata.no/dokument/NL/lov/1980-06-13-35>

Act relating to the Provision and Implementation of Mental Health Care (Mental Health Care Act), LOV-1999-07-02-62: <https://lovdata.no/dokument/NL/lov/1999-07-02-62>

Proposition 147 L (2015–2016), Amendments to the Norwegian Mental Health Care Act, etc. (increased self-determination and due process): <https://www.regjeringen.no/no/dokumenter/prop.-147-l-20152016/id2504160/sec1> [↑](#endnote-ref-53)
54. See <https://www.nrk.no/troms/bekymret-for-rettsvernet-til-psykiatriske-pasienter-1.13552089> [↑](#endnote-ref-54)
55. Act relating to Patients’ and Users’ Rights (Patients’ and Users’ Rights Act), LOV-1999-07-02-63: <https://lovdata.no/dokument/NL/lov/1999-07-02-63/KAPITTEL_5#KAPITTEL_5> [↑](#endnote-ref-55)
56. Act relating to Municipal Health and Care Services, etc., (Health and Care Services Act), LOV-2011-06-24-30: <https://lovdata.no/dokument/NL/lov/2011-06-24-30#KAPITTEL_9> [↑](#endnote-ref-56)
57. See <http://www.nfunorge.org/Nyheter/Tvang-og-makt-som-sak-i-Stortinget/> [↑](#endnote-ref-57)
58. Terje Olsen, Hild Rønning: Summary of knowledge: Due process for people with intellectual disabilities, Nordland Research Institute, Work Notes 1010/2013, June 2013 at: <http://www.nordlandsforskning.no/getfile.php/Dokumenter/Arbeidsnotater/2013/Notat_10102-2013.pdf> [↑](#endnote-ref-58)
59. Act relating to Primary and Secondary Education and Training (Education Act), LOV-1998-07-17-61, Section 9 A-4, and the Criminal Code, LOV-2005-05-20-28, Section 17 relating to legal necessity and Section 18 relating to legitimate self-defence: <https://lovdata.no/dokument/NL/lov/2005-05-20-28>

English version: <https://lovdata.no/dokument/NLE/lov/2005-05-20-28> [↑](#endnote-ref-59)
60. Arve Johan Arntsen Mosand, Force and Coercion in primary and lower secondary education: Use of force against some pupils in primary and lower secondary education in Vestfold, Master Degree Thesis, Learning in Complex Systems, Akershus University College, Autumn 2013. [↑](#endnote-ref-60)
61. Letter of 6 January 2014 from the County Governor of Vestfold to the Norwegian Ministry of Education and Research. [↑](#endnote-ref-61)
62. Proposition to the Norwegian Odelsting No. 11 (1998–1999) regarding the Act relating to the Provision and Implementation of Mental Health Care (Mental Health Care Act), pp. 108–109, in which the Ministry stated the following:

*“It must always be stressed however that the legal necessity can always be exercised as a separate basis for giving ECT without the patient’s consent if the patient’s life is at risk or the person’s health could be seriously harmed. Reference is made to Section 47 of the Criminal Code, which requires an unavoidable risk that cannot be prevented in any other way and is considered exceptionally serious in relation to non-consensual ECT. Thus, such therapy can only be given in an emergency situation that cannot be remedied by other means, e.g., with anti-psychotic drugs, and it can only be repeated until the specific danger is over. Such an emergency will typically apply to situations with an immediate risk of suicide due to severe depression.”*

The Criminal Code, LOV-2005-05-20-28, Section17 (equivalent to the then applicable Section 47):

<https://lovdata.no/dokument/NL/lov/2005-05-20-28>

English: <https://lovdata.no/dokument/NLE/lov/2005-05-20-28> [↑](#endnote-ref-62)
63. Marius Storvik: Due Process and the Integrity of Patients in Mental Health Care. *Thesis, UiT/The Artic University of Norway.* (2017), Chapter 14.8.2 ‘Legal necessity as a legal basis in psychiatry’, pp. 302-306. Article on the thesis: <https://forskning.no/2017/06/avdekket-menneskerettighetsbrudd-i-7-av-8-undersokte-tiltak-i-psykiatrien/produsert-og-finansiert-av/uit-norges-arktiske-universitet> [↑](#endnote-ref-63)
64. Parliamentary Ombudsman’s Visit Report, Ålesund Hospital, Department for Hospital Psychiatry, 19-21 September 2017. Article about the matter:

