



KOMMISJONEN FOR  
GJENOPPTAKELSE AV STRAFFESAKER

## THE NORWEGIAN CRIMINAL CASES REVIEW COMMISSION



## ANNUAL REPORT 2017

# Contents

- The Chair's report ..... 3
- Introduction to the activities and main figures ..... 4
- The organisation ..... 5
- The Commission's members 2017 ..... 6
- The procedure in a review case – without an investigation..... 9
- The procedure in a review case – with an investigation ..... 10
- The year's activities and results ..... 11
- Relevant decisions by the Commission in 2017 ..... 15
- The Commission's other activities ..... 23
- Management and control of the activities ..... 27
- Annual accounts ..... 28
- Accounting principles ..... 29
- Appropriation reporting statement 31.12.2017 ..... 30
- Notes to the appropriation reporting statement ..... 31
- General ledger accounts reporting statement 31.12.2017 ..... 33
- Notes to the general ledger accounts reporting statement ..... 34

# The Chair's report

The Criminal Cases Review Commission was established in 2004 as an independent administrative body inspired by two corresponding commissions in the UK. These three commissions have maintained contact throughout the years and, in November 2017, two colleagues and I had the pleasure of taking part in celebrating the 20<sup>th</sup> anniversary of the English Criminal Cases Review Commission (CCRC). This commission chose to mark the occasion by holding a conference in London where several diverse panels discussed the CCRC's activities during the past 20 years – what can go wrong in the criminal case chain and why, and what will the future bring? Panel members included researchers, lawyers, journalists, members of the CCRC and, not least, two convicted persons whose cases had been reopened. Their moving stories illustrate how important it is to have an opportunity to reopen cases where something has for various reasons gone seriously wrong. We recognise many of the UK's challenges and experiences.

We have given a number of talks as part of our external activities. The Commission has also been on a study trip to The Hague and had meetings with several committees, associations and institutions during the year. These contacts are important because they provide us with knowledge and a better empirical basis for dealing with our cases. In addition, this networking is important in order to make the Commission visible.

The Commission is a body with a wide range of expertise. Experienced and interested employees prepare the cases for the Commission. A presentation of the Commission's members and employees is given later on in this annual report. For the 2017 budget year, the Commission had NOK 17,213,000 at its disposal and spent NOK 16,692,036. Most of the money was spent on fixed expenses such as rent, secretariat employee salaries and remuneration to the Commission's members.

In 2017, the Commission received 151 petitions to reopen cases, compared to 161 in 2016. A total of 126 cases were concluded in 2017, compared to 162 in 2016. The Commission has thus not achieved its goal that the number of decisions must not be lower than the number of petitions received. The reduction in the number of concluded cases is a natural variation and does not, in my view, give grounds for concern.

The Commission reopened 17 cases during the year. Abbreviated versions of these are included below. Ten petitions were disallowed. Eighty petitions were rejected by the Commission or by the Chair/Vice Chair acting alone.

Helen Sæter's fixed term of office expired in March 2017 and I took over as Chair of the Commission in April 2017. One of the Commission's members, Anders Løvlie, left the Commission and was replaced by District Court Judge Dag Jodaa. The Commission has had meetings on 13 days during the year.

During the first year of its history, the Commission received 232 petitions to reopen cases. Later, the Commission has received between 150 and 170 petitions each year. The content of these cases varies.

Throughout the years, the grounds for reopening a large percentage of the cases have been that, following a legally enforceable judgment, the convicted person has proven not to be accountable at the time of the act so that he should not have been punished. In many cases, it has been revealed that the convicted person was mentally disabled to a lesser degree so that a less severe penalty should have been considered.

In 2017, 16 of the 17 cases were reopened on these grounds. I am concerned about the fact that these cases are not discovered at an earlier stage. The prosecuting authority must play an active role in this and not simply leave it up to the unaccountable person or his defence counsel to consider whether or not to petition for reopening in such cases.

In the same year as the Commission was established, the Norwegian Director of Public Prosecutions stated this in a letter to the public prosecutors' offices and chief constables. He pointed out that the prosecuting authority had to be aware of previous convictions of persons who were in new cases regarded as unaccountable, with the aim of considering whether a petition to reopen a case is to be submitted in favour of the convicted person.

The Director of Public Prosecutions' views in 2004 continue to apply.

Oslo, 15 February 2018

[Signature]

Siv Hallgren

Chair

# Introduction to the activities and main figures

## Description of the activities and public service role

The Norwegian Criminal Cases Review Commission (the Commission) is an independent administrative body that is to deal with petitions to reopen criminal cases which have been determined by the courts in legally enforceable convictions.

The Commission is administratively subject to the Ministry of Justice and Public Security. The Ministry cannot instruct the Commission on how to exercise its authority in individual cases.

The Commission must ensure it has plenty of information on the case before objectively assessing whether the statutory conditions for reopening the case have been met. The Commission's activities are regulated by chapter 27 of the Norwegian Criminal Procedure Act.

A convicted person may petition for a review of a legally enforceable conviction if:

- There is new evidence or a new circumstance that seems likely to lead to an acquittal, the application of a more lenient penal provision or a substantially more lenient sanction.
- In a case against Norway, an international court or the UN Human Rights Committee has concluded that the decision or proceedings conflict with a rule of international law, so that there are grounds for assuming that a retrial of the criminal case will lead to a different result.
- Someone who has had crucial dealings with the case (such as a judge, prosecutor, defence counsel, expert witness or court interpreter) has committed a criminal offence that may have affected the conviction to the detriment of the convicted person.
- A judge or jury member who dealt with the case was disqualified and there is reason to believe that this may have affected the decision.
- The Supreme Court has departed from a legal interpretation that it previously relied on and on which the conviction is based.
- There are special circumstances that cast doubt on the correctness of the conviction and weighty considerations indicate that the question of the guilt of the defendant should be re-examined.

The Commission is obliged to provide guidance to parties who ask to have their cases reopened. Unless the

convicted person is represented by a lawyer, he will be offered a guidance meeting. Such a meeting may take place by phone or as a physical meeting on the Commission's premises. If the convicted person is in prison, the meeting may take place there.

When there are special grounds for this, the party petitioning to reopen a case may have a defence counsel appointed at public expense.

The Commission ensures that the necessary investigation into the case's legal and factual issues is carried out and may gather information in any way it sees fit. This work can be resource-demanding but it was one of the key reasons for establishing the Commission. It is thus an important task. Since its formation in 2004, the Commission has dealt with several cases that have required major investigations.

If a petition is not rejected and is investigated further, the convicted person and prosecuting authority are to be made aware of the Commission's investigation and given an opportunity to submit their comments. Aggrieved persons and surviving next of kin are to be informed of the petition. Aggrieved persons and surviving next of kin are entitled to examine documents and state their views on the petition in writing, and they may ask to make a statement to the Commission. The Commission may appoint a counsel for an aggrieved person pursuant to the Criminal Procedure Act's normal rules in so far as these are applicable.

Petitions are decided on by the Commission. The Commission's Chair/Vice Chair may reject petitions which, due to their nature, cannot lead to a case being reopened, which do not stipulate any grounds for reopening a case in accordance with the law or which obviously cannot succeed.

If the Commission decides that a petition is to be allowed, the case is to be referred for retrial to a court of equal standing to that which made the original ruling. If the ruling was made by the Supreme Court, the case is to be retried by the Supreme Court.

# The organisation

The Commission consists of five permanent members and three alternate members. The Chair, Vice Chair, one other member and two of the alternate members must have a master of laws or master of jurisprudence degree. The Chair is appointed by the King in Council for a seven-year period and the members and alternate members are appointed by the King in Council for a three-year period. The Commission's members and alternate members may be reappointed once for another three-year period.

## **Presentation of the Commission's members as at 31 December 2017**

### **Siv Hallgren (2017 - 2024)**

*Chair of the Commission as from April 2017.*

Work experience from the Ministry of Justice and Public Security, executive officer with the Norwegian Labour Inspection Authority, chief superintendent of police, prosecutions manager and acting head of the CID in Asker and Bærum Police, head-hunter with ISCO Group AS, trainee lawyer/lawyer with the law firm of Lea, Haavik & Helland and lawyer and partner with Advokatfirmaet Elden DA. She is a former head of the Norwegian Bar Association's Legal Counsel for Aggrieved Parties Committee and was a member of the work group aiming to increase the use of conflict resolution boards, the Criminal Accountability Committee and the Special Courts Committee. She is currently a member of the Health Personnel Appeal Board.

