



**PERMANENT MISSION OF NORWAY
TO THE UNITED NATIONS**

The Permanent Mission of Norway to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations and has the honour to refer to its verbal note LA/COD/50/1, requesting Member States to submit “any information and observations that Governments may wish to submit on their implementation of General Assembly resolution 73/196 (2018), in particular paragraphs 10, 12, 13, 15, 18 and 20 thereof, as well as any practical problems in the implementation of the resolution.”

With reference to General Assembly resolution 73/196 of 20 December 2018, entitled “Criminal accountability of United Nations officials and experts on mission”, Norway wishes to report the following information:

In regard to resolution 17/196 (2018), operative paragraph 10, Norway would like to refer to its observations in its report of 2016, which remains valid. Insofar as Norway has jurisdiction over a crime committed by one of its nationals pursuant to section 5 of the Penal Code, Norway will have jurisdiction over criminal acts committed abroad by Norwegian nationals serving as United Nations officials or experts on mission

With respect to resolution 73/196 (2018), operative paragraph 12 *litra a*, Norway may afford assistance to states in connection with criminal investigations or criminal or extradition proceedings in respect of crimes of a serious nature committed by United Nations officials or experts on mission, including rendering assistance in obtaining evidence, in accordance with the Norwegian Extradition Act 13 June 1975, as well as applicable multilateral and bilateral extradition and MLA-treaties.

Regarding resolution 73/196 (2018), operative paragraph 12 *litra b*, information and material obtained from the United Nations for purposes of criminal proceedings initiated in Norway for the prosecution of crimes of a serious nature committed by UN officials and experts on mission, may be used in accordance with provisions in the Norwegian Criminal Procedure Act.

With respect to General Assembly resolution 73/196 (2018), operative paragraph 12 *litra c*, the Norwegian Criminal Procedure Act, The Penal Code and The Act relating to the Courts of Justice stipulate provisions regarding protection of witnesses,

including witnesses to crimes of a serious nature alleged to have been committed by United Nations officials and experts on mission.

Moreover, the Norwegian Penal Code section 157 establishes a penal provision based on witness protection. According to section 157, a penalty of imprisonment for a term not exceeding six years shall be applied to any person who by violence, threats, vandalism or other illegal conduct with respect to a participant in the justice system or any of his/her next-of-kin:

- a) acts in a manner that is likely to influence the participant to perform or omit to perform and act, work or a service in connection with criminal proceedings or a civil case, or
- b) retaliates for an act, work or a service the participant has performed in connection with criminal proceedings or a civil case.

Witness protection according to The Criminal Procedure Act covers several different measures.

According to section 130 *litra a*, the relevant court may, upon the request of the public prosecutor by order decide to hear the evidence of an anonymous witness, if knowledge of the witness's identity may entail a risk:

- a) of a serious felony that will impair the life, health or liberty of the witness or any person to whom the witness has such a relationship as is specified in section 122 (spouse, relatives in a direct line of ascent or descent, siblings and equally close relatives by marriage of the person charged etc.), or
- b) that the possibility of a witness playing an undercover part in the investigation of other cases of the kind specified above will encounter considerable difficulty.

This provision only applies for some criminal acts, e.g. The Penal Code section 291 (sexual assault), section 294 (grossly negligent sexual assault) and section 274 (aggravated bodily harm).

In addition, section 242 limits the defence access to documents. The court may, at any stage of the case, upon the request of the public prosecutor by order decide to limit the defence access to documents if access may entail any risk:

- a) of a serious crime being committed against any person's life, health or liberty,
- b) that the possibility of a person participating under cover in the investigation of other cases will be substantially impeded,
- c) that the possibility of the police preventing or investigating crimes will be substantially impeded because information concerning other cases or police methodology will become known,
- d) that police collaboration with the authorities of another country will be substantially impeded, or
- e) that the identity of a person who has provided information to the police will become revealed.

The court may only reach a decision according to section 130 *litra a* and 242 *litra a*, if it is strictly necessary and does not give rise to substantial doubts in regard to the defence of the person charged.

According to The Act relating to the Courts of Justice section 125, the court may decide to close a hearing, e.g. when a witness is being examined. Furthermore, the Criminal Procedure Act section 284 states that the court may decide that a person indicted shall leave the courtroom while a witness is being examined, if there is special reason to fear that an unreserved statement will not otherwise be made. According to section 109 *litra a*, the court may examine witnesses by distant examination. Moreover, The Criminal Procedure Act sections 239–239 *litra f* stipulate rules concerning facilitated interviews in Children’s homes and orphanages. Facilitated interviews should, among other things, be used when interviewing witnesses younger than the age of 16 in cases involving sex offences, assault and battery, homicide, abuse in close relationships, and female genital mutilation.

Witness support offers conversation partners for witnesses in Norwegian courts, provides human support and offers guidance on the procedure in the courtroom, primarily in criminal cases. The witness support scheme is essentially organised as a collaboration between the courts’ central administration, the Norwegian Courts Administration and a voluntary organisation, the Norwegian Red Cross, where witness support is provided as voluntary work. The said scheme is not regulated by law.

Please rest assured that Norway will continue to take an active approach to ensure the effective implementation of the provisions of General Assembly resolution 73/196 (2018).

The Permanent Mission of Norway to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.

New York, 3 June 2019

The Office of Legal Affairs
of the United Nations
New York