<https://www.sivilombudsmannen.no/aktuelt/tortur-forebygging/utrygghet-blant-personalet-skaper-risiko-tvangsbruk-alesund-sjukehus/>

Parliamentary Ombudsman’s Visit Report, Akershus University Hospital, Department for Emergency Psychiatry, 2-4 May 2017, Items 3, 6.1.1, 9.4 and 13.1: <https://www.sivilombudsmannen.no/wp-content/uploads/2017/10/Bes%C3%B8ksrapport-2017-Ahus-avdeling-akuttpsykiatri.pdf> [↑](#endnote-ref-64)
65. Concluding observations of the Committee on Economic, Social and Cultural Rights on Norway (E/C.12/NOR/CO/5), adopted December 2013, para 19. [↑](#endnote-ref-65)
66. CAT/C/NOR/CO/8, para. 22 (i): <http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT/C/NOR/CO/8&Lang=En> [↑](#endnote-ref-66)
67. For example, see: <http://www.handikapnytt.no/index.asp?id=80480> and

<http://www.osloby.no/nyheter/krim/Forsokte-a-dytte-rullestolbruker-i-Oslofjorden--7711511.html> and <https://stopdisk.no/hat-kriminalitet/>

Issues connected to the description of these being one-off events: <https://www.uloba.no/glemt-hatkriminalitet/> [↑](#endnote-ref-67)
68. Aina Winsvold: What happens on the Internet remains on the Internet – How the State’s Children’s Houses handle online abuse, NOVA – Norwegian Social Research Memorandum No. 2/15 at: <http://www.hioa.no/Om-HiOA/Senter-for-velferds-og-arbeidslivsforskning/NOVA/Publikasjonar/Notat/2015/Det-som-skjer-paa-nett-forblir-paa-nett>

Nordland Research Institute, Hate Speech against Persons With Disabilities, Nordland Research Institute Report No. 6 2016:

<http://www.nordlandsforskning.no/getfile.php/1315203/Opplevelser%20i%20nord/NF%206-2016%20opplag%202.pdf> [↑](#endnote-ref-68)
69. Eivind Digranes: Disabled justice: A qualitative case study on barriers to registration of disability hate crime within the Norwegian criminal justice system. Master thesis, University of Oslo, 2016: <https://www.duo.uio.no/handle/10852/51398> [↑](#endnote-ref-69)
70. See Anne Margareth Kittelsaa and Jan Tøssebro: Large Shared Supported Housing for People with Intellectual Disabilities, Norwegian University of Science and Technology (NTNU) 2011. Page 36. See: <https://samforsk.no/Sider/Publikasjoner/Store-bofellesskap-for-personer-med-utviklingshemming.aspx> [↑](#endnote-ref-70)
71. See Sylvia Söderström and Jan Tøssebro: Achieved goals after shattered visions? Some main points in the development of living conditions for people with intellectual disabilities, Norwegian University of Science and Technology (NTNU), Social Research 2011: <https://samforsk.no/Sider/Publikasjoner/Innfridde-m%C3%A5l-eller-brutte-visjoner.aspx>

Norwegian Official Report: NOU 2016: 17: On an Equal Footing, p.161: <https://www.regjeringen.no/contentassets/b0baf226586543ada7c530b4482678b8/no/pdfs/nou201620160017000dddpdfs.pdf> [↑](#endnote-ref-71)
72. Parliamentary Ombudsman’s Visit Report, Akershus University Hospital, Department for Emergency Psychiatry, 2-4 May 2017, Items 3, 6.1.1, 9.4 and 13.1: <https://www.sivilombudsmannen.no/wp-content/uploads/2017/10/Bes%C3%B8ksrapport-2017-Ahus-avdeling-akuttpsykiatri.pdf> [↑](#endnote-ref-72)
73. See R. Norvoll, T. Ruud and T. Hynnekleiv: Shielding in Emergency Psychiatry in the Journal of the Norwegian Medical Association 2015; 1335:35-9, at: <http://tidsskriftet.no/article/3275621/> [↑](#endnote-ref-73)
74. Act relating to Sterilisation, LOV-1977-06-03-57, Section 4, Subsection 3: <https://lovdata.no/dokument/NL/lov/1977-06-03-57>