### **Sven Ole Fagernæs (2015 - 2018, Vice Chair)**

Lawyer, previously Attorney General

Fagernæs started to work for the Office of the Attorney General in 1976. He was appointed Attorney General in 1994 and held this position until he retired in April 2015. Fagernæs has previously worked in the Legislation Department of the Ministry of Justice and Public Security and was a deputy judge at Indre Sogn District Court. From 1998-2001, he was on leave from the Office of the Attorney General to take up the post of acting permanent undersecretary of State in the Ministry of Justice and Public Security. In 2005, he was the acting Governor of Svalbard.

### **Anne Britt Flemmen (2013 - 2019, member)**

*Professor of sociology at the Tromsø campus of the University of Tromsø Norway's Arctic University*

Flemmen obtained a doctorate from the University of Tromsø in 1999. She has conducted research into

gender, migration, integration, equality and close relationships, as well as issues relating to minority and indigenous communities. She has conducted studies in Malaysia and Ethiopia as well as in Norway and Sápmi. She has been a member of the government-appointed Equality Committee (Skjeie Committee), the research-ethics committee at the University of Tromsø, the board of Kvinnforsk (centre for research into women and gender) and editor of the Tidsskrift for kjønnsforskning (a gender-research periodical). Flemmen is currently the head of the Department of Social Sciences (fixed-term position) and head of the national Academic Council for Sociology.

### **Dag Jodaa (2017 - 2020, member)**

*Rana District Court judge*

Jodaa obtained a master of laws degree in 1996. He was a deputy judge from 1996-1999, an advisor to the Ministry of Justice and Public Security from 1999-2000 and a privately practising lawyer and partner with Advokathuset Helgeland DA from 2000-2015.

### **Tor Ketil Larsen (2015-2018, member)**

*Chief physician and head of section at Stavanger University Hospital and associate professor at the University of Bergen.*

Larsen has had four three-year scholarship periods at the University of Oslo, where he worked for the Department of Basal Medicine and obtained a Dr. Med degree in 1989. He led the early intervention part of the so-called TIPS project.

He has been the academic head of the Regional Centre for Clinical Psychosis Research at Stavanger University Hospital and the head of research in the department. Larsen has written around 120 articles/book chapters on the topic of psychoses, early diagnosis, substance abuse, compulsory disorders, ADHD, epilepsy and the long-term effects of psychoses. He has long experience as a forensic psychiatry expert witness.

### **Hanne Helle Arnesen (2016-2019, alternate member)**

*Agder Court of Appeal judge*

Arnesen obtained a master of laws degree in 1986.

She has previously worked as an executive officer/researcher with the Ministry of Justice and Public Security, a deputy judge at Larvik District Court and a lawyer. She has been a Court of Appeal

judge since 2004.

**Arne Gunnar Aas (2015-2018, alternate member)**

*Lawyer/partner with Advokatfirmaet Hjort DA*

Aas obtained a master of laws degree in 1977. He was previously an executive officer with the Norwegian Maritime Authority, a deputy judge at Holt District Court and a police lawyer with Asker and Bærum Police. Aas has previously been employed as an advisor by the Ministry of Justice and Public Security, focusing on human rights in Moldova. He has been a lawyer with the Hjort law firm since 1981. Aas is a permanent defence counsel at Oslo District Court, Borgarting Court of Appeal and the Supreme Court. He is also a member of the Norwegian Bar Association's Criminal Law Committee and Human Rights Committee.

**Lavleen Kaur**

**(2015 - 2018, alternate member – leave of absence since 2015)**

*Criminologist, doctoral research fellow*

**Solveig Klæbo Reitan (2017 - 2018, alternate member, deputy)**

*Chief physician and researcher at St. Olav's Hospital and associate professor at the Norwegian University of Science and Technology.*

Reitan has experience of acting as a forensic psychiatry expert witness. She has clinical experience from a regional security department, prison psychiatry, emergency psychiatry, psychosis departments and district psychiatric centres, both those providing in-patient care and polyclinics/mobile centres. Her research field is biological psychiatry, with a main focus on immunopsychiatry, psychosis disorders and forensic and high-security-patient psychiatry. She has held a number of posts on committees, panels and boards linked to this profession and is currently a member of the board of the Norwegian Psychiatry Association and head of this association's Forensic Psychiatry Committee. She is in charge of psychosis treatment at St Olav's Hospital and the Central Norway Regional Health Authority.

## The Commission's members 2017



From the left: Solveig Klæbo Reitan, Sven Ole Fagernæs, Hanne Helle Arnesen, Siv Hallgren, Tor Ketil Larsen, Anne Britt Flemmen, Dag Jodaa and Arne Gunnar Aas.

## **Presentation of the Commission's secretariat as at 31 December 2017**

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The Commission's secretariat is located in Oslo. The Commission's Chair is employed full-time as the head of the secretariat. The secretariat otherwise had 11 employees at the year-end - seven investigating officers with a legal background and two investigating officers with a police background, as well as an office manager and senior secretary.

### **Elisabeth Kjærheim**

*Administrative deputy head and senior advisor since 2004.*

Master of laws degree from the University of Oslo 1987. Work experience from the Parliamentary Ombudsman's Office as a senior advisor and deputy head, and from Drammen District Court as a deputy judge and acting district court judge.

### **Lisbeth Wille-Sveum**

*Senior advisor since 2004.*

Norwegian Police University College 1979. Work experience from Oslo police district and the National Criminal Investigation Service, university college lecturer at the Police University College, and project manager/researcher at the Norwegian Institute of Public Health.

### **Knut Jan Nielsen**

*Senior advisor since 2004*

Norwegian Police University College 1979. Work experience as a policeman in Oslo police district, the National Criminal Investigation Service and the Ministry of Justice and Public Security. Police attaché at the Norwegian embassy in Madrid and advisor to the Document Access Committee.

### **Magne Svor**

*Senior advisor since 2004*

Master of laws degree from the University of Oslo 1985. Work experience from the Police Department in the Ministry of Justice and Public Security, as a police lawyer with Oslo police headquarters and as a deputy judge and acting judge at Drammen District Court.

### **Hildegunn Sandhalla**

*Office manager since 2004*

Work experience from Heidenreich AS, the Ministry of Justice and Public Security, the Document Access Committee and Grohe AS.

### **Louise Olsrud**

*Senior advisor since 2005*

Master of laws degree from the University of Oslo 1987. Work experience from the county governor, as a deputy judge, police chief superintendent and trainee lawyer, and of statutory work in the Ministry of Justice and Public Security and for the Building Act Committee.

### **Sonny Folkenborg**

*Senior advisor since 2008.*

Master of laws degree from the University of Oslo 2000. Work experience as a lawyer with Advokatfirmaet Staff and as a deputy judge at Sandefjord District Court.

### **Helene Cecilie Rør**

*Senior advisor since 2008*

Master of laws degree from the University of Oslo 1988. Work experience from the Labour Inspection Authority, as a statute advisor with the Ministry of Finance, deputy judge at Trondenes District Court and senior advisor with the Directorate of Taxes.

### **Hilde Hermansen**

*Senior secretary since 2009*

Secretarial education from Treider and the Mercantile Institute. Work experience as a secretary with Advokatfirmaet Schjødt AS and Advokatfirmaet Torkildsen, Tennøe & Co AS.

### **Lars Engdahl**

*Senior advisor since 2013*

Master of jurisprudence degree from the University of Oslo 2007. Work experience as a lawyer with Advokatfirma Drevland & Grape DA.

### **Solveig Moe**

*Senior advisor since 2015*

Master of jurisprudence degree from the University of Bergen 2007. LLM in international law from the University of Houston 2016. Work experience as a trainee lawyer, a deputy judge and a senior advisor to the Parliamentary Ombudsman.