I IS-2024, Act relating to Sterilisation (Sterilisation Act) – Guide to the Act and Regulations, Norwegian Directorate of Health 2012, states that approx. 20-30 people are sterilised each year in accordance with the sterilisation application procedure set out in the Sterilisation Act, Section 3. Most of the applications for sterilisation handled by the Board are granted. More than 60% of the applications concern people with intellectual disabilities: <https://helsedirektoratet.no/Lists/Publikasjoner/Attachments/658/Lov-om-sterilisering-IS-2024.pdf> [↑](#endnote-ref-74)
75. Act relating to the Termination of Pregnancy [Abortion Act], LOV-1975-06-13-50, Section 4, Subsection 2: <https://lovdata.no/dokument/NL/lov/1975-06-13-50> [↑](#endnote-ref-75)
76. Act relating to Marriage (Marriage Act), LOV-1991-07-04-47, Section 2: <https://lovdata.no/dokument/NL/lov/1991-07-04-47> [↑](#endnote-ref-76)
77. The statutory duty of municipalities is only to ‘contribute’ towards the acquisition of housing for people in a difficult situation who cannot look after their own interests in the housing market. See the Act relating to Social Services in the Labour and Welfare Administration (Social Services Act), LOV-2009-12-18-131, Section 15: <https://lovdata.no/dokument/NL/lov/2009-12-18-131/KAPITTEL_3#§15>

Support schemes from the Norwegian State Housing Bank to help persons with disabilities buy and arrange their own housing are statutory in regulations, but only offered by a few municipalities. The practice is discretionary: Proba Research Report No. 2012-07, Municipal Guidelines and Practices for Start-Up Loans, prepared by the Norwegian State Housing Bank: [http://biblioteket.husbanken.no/arkiv/dok/FOU/Kommunenes retningslinjer\_startlan.pdf](http://biblioteket.husbanken.no/arkiv/dok/FOU/Kommunenes%20retningslinjer_startlan.pdf)
and Regulations governing start-up loans from the Norwegian State Housing Bank, FOR-2014-03-12-273: <https://lovdata.no/dokument/SF/forskrift/2014-03-12-273>. In addition, see: <http://www.husbanken.no/startlaan/hvor-mye/> [↑](#endnote-ref-77)
78. Norwegian Official Report: NOU 2016: 17, On an Equal Footing, especially Item 14.4.2:
<https://www.regjeringen.no/no/dokumenter/nou-2016-17/id2513222/>

Ann Kristin Eide and Janne Paulsen Breimo: When the cycle of life is intertwined with administrative randomness: A study of housing solutions for people with intellectual disabilities, Nordland Research Institute Report No. 8/2013: <https://www.husbanken.no/bibliotek/bib_boligsosialt/boliglosninger-for-personer-med-utviklingshemming1/>

Norwegian Directorate of Children, Youth and Family Affairs, BUFDIR 2013: My Situation Today. Report on the living conditions of people with intellectual disabilities, Report 1-2013, at: <https://www.bufdir.no/Global/nbbf/Funksjonsnedsettelse/Slik_har_jeg_det_i_dag_Utviklingshemmede.pdf> [↑](#endnote-ref-78)
79. See Anne Margareth Kittelsaa and Jan Tøssebro: Large Shared Supported Housing for People with Intellectual Disabilities, Some consequences, Norwegian University of Science and Technology (NTNU) Report, Social Research 2011, at: <https://samforsk.no/Sider/Publikasjoner/Store-bofellesskap-for-personer-med-utviklingshemming.aspx> [↑](#endnote-ref-79)
80. Act relating to Municipal Health and Care Services, etc., (Health and Care Services Act), LOV-2011-06-24-30, Section 3-2, Subsection 1, No. 6: <https://lovdata.no/dokument/NL/lov/2011-06-24-30> [↑](#endnote-ref-80)
81. Reports show large variations between municipalities when allocating and practising user-controlled personal assistance (UPA):