## **Presentation of selected main figures**

Proposition to the Norwegian parliament no. 1 (2016 - 2017) for the 2017 budget year proposed a budget of NOK 16,718,000. In the parliamentary budget decision on 20 December 2016, the Commission was granted funding of NOK 16,718,000.

Some members of the Commission's secretariat are working

part-time for a temporary period, so that the number of full-time equivalents (FTE) is less than the number of staff. The total number of FTE in the secretariat was 10.60 in 2017.

The Commission's operating expenses came to NOK 16,692,036 in 2017. Employees' salaries and members' remuneration amounted to NOK 12,183,151, including pension costs and employers' National Insurance contributions. In addition to the appropriations relating to chapter 468, some operating expenses are debited in relation to chapter 466 Special Criminal Case Expenses.



# The procedure in a review case – without an investigation



Criminal investigation and indictment

Legally enforceable conviction

The convicted person believes he has been wrongly convicted

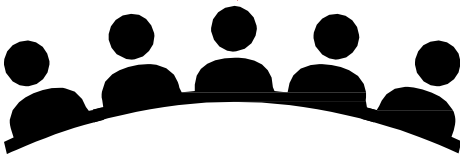
Petition from a convicted person (with or without a defence counsel)



A meeting with a convicted person who does not have a defence counsel, and otherwise as required

Criminal case documents are obtained

A meeting with a convicted person who does not have a defence counsel, and otherwise as required



The case is discussed at a Commission meeting

The case is dealt with by the Chair/Vice Chair acting alone



Rejected



Disallowed



Allowed

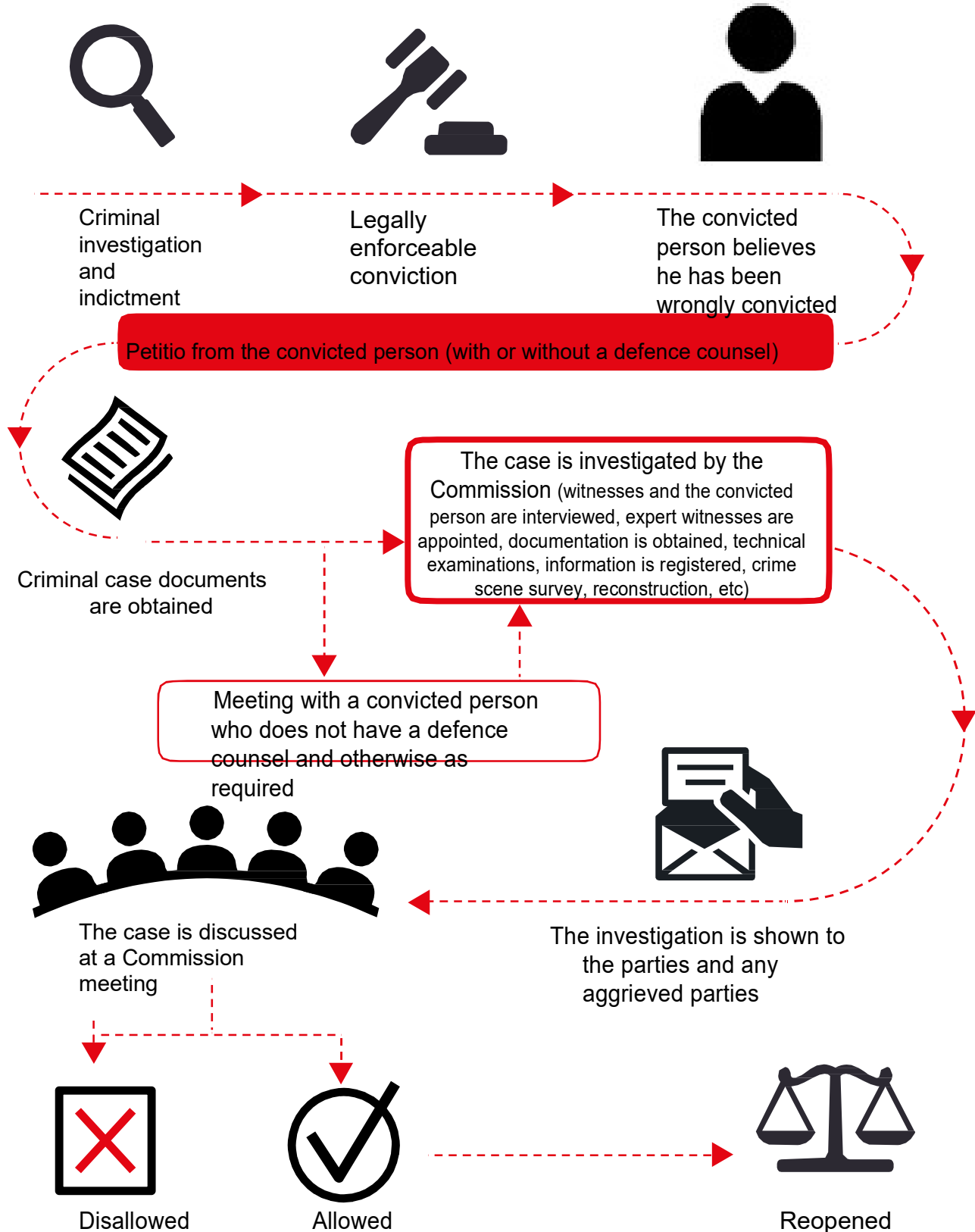


Reopened



Rejected

# The procedure in a review case – with an investigation



# The year's activities and results

The Commission is to have objective, thorough and efficient procedures in order to reach substantively correct decisions within a reasonable time. The Commission's aim is for the number of decisions it makes to be not less than the number of petitions it receives.

## The cases and procedures

### *Petitions received and cases concluded*

During the year, the Commission held nine meetings lasting for a total of 13 days. The Commission received 151 petitions to reopen cases in 2017, compared to 161 in 2016. These figures represent the number of convictions the Commission has been petitioned to review, not the number of convicted persons who have petitioned to have their case reopened.

Of the convicted persons who petitioned for a reopening of their case in 2017, 18 were women and 120 were men. Of these, eight men had a total of 21 convictions.

A total of 126 cases were concluded in 2017, of which 107 were reviewed on their merits. Of these 107 petitions, 17 cases were reopened.

Thirteen cases were reopened due to doubt about the convicted person's criminal accountability for his/her acts at the time of the offence. In three cases, only the sentencing was reviewed, and this was because the convicted person was later found to have a mild intellectual disability. One case was reopened on the basis of other new evidence.

Ten petitions were disallowed.

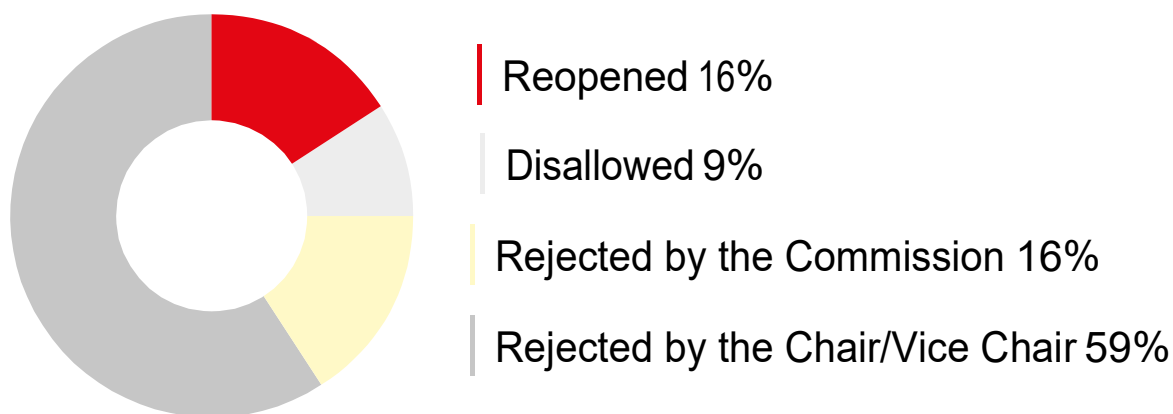
The remaining 80 petitions were rejected by the Commission or Chair/Vice Chair because they obviously could not succeed.

The other 19 cases that were concluded were not reviewed on their merits. These were, for example, petitions to review civil cases or fines and petitions that were withdrawn.

The table below provides a complete overview of the number of received petitions and concluded cases in 2017:

	Received	Concluded	Reopened	Disallowed	Rejected by the Commission	Rejected by the Chair/Vice Chair	Not reviewed on their merits
General	8	6			1		5
Sexual offences	36	23	1	1	6	15	
Violence, threats	40	42	8	4	6	21	3
Drugs	18	9	2		1	5	1
Crimes of gain	17	18	3	3	2	9	1
Miscellaneous crimes	24	19	1	1	1	7	9
Miscellaneous minor offences	8	9	2	1		6	
Discontinued prosecutions							
Interim rulings							
Seizures or annulments							
Inquiries							
Fines							
Civil cases							
Others concerning professional issues							
<b>Total</b>	<b>151</b>	<b>126</b>	<b>17</b>	<b>10</b>	<b>17</b>	<b>63</b>	<b>19</b>

The figure below shows the outcome of the cases reviewed on their merits in 2017:



## 2004 - 2017

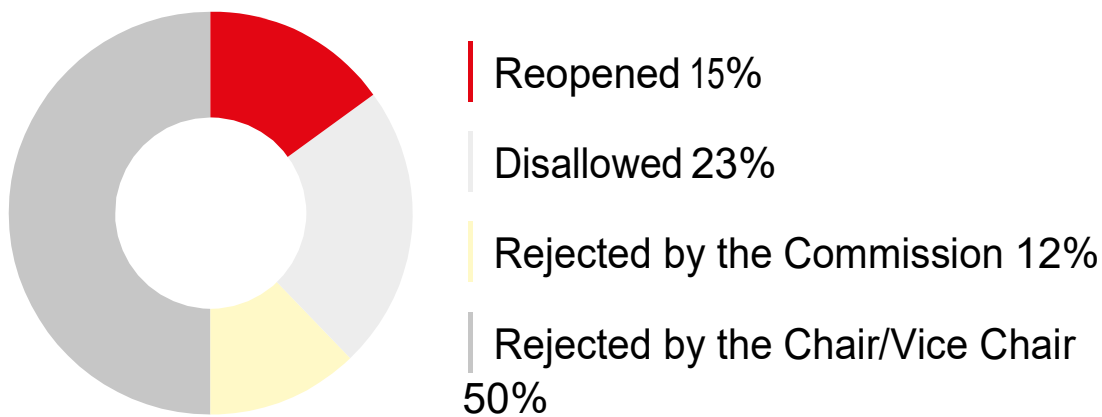
Since being established on 1 January 2004, the Commission has received 2,285 petitions and concluded 2,148 cases. In total, 279 cases have been reopened and 422 petitions have been disallowed.

The Commission or the Chair/Vice Chair has rejected 1,128 of the petitions because they obviously could not succeed, while the remainder, 319 petitions, were rejected without the cases being reviewed on their merits.

Table showing the total figures for the Commission's first 14 years in operation:

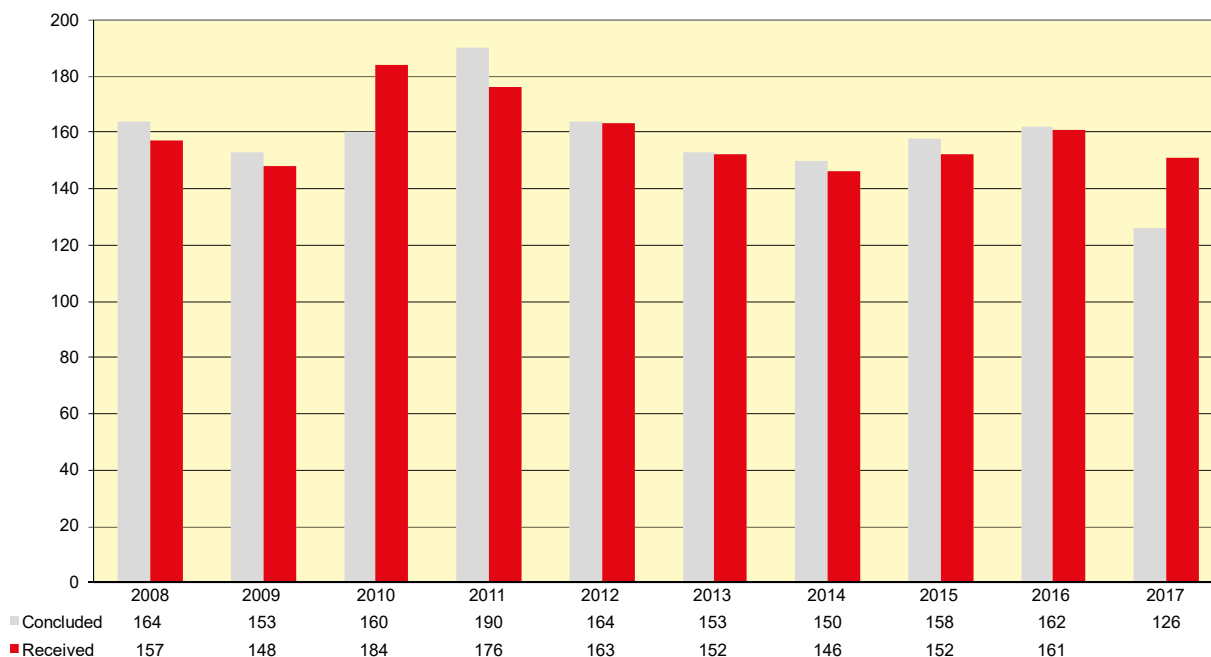
	Received	Concluded	Reopened	Disallowed	Rejected by the Commission	Rejected by the Chair/Vice Chair	Not reviewed on their merits
General	65	62	2	1	3	11	45
Sexual offences	414	381	33	80	48	194	26
Violence, threats	695	650	76	144	65	310	55
Drugs	237	223	36	54	22	98	13
Crimes of gain	394	379	83	85	40	129	42
Miscellaneous crimes	190	166	22	29	16	66	33
Miscellaneous minor offences	200	197	27	29	13	109	19
Discontinued prosecutions	13	13					13
Interim rulings	1	1					1
Seizures or annulments	1	1				1	
Inquiries	31	31			1		30
Fines	6	6				1	5
Civil cases	31	31				1	30
Others concerning professional issues	7	7					7
<b>Total</b>	<b>2285</b>	<b>2148</b>	<b>279</b>	<b>422</b>	<b>208</b>	<b>920</b>	<b>319</b>

The figure below shows the outcome of the cases reviewed on their merits in the 2004-2017 period:



## 2008 - 2017

The number of petitions received has varied during the period from 146 (in 2014) to 184 (in 2010).



## Appointment of a defence counsel

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The law allows the Commission to appoint a defence counsel for a convicted person when there are special reasons for doing so. A specific assessment of whether or not a defence counsel is to be appointed is conducted in each case. The appointment is often limited to a specific number of hours, for example to provide more detailed arguments for the petition's legal and factual grounds. The Commission always appoints a defence counsel when there is reason to assume that the convicted person may not have been criminally accountable for his/her acts at the time of the offence, see section 397 subsection 2 and section 96 last subsection of the Criminal Procedure Act.

In 2017, the Commission appointed a defence counsel for 20 convicted persons.

## Appointment of a counsel for the aggrieved person/next of kin – the rights of aggrieved persons and surviving next of kin

The Commission is authorised to appoint a counsel for an aggrieved person/surviving next of kin pursuant to the rules stated in sections 107a, et seq, of the Criminal Procedure Act. This is particularly relevant in connection with interviewing aggrieved persons and witnesses in cases involving sexual assault and violence.

The Commission appointed 16 counsel for aggrieved persons/surviving next of kin in 13 cases in 2017.