Rune Ervik, Egil Kjerstad, Tord Skogedal Lindén and Kristin Rubecksen: User-Controlled Personal Assistance as a Statutory Right – High Expectations, Conditional upon Success, Report 2-2017, Uni Research Rokkan Centre: <https://uni.no/media/manual_upload/Rapport_2-2017_Ervik_Kjerstad_Linden_og_Rubecksen.pdf>

Equality and participation in reverse? An investigation on the experiences of persons with disabilities receiving user-controlled personal assistance (UPA), Norwegian Association of Disabled 2017: <http://intranett.nhf.no/showfile.ashx?fileinstanceid=92b00172-89c9-42b8-8a96-8d1f2b45d8f1> [↑](#endnote-ref-81)
82. People under the age of 67 with long-term and a strong need for personal assistance in accordance with the Health and Care Services Act, Section 3-2, Subsection 1, No. 6, letter b, are entitled to services organised as user-controlled personal assistance. As a user-controller, the individual acts as a supervisor and engages assistants instead of the municipality.

See the Act relating to Patients’ and Users’ Rights (Patients’ and Users’ Rights Act), LOV-1999-07-02-63, Section 2-1(d): <https://lovdata.no/dokument/NL/lov/1999-07-02-63> [↑](#endnote-ref-82)
83. Equality and participation in reverse? An investigation on the experiences of persons with disabilities receiving user-controlled personal assistance (UPA), Norwegian Association of Disabled 2017: A member survey shows that it has become more difficult to get user-controlled personal assistance since the scheme was enacted as a statutory right: <http://www.nhf.no/arkiv/flere-klagesaker-og-lite-brukerstyring>

My Life – My Responsibility! Uloba’s experiential report on the development of user-controlled personal assistance – reasons, consequences and solutions, Uloba Independent Living Norway, 2018. The survey revealed that many only receives assistance to cover their basic needs and cannot participate socially, that the differences between municipalities vary greatly and that user-controlled personal assistance has lost its momentum after its enactment as a statutory right: <https://www.uloba.no/les-ulobas-bpa-rapport/>

Rune Ervik, Egil Kjerstad, Tord Skogedal Lindén and Kristin Rubecksen: User-Controlled Personal Assistance as a Statutory Right – High Expectations, Conditional upon Success, Report 2-2017, Uni Research Rokkan Centre:

The report shows that the enactment of user-controlled personal assistance as a statutory right has limited the achievement of goals, such as independence and participation, for people entitled to user-controlled personal assistance:

<http://uni.no/nb/uni-rokkansenteret/medborgerskap-migrasjon-og-helse/flgeevaluering-av-rettighetsfesting-av-brukerstyrt-personlig-assistanse-bpa/>
 [↑](#endnote-ref-83)
84. My Life – My Responsibility! Uloba’s experiential report on the development of user-controlled personal assistance – reasons, consequences and solutions, Uloba Independent Living Norge, 2018. The survey revealed that many only receives assistance to cover their basic needs and cannot participate socially, that the differences between municipalities vary greatly and that user-controlled personal assistance has lost its momentum after its enactment as a statutory right: <https://www.uloba.no/les-ulobas-bpa-rapport/>

A summary of nationwide supervision in 2016 of municipal health and care services for people with intellectual disabilities. It Concerns Lives. Report of the Norwegian Board of Health Supervision 4/201 showing poor user impact: <https://www.helsetilsynet.no/upload/Publikasjoner/rapporter2017/helsetilsynetrapport4_2017.pdf>

Annual Report of the Health and Social Services Ombudsman in Buskerud 2017.