Meetings take place in prison if the convicted person is serving a sentence. This is a picture from Telemark Prison, Kragerø department (Kragerø police station on the right)

## Appointment of expert witnesses

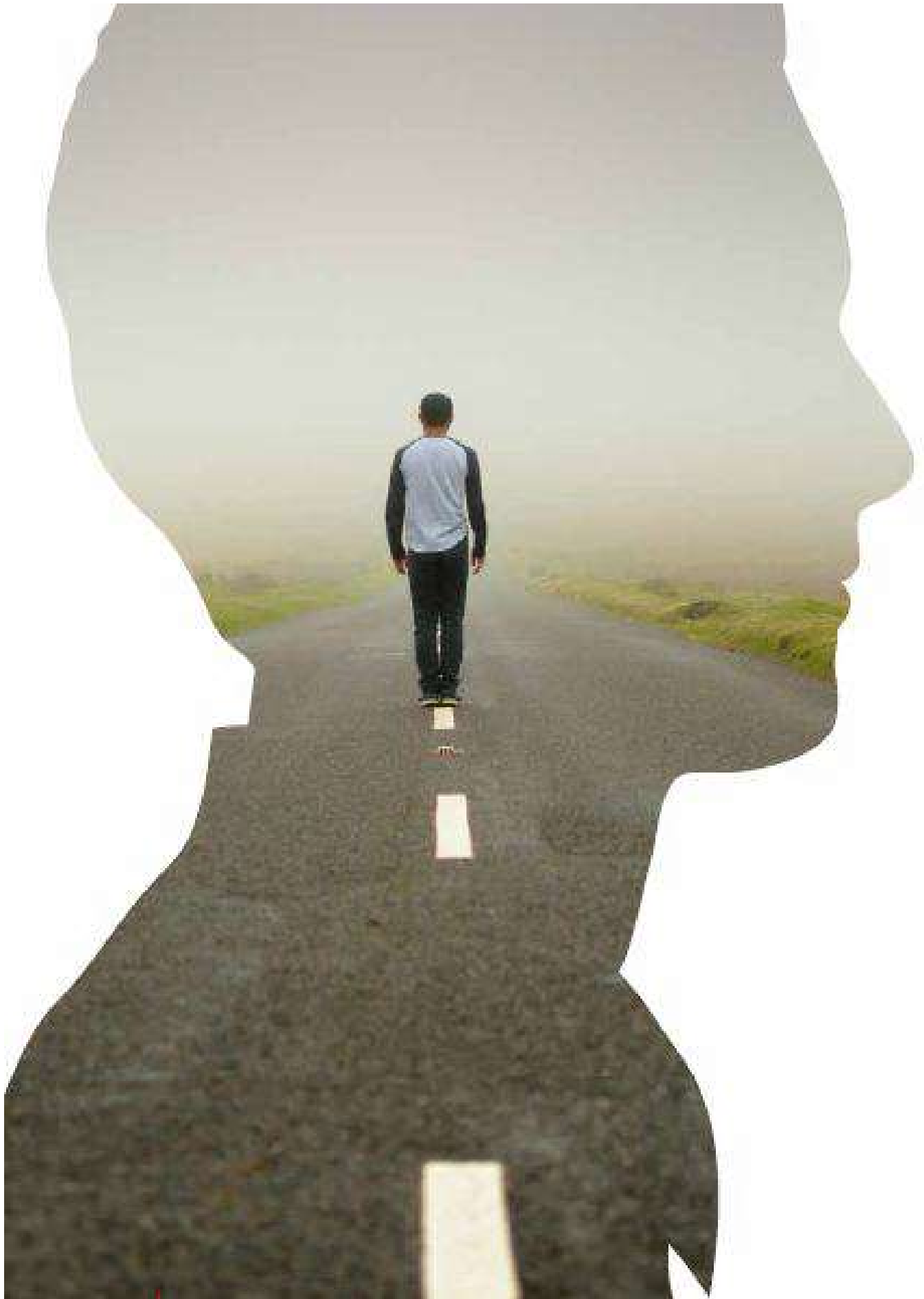
Pursuant to section 398b subsection 2 of the Criminal Procedure Act, the Commission is authorised to appoint expert witnesses in accordance with the rules stated in chapter 11. Since its formation, the Commission has appointed expert witnesses in the fields of forensic medicine, forensic psychiatry, forensic toxicology, economics, history, photo/film techniques, fire technicalities, vehicles and traditional forensic techniques, etc.

In 2017, the Commission appointed seven expert witnesses in cases concerning four convicted persons. These were experts in the fields of forensic medicine, forensic psychiatry and forensic psychology.

## Use of interpreters/translations

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The Commission used an interpreter in six cases. These concerned interpretation from/to Arabic, Polish, Sorani, Albanian and Latvian. The Commission has required the use of a translator in 13 cases, relating to translations from/to Russian, German, Polish, Arabic, English, Hungarian, Sorani and Latvian.







# Relevant decisions by the Commission in 2017

A large percentage of cases are reopened by the Commission because it has been shown, following a legally enforceable judgment, that the convicted person was unaccountable when the act took place so that he cannot be punished (section 44 of the General Civil Penal Code of 1902 and section 20 of the Penal Code of 2005) or that he was mentally disabled to a lesser degree so that a less severe penalty is to be considered (section 56c of the General Civil Penal Code of 1902 and section 80 of the Penal Code of 2005).

In 2017, 16 of 17 cases were reopened on these grounds, while in 2016 this applied to 6 of 11 cases. This comprises a considerable percentage of the cases reopened by the Commission. The figures are illustrative of the cases reopened by the Commission over a number of years.

In many of the cases sent to the Commission, the convicted person has been convicted several times before and it is not until a new criminal case has arisen that his mental state has been questioned and a forensic psychiatry expert witness has been appointed.

The result may be that the prosecuting authority discontinues the case or that the defendant is acquitted by the court. In such case, the defendant's mental state at the time of the acts covered by the previous convictions will be called into question and it may be relevant to petition for these cases to be reopened.

As mentioned in the Chair's report, the Director of Public Prosecutions pointed out in a letter to the public prosecutors' offices and chief constables as far back as in 2004 that the prosecuting authority must be aware of the previous convictions of persons who are in new cases regarded as unaccountable, in order to discover whether to petition for a reopening of a case in favour of the convicted person. He also stated that it must not be left up to the unaccountable person or his defence counsel to assess whether or not to petition for a reopening of such cases. The Commission believes it is important to point this out.

For the Commission, it is also important to underline

the importance of discovering offenders who are to be regarded as unaccountable or mentally disabled to a lesser degree at an early stage so that the case can be followed up adequately by both the prosecuting authority and the legal system.

Although it can be difficult to assess an offender's mental state, there may nonetheless be factors indicating that the person's mental health should be examined more closely – irrespective of the seriousness of the criminal act. This responsibility primarily rests with the police and prosecuting authority. These may be factors relating to the actual execution of the criminal act, factors that are revealed through interviews with suspects, etc, and possible information about the offender's state of health which may indicate that investigations should be initiated. It cannot be ruled out that a number of criminal cases could have been dropped, or court cases could have had a different outcome, if the state of the offender's mental health had been clarified earlier on. In addition to the offender being given the correct reaction and the opportunity for necessary treatment, such clarification will lead to fewer resources being used by the legal system and society at large.

Below are abbreviated versions of all the cases where the Commission has allowed a petition to reopen a case.

Abbreviated versions of all reopened cases are also published on the Commission's website, [www.gjenopptakelse.no](http://www.gjenopptakelse.no).



15.01.2017 (2015/68)

Threats, violence, drugs, etc – section 391 no. 3 (new expert witness statement, accountability)

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In 2010, a District Court convicted a man of contravening sections 227 subsection 1, 228 subsection 1, 162 subsection 1, 291, 390 a and 350 of the General Civil Penal Code (1902). He petitioned to have his case reopened and alleged that he was not criminally accountable at the time of the act. In particular, it was stated that, in a more recent judgment dated 17 February 2014, he had been regarded as being psychotic. The Commission appointed two forensic psychiatry expert witnesses to assess the convicted person's mental state at the time of the act. In their statement, they concluded that the convicted person was psychotic (F20.0 Paranoid schizophrenia). The convicted person's accountability had also been assessed in connection with the trial in 2010 and at that time he was found to be accountable. However, at that time, there was some uncertainty linked to the diagnostic assessment.

The Commission found that the expert statement comprised a new circumstance and that doubt regarding the convicted person's criminal accountability at the time of the act provided grounds for reopening the case pursuant to section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.

The convicted person's accountability had also been assessed in connection with the trial in 2010 and at that time he was found to be accountable. However, at that time, there was some uncertainty linked to the diagnostic assessment.



01.03.2017 (2016/154)

Attempted robbery, etc - section 391 no. 3 (new expert witness statement, mentally disabled to a lesser degree)

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In 2015, a District Court sentenced a man to imprisonment for 120 days and confiscated his knife and baton. His crimes were attempted robbery and contravention of the Medicines Act and Weapons Act. The Court of Appeal heard his appeal against the sentencing. This appeal was dismissed in a judgment in 2015.

The convicted person alleged that a new hospital report showed that he was mentally disabled to a lesser degree and that this had to lead to a review of his sentencing.

The Commission appointed two forensic psychiatric expert witnesses who concluded that the convicted person was mentally disabled to a lesser degree at the time of the act. The new information regarding the convicted person's level of ability, which meant that section 56 c of the General Civil Penal Code (1902) was applicable, was not known to the adjudicating court, and the convicted person's ability to function was thus much weaker than the court had assumed. The Commission found that the expert witness statement was a new circumstance which could lead to the application of a substantially more lenient sanction, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to review the sentencing.



02.03.17 (2016/165)

Aggravated theft, etc - section 391 no. 3 (new evidence, sentencing)

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In 2016, a District Court convicted a man of, among other things, committing aggravated theft, etc, of 15 artworks, cf section 322 of the Penal Code (2005), cf section 321. He was sentenced to imprisonment for two years.

The convicted person admitted stealing five artworks but was charged with and convicted of stealing 15. It was alleged to the Commission that new evidence indicated that at least one of the stolen artworks was not at the crime scene when the theft took place. Reference was made to information supporting this allegation that was obtained after the conviction.

The prosecuting authority supported the convicted person's petition to review the District Court conviction as regards the sentencing for the charge in question.

The Commission found that the new evidence seemed likely to lead to the application of a substantially more lenient sanction, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to review the sentencing.

**The convicted person admitted stealing five artworks but was charged and convicted of stealing 15. It was alleged to the Commission that new evidence indicated that at least one of the stolen artworks was not at the crime scene when the theft took place.**



10.05.2017 (2015/203)

Crimes of gain, drugs, etc - section 391 no. 3 (new expert witness statement - accountability)

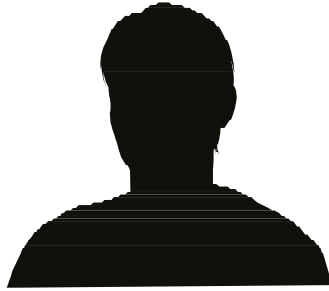
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In 2014, a District Court sentenced a man to imprisonment for nine months for several offences. He was examined before the trial and it was concluded that he was not in a state covered by sections 44 or 56 c of the General Civil Penal Code of 1902. No reason to conduct a full forensic psychiatry examination of him was found.

In 2015, he was convicted again, this time for offences committed in the autumn of 2014. Based on the previous pre-trial statement, the District Court found that he had been criminally accountable at the time when these offences were committed too. The convicted person appealed to the Court of Appeal, alleging that the District Court's failure to appoint expert witnesses was a procedural error. The Court of Appeal appointed forensic psychiatry expert witnesses, who concluded in their statement that the convicted person had been psychotic at the time of the act. The Court of Appeal quashed the District Court conviction and the case was then dropped by the prosecuting authority.

The convicted person petitioned for a review of the District Court's 2014 conviction and alleged that there was every reason to assume he had also not been accountable at the time when these offences took place (December 2012 – November 2013). The Commission appointed two forensic psychiatry expert witnesses, who concluded that the convicted person suffered from paranoid schizophrenia and had very probably been psychotic at the time of the act, cf section 44 of the General Civil Penal Code of 1902. The Commission found that the expert witness statement was a new circumstance that was likely to lead to an acquittal, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.



10.05.2017 (2016/181)  
Violence and threats - section 391 no. 3  
(new expert witness statement, accountability)

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In 2011, a District Court convicted a man of a number of cases of violence and threats, including the abusive treatment of his mother. He was subjected to a forensic psychiatry examination prior to the main hearing. The expert witnesses concluded that he suffered from a serious mental disorder but that he was not unaccountable. He was sentenced to imprisonment for two years, of which one year was suspended. The convicted person was denied leave to appeal.

In connection with the man being charged with new criminal offences, he was subjected to a new forensic psychiatry examination in 2016. The new expert witnesses concluded that he was a paranoid schizophrenic and assumed he had already been psychotic on the date of the offences he was convicted of in the District Court in 2011.

The convicted person petitioned to have his case reopened with reference to the new expert witness statement and the Commission found that this was a new circumstance that was likely to lead to an acquittal, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.

11.05.2017 (2016/91 et seq) Drugs and receiving stolen property - section 391 no. 3 (new expert witness statement, accountability)

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During the 2014 to 2015 period, a man was convicted twice of receiving stolen property and storing drugs. He petitioned for a review of these convictions and alleged that he had not been criminally accountable, cf section 44 of the General Civil Penal Code of 1902.

The Commission appointed two forensic psychiatry expert witnesses to assess the convicted person's mental state at the time of the acts. The expert witnesses concluded that, when the examination took place, the convicted person had the diagnosis F20.0 Paranoid schizophrenia and was psychotic. However, they expressed strong doubts as to whether the psychosis disorder also applied when the acts took place in 2014 and 2015.

To the Commission, it appeared uncertain whether the convicted person was unaccountable at the time of the act, cf section 44 of the General Civil Penal Code of 1902. However, it is not up to the Commission to consider whether the standard of proof for accountability has been met, the Commission must only assess whether there are grounds for reopening a case. Following an overall assessment, including of the convicted person's medical information, the expert witnesses' assessment and the doubts expressed together with the other case documents, the Commission decided it had been established that there was at least a reasonable opportunity for acquittal if the cases were retried in the courts.

The conditions for reopening the cases pursuant to section 391 no. 3 of the Criminal Procedure Act had been met.

The Commission unanimously decided to allow the petition to reopen the two cases.



11.05.2017 (2017/46) Attempted rape - section 391 no. 3  
(new expert witness statement, accountability)

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In 2015, a District Court convicted a man of attempted rape and actual bodily harm using a knife. Prior to the main hearing, the man was subjected to a forensic psychiatry examination and it was concluded that he was accountable. He was sentenced to preventive custody for three years and six months, with a minimum period of two years. He was also sentenced to pay damages of NOK 130,000 to the aggrieved person for non-economic loss.

In connection with the man being charged with new offences, he was subjected to a new forensic psychiatry examination and was diagnosed as a schizophrenic. The court-appointed expert witnesses believed he had been ill for a long time and that he was under-diagnosed prior to his District Court conviction in 2015.

The convicted person petitioned to have his case reopened, stating that the expert witnesses had concluded he was very probably psychotic at the time of the offences for which he was convicted in 2015 too.

The Commission found that the forensic psychiatry statement was new evidence that was likely to lead to an acquittal, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.



06.09.2017 (2017/84 et seq) Road Traffic Act, physical assault, etc - section 391 no. 3 (new expert witness statement, mentally disabled to a lesser degree)

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In 2016, a District Court sentenced a man to imprisonment for 10 months and a fine, and in 2017 he was sentenced to imprisonment for 90 days. The offences in the two convictions related to a contravention of the Road Traffic Act, a breach of an interim exclusion order, physical assault, etc. He petitioned to have his case reopened and alleged that the convictions assumed he was not mentally disabled, cf a judicial examination in 2010. However, an additional statement by the same expert witnesses in 2011 concluded that the convicted person was clinically and from a criminal-law viewpoint mentally disabled to a lesser degree. This statement was unknown to the court and the convicted person alleged that this had to lead to his case being reopened. The prosecuting authority stated that the conditions for reopening the case had not been met since the additional statement would not have led to a substantially more lenient sanction if it had been submitted to the court.