See p. 13: [https://helsenorge.no/SiteCollectionDocuments/pasient-%20og%20brukerombudet/Årsmelding%202017%20Buskerud.pdf](https://helsenorge.no/SiteCollectionDocuments/pasient-%20og%20brukerombudet/%C3%85rsmelding%202017%20Buskerud.pdf) [↑](#endnote-ref-84)
85. Everyone has a Story, Annual Report 2016, the Health and Social Services Ombudsman in Oslo and Akershus, Social Services and Care for the Elderly in Oslo 2017. The annual report shows large differences between the municipalities and poor user impact: [https://www.oslo.kommune.no/getfile.php/13113204/Innhold/Politikk og administrasjon/Etater og foretak/Pasient- og brukerombudet i Oslo og Akershus og Sosial- og eldreombudet i Oslo/Årsmelding 2016 ombudet.pdf](https://www.oslo.kommune.no/getfile.php/13113204/Innhold/Politikk%20og%20administrasjon/Etater%20og%20foretak/Pasient-%20og%20brukerombudet%20i%20Oslo%20og%20Akershus%20og%20Sosial-%20og%20eldreombudet%20i%20Oslo/A%CC%8Arsmelding%202016%20ombudet.pdf) [↑](#endnote-ref-85)
86. Agenda Kaupang commissioned by the Norwegian Ministry of Labour and Social Inclusion: A comprehensive review of the field of interpreting. Report of 18 February 2016:

<https://www.regjeringen.no/contentassets/8d48960f9c8347f8b669f39b844bd4de/sluttrapport_helhetlig-gjennomgang-av-tolkeomradet_agendakaupang.pdf> [↑](#endnote-ref-86)
87. Norwegian Act relating to Broadcasting and Audiovisual on-demand Services (Broadcasting Act), LOV-1992-12-04-127, Sections 2-19: <https://lovdata.no/dokument/NL/lov/1992-12-04-127?q=Kringkastingsloven> [↑](#endnote-ref-87)
88. See Tøssebro and Wendelborg (Eds.): Childhood with a Disability – Family Life Cycle and Transitions. Publisher: Gyldendal akademisk, 2014. [↑](#endnote-ref-88)
89. Anna Kittelsaa and Jan Tøssebro: Parents’ Experiences with Support Services.

Chapter 7 in Jan Tøssebro and Christian Wendelborg (Eds.). Childhood with a Disability (Oppvekst med funksjonshemming). Publisher: Gyldendal akademisk, 2014.

One article in the media reported that the parents of a child with disabilities attended 185 meetings with the support services in 2017. The father said that they spend all their energy on everything but the child, i.e. writing applications that are rejected, then the submission of complaints and appeals, and following up information from one medical authority to another: <https://www.vartoslo.no/multifunksjonshemmede-mitras-7-foreldre-hadde-185-moter-med-hjelpeapparatet-i-fjor-for-at-datteren-skulle-fa-forsvarlig-hjelp/> [↑](#endnote-ref-89)
90. Office of the Auditor General’s investigation on rehabilitation in the health service. Document 3:11(2011–2012). See: <https://www.riksrevisjonen.no/Rapporter/Documents/2011-2012/Dokumentbase_3_11_2011_2012.pdf> [↑](#endnote-ref-90)
91. Experiences of the DPOs. [↑](#endnote-ref-91)
92. Regulations on municipal health and care institutions, FOR-2011-12-16-1254:

<https://lovdata.no/dokument/SF/forskrift/2011-12-16-1254> [↑](#endnote-ref-92)
93. See Randi Sigurdsen: Placing Children in Children’s Care Homes – Violation of the Rights of the Child, FAB 2011-3, at:

<http://www.bufdir.no/Bibliotek/RettsdataStartPage/Rettsdata/?grid=gFAB2011z2D3z5FSIGURDSEN>