The Commission found that there was a reasonable chance that, if it had been submitted to the court when the cases were adjudicated on, the additional statement would have led to a substantially more lenient sanction. Reference was inter alia made to Supreme Court case law and to the grounds for the District Court conviction referred to in the sentencing. The Commission found that the conditions for reviewing the sentencing had been met pursuant to section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.

However, an additional statement by the same expert witnesses in 2011 concluded that the convicted person was clinically and from a criminal-law viewpoint mentally disabled to a lesser degree. This statement was unknown to the court and the convicted person alleged that this had to lead to his case being reopened.



07.09.2017 (2016/54)

Driving under the influence - section 392 subsection 2 (special circumstances)

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In 2010, a District Court sentenced a man to imprisonment for 30 days for driving a car under the influence of alcohol, cf section 31 of the Road Traffic Act, cf section 22 subsection 1. He petitioned to have his case reopened and alleged principally that the conviction contravened the principles of a fair trial, and alternatively that there was doubt regarding his criminal accountability. The main hearing had been held without the convicted person being present, cf section 281 no. 2 of the Criminal Procedure Act, without the defendant being examined and without any defence counsel present. A key witness was examined via a live link and insufficient weight was placed on indications of the convicted person's poor mental health. Since the conviction, it has become known that the convicted person has been hospitalised several times for psychotic disorders.

The Commission found it could be questioned whether sufficient light could be shed on the case without the convicted person's presence, cf section 281 subsection 1 of the Criminal Procedure Act, taking into account the available information on his medical state. The Commission found that there were at least weaknesses in the District Court's proceedings.

In connection with the appeal to the Court of Appeal, the indications of his poor mental health were further strengthened. Nonetheless, he was refused leave to appeal.

Following an overall assessment that placed particular emphasis on the lack of information regarding the convicted person's mental health, the Commission found there were special circumstances which made it doubtful that the conviction was correct and weighty considerations indicated that the case should be retried. The conditions for reopening the case pursuant to section 392 subsection 2 of the Criminal Procedure Act had been met

The Commission unanimously decided to allow the petition.

Since the conviction, it has become known that the convicted person has been hospitalised several times for psychotic disorders.



07.09.2017 (2016/138 et seq) Threats, etc - section 391 no. 3 (new expert witness statement, accountability)

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In 2010-2015, a man was convicted four times in the District Court. These convictions related to threats and breaches of interim exclusion orders regarding previous lovers, among other things. The convicted person petitioned to have his case reopened and alleged that there was doubt about whether he was accountable at the time of the acts. It was stated that he had participated in a research project on the cognitive functions of young people with schizophrenia and ADHD. The convicted person had been examined by a psychologist 20 years ago, 10 years ago and most recently in 2016.

In connection with the convicted person being summoned to serve his sentence, the psychologist prepared a statement stating that the convicted person had a serious psychosis disorder and was therefore incapable of serving his sentence.

The Commission appointed two expert witnesses to conduct a forensic psychiatry examination of the convicted person. The expert witnesses concluded that the convicted person was not psychotic at the time of the acts and that he met the conditions for the diagnosis paranoid personality disorder. The Forensic Medicine Commission found that the additional statement had significant defects and stated that the diagnosis should at least have been residual schizophrenia, or possibly paranoid schizophrenia. The expert witnesses were given an opportunity to comment on the criticism and upheld their conclusion. The Forensic Medicine Commission found that the additional statement did not clarify the issues it had pointed out earlier and that the statement still contained significant defects.

The Commission referred to the fact that the psychologist had considered the convicted person to be a paranoid schizophrenic with a low functioning level, hearing hallucinations and bizarre delusions. Both during the research project and in conversations with the expert witness, the convicted person told of symptoms that could indicate psychosis, including during the period before the acts complained about. Among other things, he claimed to have heard voices

and believed his ex-lover poisoned food and drink while they were together. The appointed expert witnesses found that the convicted person was not psychotic, but the Forensic Medicine Commission stated that the convicted person's symptoms indicate a more serious condition than that concluded by the expert witnesses, and that the expert witnesses could have more clearly stated the doubts that existed in this case.

In the Commission's view, the abovementioned created doubts as to whether the convicted person was accountable at the time of the acts. There was thus a new circumstance that seemed likely to lead to an acquittal or a substantially more lenient sanction, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petition to reopen the case.

The appointed expert witnesses found that the convicted person was not psychotic, but the Forensic Medicine Commission stated that the convicted person's symptoms indicate a more serious condition than that concluded by the expert witnesses, and that the expert witnesses could have more clearly stated the doubts that existed in this case.



14.12.2017 (2017/178 and 2017/179) Actual bodily harm, molestation of a public officer and carrying a knife in a public place - section 391 no. 3 (new expert witness statement, accountability).  
Petition by the prosecuting authority

In 2015 and 2016, a District Court sentenced a man to imprisonment and a fine for actual bodily harm, the molestation of a public officer and carrying a knife in a public place. The offences adjudicated on took place in 2015 and 2016.

In connection with an indictment regarding new criminal offences, a forensic psychiatry statement was obtained in 2017 and concluded that the convicted person suffered from paranoid psychosis. The case was dropped as the convicted person was regarded as not having been criminally accountable at the time of the act. In their statement, the expert witnesses expressed the view that the defendant's medical history indicated he had had this disorder for several years. On this basis, the prosecuting authority petitioned to have the two previous convictions reopened.

The Commission found that the expert witness statement was to be regarded as a new circumstance that was likely to lead to an acquittal, cf section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the petitions to reopen the cases.



# The Commission's other activities

## Follow-up of ICT

In accordance with instructions stated in the Digitalisation Circular (H-7/17) issued by the Ministry of Local Government and Modernisation, two internal work groups were appointed in 2017 to work on various digitalisation projects.

One work group was given a mandate to examine alternative ways of electronically transferring documents to Commission members. The deadline for submitting proposals was set at 15 January 2018.

The other work group was to propose new technical solutions and a new appearance and contents for the website. This group was given a deadline of 1 November 2017 by which to propose technical solutions and 15

January 2018 by which to provide a draft of content solutions.

The Commission is constantly considering which other services are suitable for digitalisation. In connection with this, the Commission also keeps up-to-date on digital solutions that are adopted by other players and may be important for the Commission's work, such as the police use of the Altinn website to transfer criminal case documents. The Commission is ready to receive criminal case documents digitally in this manner.

The use of common digital solutions is also something the Commission worked on in 2017. This work is continuing in 2018.

Electronic invoicing is used. At the end of October 2017, 77% of the total number of invoices received were electronic.



The Commission at work



The CCRC's 20<sup>th</sup> anniversary. From the left, the Chair of the SCCRC Bill Matthews, chief executive of the SCCRC secretariat Gerard Sinclair, chief executive of the CCRC secretariat Karen Kneller and the Chair of the Norwegian CCRC Siv Hallgren

**Work to achieve a better utilisation of resources and increased productivity**

The Commission and its secretariat is a minor organisation that deals with relatively few cases and has a small budget. Most of its costs are fixed and relate to salaries and rent.

As mentioned above, the Commission has initiated specific digitalisation projects and is constantly considering what parts of its work are suitable for digitalisation. In most cases, digitalisation will entail better-quality proceedings in the form of enhanced document security.

**Requirement of apprentices in state enterprises**

The Commission has for several years considered whether it will be possible for it to meet the requirement of apprentices in state enterprises. The conclusion has been that, due to the secretariat's size and tasks, it does not have enough or relevant tasks to offer apprentices.

This conclusion still applies to the situation.

**Contact with authorities**

In February, the previous Chair of the Commission attended the Ministry of Justice and Public Security's annual conference for heads of government departments and a dialogue meeting with the administrative management of the Ministry's civil affairs department.

**Comments on consultation documents**

The Commission's previous Chair commented on the White Paper on the new Criminal Procedure Act (Official Norwegian Report 2016:24), especially regarding chapter 41 which deals with the reopening of cases.

In 2017, the Commission commented on proposals to amend the Police Register Act, Archives Act and Criminal Procedure Act.