Linnea Sophie Saatvedt: About the situation of the child in cases relating to respite care homes and children’s homes for children with disabilities. Master’s Thesis in Law, Faculty of Law, University of Oslo, 2014. [↑](#endnote-ref-93)
94. Nordland Research Institute – NF Working Paper No. 1003/2007: Children’s care homes – the best or second best alternative? <http://www.nordlandsforskning.no/getfile.php/Dokumenter/Arbeidsnotater/2007/Notat_1003_2007.pdf> [↑](#endnote-ref-94)
95. Proposition 91 L (2010-2011) Act relating to Municipal Health and Care Services, etc., (Health and Care Services Act) p. 150–151. [↑](#endnote-ref-95)
96. Nordland Research Institute – NF Working Paper No. 1003/2007: Children’s Care homes – the best or second best alternative? <http://www.nordlandsforskning.no/getfile.php/Dokumenter/Arbeidsnotater/2007/Notat_1003_2007.pdf>

It has recently been revealed that children have been placed in nursing homes with the elderly. For example, see the case from the Norwegian Broadcasting Corporation (NRK) about a four-year-old boy, who had to stay overnight in a nursing home: <https://www.nrk.no/nordland/olvard-_4_-blir-tvunget-til-a-bo-pa-sykehjem-1.13768651> and a case of the Norwegian Association for Persons with Intellectually Disabilities (NFU): <http://www.nfunorge.org/Om-NFU/NFU-bloggen/barn-pa-sykehjem2/>

This resulted in the Norwegian Parliament proposing Representative Proposal 67 S (2017–2018) for new initiatives to ensure that children are not placed in nursing homes, as this violates the best interests of the child and wishes of parents: [Representantforslag om å ta nye initiativ for å sikre at barn ikke skal måtte bo på sykehjem i strid med barnets beste og foreldrenes ønske](https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=70190): <https://www.stortinget.no/no/Saker-og-publikasjoner/Saker/Sak/?p=70190> [↑](#endnote-ref-96)
97. Summary of nationwide supervision of municipal social and health care services in 2009 for children living in children’s home and respite care homes, ‘Hopefully, it will be fine…’, Norwegian Directorate of Health Report 2/2010:

<http://www.helsetilsynet.no/upload/Publikasjoner/rapporter2010/helsetilsynetrapport2_2010.pdf> [↑](#endnote-ref-97)
98. The primary duty of the child welfare services is to ensure that children and young people living under conditions that may harm their health and development will receive the necessary assistance when they need it, and to contribute to giving children and young people safe conditions for growing up. [↑](#endnote-ref-98)
99. Dette gjelder blant annet Autismeforeningen, ADHD Norge og Norges ME-forening: <https://www.aftenposten.no/norge/i/pxy1/Etterlyser-et-mer-lydhort-barnevern>

Norges Døveforbund opplyser også ha flere eksempler dette. [↑](#endnote-ref-99)
100. Se Jan Tøssebro, Turid Midjo, Veronika Paulsen og Berit Berg: Foreldre med kognitive vansker i møte med barnevernet, NTNU 2014 på

<http://samforsk.no/Publikasjoner/Foreldre%20med%20kognitive%20vansker%20WEB.pdf> [↑](#endnote-ref-100)
101. Tonje Gundersen, Gunhild R Farstad og Anne Solberg: Ansvarsfordeling til barns beste?

Barn og unge med funksjonsnedsettelser i barnevernet, NOVA-rapport nr. 17/11 på

<http://www.nova.no/asset/4801/1/4801_1.pdf> [↑](#endnote-ref-101)
102. Act relating to Primary and Secondary Education and Training (Education Act), LOV-1998-07-17-61: <https://lovdata.no/dokument/NL/lov/1998-07-17-61> [↑](#endnote-ref-102)
103. Thomas Nordahl et al: Including communities for children and youth – the expert group for children and youth with special needs, 2018: <http://nettsteder.regjeringen.no/inkludering-barn-unge/files/2018/04/INKLUDERENDE-FELLESSKAP-FOR-BARN-OG-UNGE-til-publisering-04.04.18.pdf> [↑](#endnote-ref-103)
104. Christian Wendelborg: Barriers Preventing Participation. Norwegian University of Science and Technology (NTNU), Social Research 2010. C. Wendelborg and J. Tøssebro (2010): Marginalisation Processes in Inclusive Education in Norway – A Longitudinal Study of Classroom Participation. Disability and Society, 25 (6), 701–714. [↑](#endnote-ref-104)
105. Thomas Nordahl et al: Including communities for children and youth – the expert group for children and youth with special needs, 2018: <http://nettsteder.regjeringen.no/inkludering-barn-unge/files/2018/04/INKLUDERENDE-FELLESSKAP-FOR-BARN-OG-UNGE-til-publisering-04.04.18.pdf> [↑](#endnote-ref-105)
106. Patrick Kermit, Anne Mali Tharaldsteen, Gry Mette Dalseng Haugen and Christian Wendelborg: One of the group? Inclusion of Youths with Sensory Loss – Possibilities and Limitations, Statped/NTNU Social Research. 2014. See: [http://samforsk.no/Publikasjoner/En av flokken WEB.pdf](http://samforsk.no/Publikasjoner/En%20av%20flokken%20WEB.pdf)

Statistics from the Norwegian Directorate for Education for the 2016/2017 Academic Year show that the number of pupils receiving special needs education is almost three times as high in Year 10 than in Year 1: <https://www.udir.no/tall-og-forskning/finn-forskning/tema/elever-og-ressurser-i-grunnskolen-2016-17/> [↑](#endnote-ref-106)
107. For example, see: Rune Hausstätter and Thomas Nordahl in the book titled ‘Reformtakter – Om fornyelse og stabilitet i grunnopplæringen’ (Reform Measures – About Modernisation and Stability in Primary and Lower Secondary Schools). Publisher: Universitetsforlaget, 2013. [↑](#endnote-ref-107)
108. Thomas Nordahl et al: Including communities for children and youth – the expert group for children and youth with special needs, 2018: <http://nettsteder.regjeringen.no/inkludering-barn-unge/files/2018/04/INKLUDERENDE-FELLESSKAP-FOR-BARN-OG-UNGE-til-publisering-04.04.18.pdf> [↑](#endnote-ref-108)
109. Jon Erik Finnvold: A long way to go? Living Conditions and Social Inclusion of Persons with Disabilities, NOVA Research Report No. 12, 2013. See:
<http://www.hioa.no/content/download/45481/674758/file/7401_1.pdf> [↑](#endnote-ref-109)
110. Jon Erik Finnvold: A long way to go? Living Conditions and Social Inclusion of Persons with Disabilities, NOVA Research Report No. 12, 2013. See:
<http://www.hioa.no/content/download/45481/674758/file/7401_1.pdf> [↑](#endnote-ref-110)
111. Jorunn Ramm: On equal terms? Health and living conditions among persons with disabilities, Statistics Norway 2010, at: <http://www.ssb.no/a/publikasjoner/pdf/sa_115/sa_115.pdf>

Jon Ivar Elstad: Mental Health of Persons with Disabilities – An Analysis of Statistics Norway’s Health Surveys, NOVA Research Report 3/1998. See: <http://www.hioa.no/Om-HiOA/Senter-for-velferds-og-arbeidslivsforskning/NOVA/Publikasjonar/Rapporter/1998/Funksjonshemmede-og-psykisk-helse>

Norwegian Official Report: NOU 2016: 17, On an Equal Footing, See p.100: <https://www.regjeringen.no/contentassets/b0baf226586543ada7c530b4482678b8/no/pdfs/nou201620160017000dddpdfs.pdf>

Halvorsen et al. (2014) «Psychological health in children and youth with a low ability level», *Tidsskrift for Norsk psykologforening*, Vol 51, nr. 3, s 210-215 [↑](#endnote-ref-111)
112. See: <http://naku.no/sites/default/files/files/Helserapport.pdf>

Norwegian Official Report: NOU 2016: 17, On an Equal Footing: <https://www.regjeringen.no/contentassets/b0baf226586543ada7c530b4482678b8/no/pdfs/nou201620160017000dddpdfs.pdf>

A summary of nationwide supervision in 2016 of municipal health and care services for people with intellectual disabilities. It Concerns Lives. Report of the Norwegian Board of Health Supervision 4/2017: <https://www.helsetilsynet.no/upload/Publikasjoner/rapporter2017/helsetilsynetrapport4_2017.pdf> [↑](#endnote-ref-112)
113. English summary of Report of the Norwegian Board of Health Supervision 4/2017: <https://www.helsetilsynet.no/norwegian-board-of-health-supervision/Publications/Report-of-the-Norwegian-Board-of-Health-Supervision-2017/It-is-all-about-life-Summary-of-countrywide-supervision-in-2016-of-municipal-health-and-social-services-for-people-with-mental-disabilities/> [↑](#endnote-ref-113)
114. Goals for a more Inclusive Labour Market – Status and Development Trends, Report for 2017, Expert Group Report for the Inclusive Workplace Agreement: <https://www.regjeringen.no/contentassets/f78f73f646b74b2882254d59c50c7bd3/ia-rapport_2017_uuweb.pdf> [↑](#endnote-ref-114)
115. Act relating to Equality and a Prohibition against Discrimination (Equality and Anti-Discrimination Act): [https://lovdata.no/dokument/NL/lov/2017-06-16-51?q=likestilling og diskriminering#KAPITTEL\_3](https://lovdata.no/dokument/NL/lov/2017-06-16-51?q=likestilling%20og%20diskriminering%23KAPITTEL_3)

English version: <https://lovdata.no/dokument/NLE/lov/2017-06-16-51>

 [↑](#endnote-ref-115)
116. Inger Lise Skog Hansen and Hilde Haualand: Discriminative Barriers in the Workplace, Duty to be Active and to Report as an Instrument in the Field of Disability, Fafo Report 2012:25. See: <http://www.fafo.no/pub/rapp/20252/index.html> [↑](#endnote-ref-116)
117. Example of an inaccessible city hall, Equality and Anti-Discrimination Ombud case 09/473: <http://www.ldo.no/nyheiter-og-fag/klagesaker/2011/Roros-kommune-har-ikke-utbedret-forste-etasje-i-radhuset/> [↑](#endnote-ref-117)
118. Examples:

The Norwegian Federation of Organisations of Disabled People (FFO): <http://ffo.no/aktuelt/et-funksjonshemmet-demokrati/funksjonshemmede-blir-diskriminert-i-demokratiet/>

Wheelchair users cannot enter the Norwegian Parliament: <http://www.nhf.no/arkiv/stortingsaksjon-satte-funksjonshemmede-pa-dagsorden/2016/04/06/f5259a2c-3d4e-4131-89b9-7f56c4952778>

The Norwegian Directorate of Children, Youth and Family Affairs refers to an article in Ringerikes Blad newspaper from 2016 about a person with a hearing impairment, who withdrew from political life because he could not hear what was being said: <https://www.bufdir.no/uu/Nytt/Arkiv/2016/Horselshemmet_politiker_orker_ikke_mer/>

Sør-Trøndelag newspaper, 24 March 2018 about wheelchair users not being able to access the local council’s hall in the Municipality of Hemne: [https://www.avisa-st.no/pluss/2018/03/23/—-Jeg-skal-hjelpe-til-å-bære-rullestolbrukere-opp-trappa-16329151.ece](https://www.avisa-st.no/pluss/2018/03/23/%E2%80%94-Jeg-skal-hjelpe-til-%C3%A5-b%C3%A6re-rullestolbrukere-opp-trappa-16329151.ece) (behind the paywall) [↑](#endnote-ref-118)
119. Experience-based knowledge, Norwegian Association of the Blind and Partially Sighted. [↑](#endnote-ref-119)
120. See the Norwegian Ministry of Local Government and Modernisation: Accessibility for people with a sight or mobility impairment at the 2011 Local Elections at: <https://www.regjeringen.no/globalassets/upload/krd/vedlegg/komm/rapporter/tilgjengelighet_ved_lokalvalget_2011.pdf> [↑](#endnote-ref-120)