**International contact**

The Commission's Chair, Vice Chair and a police investigator from the secretariat attended the Criminal Cases Review Commission's 20<sup>th</sup> anniversary conference in London in 2017. This trip was combined with a visit to the Norwegian embassy, where the Nordic Police Liaison Officer (police attaché) gave a presentation on his and the embassy's work. The Commission also listened to a talk by an independent "Review Officer", whose task is to examine investigations of unsolved murders and other cold cases.

**Other activities**

The Commission went on a study trip to The Hague in the Netherlands in 2017. It visited Europol, where Norwegian representatives told of the organisation and its tasks. The Commission also listened to a talk by one of the Norwegian prosecutors in Eurojust and by a previous member of the International Criminal Tribunal for the former Yugoslavia (ICTY).



Study trip to The Hague with a visit to Europol.

The Commission also arranged internal talks in 2017. In November, the Commission's secretariat held a seminar with external speakers. The topic was the obtaining and assessment of evidence.

The Commission's secretariat visited the Children's House in Oslo in June. Information on the Children's House and how adapted interviews are carried out was provided. The Commission's members made a corresponding visit in December.

One of the Commission's investigators worked for the Norwegian Civil Affairs Authority from September to November. The intention is for an executive officer from this Authority to subsequently work for the Commission's secretariat for a limited period.

#### Information activities

Representatives of the Commission gave several talks about the Commission and its activities.

#### Talks

- In January, the Commission's previous Chair gave a talk to the Forensic Medicine Commission, and the Commission's Vice Chair gave a talk to law students at the Wadahl seminar.
- In October, the Chair gave a talk at the Rule of Law Conference 2017 (arranged by the Norwegian Association of Lawyers) and for judges at Asker and Bærum District Court.
- The Chair also gave a talk to the Norwegian Civil Affairs Authority in November and to the Odd Fellow lodge at Mysen in December.

#### Meetings

- The Commission's former and new Chairs and several other people met representatives of the defence counsel group in the Norwegian Bar Association in February.

- \* The Commission's Chair and several other people had a corresponding meeting with the Norwegian Bar Association's Council for Aggrieved Parties Committee in September.
- \* The Chair and some members of the secretariat also had a meeting with private investigators in the Norwegian Association for Investigation and Security at which they exchanged information on each other's activities and their experiences of and views on the Commission's work and decisions.
- \* The Commission's Chair attended a meeting of the Norwegian Medical Association.
- \* In June, the Commission's secretariat received a visit from a large group from the Norwegian National Courts Administration.
- \* A Swedish criminologist visited the Commission in May in connection with her doctoral thesis on criminal cases review commissions.

#### Media contact

The Commission has wanted to raise its public profile and has been referred to in several media/newspapers. The Chair has taken part in several radio and TV programmes. The Commission's media and information strategy is stated in a separate document.



*The Rule of Law Conference. From the left Sven Ole Fagermæs, Siv Hallgren and the winner of the Rule of Law Award 2017, Associate Professor at the Law Faculty Jan E. Helgesen*



*Meeting with the Norwegian Association for Investigation and Security, from the left Tore-Per Bakken, Einar Asbjørnsen, Johan Chr. Grøttum and Siv Hallgren*

The Commission's website [www.gjenopptakelse.no](http://www.gjenopptakelse.no) contains information on the Commission and regulations, press releases, downloadable forms for petitions to reopen cases, the Commission's annual reports, anonymised abbreviated versions of decisions to reopen cases, etc. The information is available in 12 languages in addition to Dano-Norwegian, New Norwegian and Sami. The Commission's website has a "press section" where the full text of all the Commission's decisions is available to the media for three months.

All the Commission's decisions based on the merits of a case are published on the Lovdata website. These are decisions made both by the Commission and by the Commission's Chair or Vice Chair in accordance with the Criminal Procedure Act, section 397 subsection 3 sentence 3.

The Commission uses its Twitter account to provide information on decisions published on its website, press releases and vacant positions in the secretariat.

As stated above, a work group is preparing proposals to renew the website, including its contents, in order to improve electronic communication with users. Universal design and increased user-friendliness will also be aimed for.

The Commission is willing and available to reply to questions and inquiries. Requests for talks, etc, on the Commission's activities will be accommodated in so far as possible.



*Internal seminar with external speakers, from the left public prosecutor Lars Erik Alfheim, Chair Siv Hallgren, and lawyer John Christian Elden*

# Management and control of the activities

## Civil protection – risk and vulnerability analyses

The nature of the Commission's activities means that any limited shutdown of its operations cannot be regarded as being of great importance to society. The risk of the Commission's members or secretariat's employees dying or having medical problems as a result of an extraordinary event is also not believed to be especially great.

The Commission has regularly conducted risk and vulnerability assessments, most recently in 2017.

## ICT

The Commission has an agreement with the secretariat of the conflict resolution boards regarding the operation and maintenance of its ICT systems. We have worked closely with the ICT department, which states that it complies with the recommendations of the Norwegian National Security Authority. We have internal information security rules.

## Cases from the Office of the Auditor General of Norway

The Commission has not received any comments from the Office of the Auditor General in 2017 and has thus not had any need to prepare a plan for following up such comments.

## Personnel policy

The Commission's aim is to ensure that it at all times has the correct staff and expertise.

The Commission's goal is to have a corporate culture based on equality, diversity and respect for the distinctive character of each individual so that everyone has the opportunity to develop their abilities and use their expertise. Job adverts include a diversity declaration. The Commission's secretariat did not advertise any vacant positions in 2017. The Commission has entered into an Inclusive Working Life (IA) agreement which aims to ensure that everyone who wants to and can will be allowed to contribute to working life. The Commission also has measures aimed at older employees.

Measures to prevent discrimination, bullying and harassment are stipulated in the Commission's HSE plan. We have also reviewed proposed whistleblowing case procedures and will put these in place in 2018.

The sickness absence rate in the Commission's secretariat is 1.48%, so the Commission has not had any need to implement measures to reduce the sickness absence rate.

## Equality report

The Commission's secretariat is led by a woman and otherwise consisted of eight women and three men in 2017. This means that the gender distribution in the secretariat in 2017 was 75% women and 25% men. All the management positions in the organisation are held by women. The secretariat has thus achieved the state's goal of a 40% share of female managers.

## Assessment of the outlook

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The Commission's core activity is dealing with petitions it receives to reopen cases. The number of petitions fluctuates from year to year. The Commission is obliged to deal with the petitions it receives as long as these lie within the Commission's area of authority. To a large extent, it can be said that the Commission's workload is only slightly predictable. Factors that may generate several cases for the Commission are, for example, decisions of the Supreme Court or of international bodies that lead to a different interpretation of the law. Other factors may be cases or issues that have attracted a lot of media attention and can also be invoked in other finally determined criminal cases

The Commission cannot currently see that there are any special factors which should affect its ability to carry out its public service role during the next few years.

# Annual accounts

## The Chair's comments on the 2017 annual accounts

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### Objective

The Norwegian Criminal Cases Review Commission was established in 2004 and is administratively subject to the Ministry of Justice and Public Security. The Commission is an independent administrative body that keeps accounts in accordance with the cash accounting principle.

### Confirmation

The annual accounts have been presented in accordance with regulations concerning financial management in central government, circular R-115, issued by the Ministry of Finance, and the requirements stipulated by the Ministry of Justice and Public Security in its main instructions to the enterprise. I believe the accounts provide a full picture of the Commission's available appropriations, recorded expenses, revenues, assets and liabilities.

### Assessment of some important factors

The Commission was allocated total appropriations of NOK 16,718,000 for 2017. In addition, the amount of NOK 397,000 in unused appropriations was transferred from 2016. The Commission was also allocated NOK 98,000 to compensate for the pay settlement in 2017. This means that the total funding allocated to the Commission for 2017 was NOK 17,213,000.

Of this, NOK 520,964 was not utilised. This equals 3.03% of the total available funds.

In addition to chapter 468 appropriations, appropriations according to chapter 414 Conflict Resolution Board and Other Court Expenses and chapter 466 Special Criminal Case Expenses are made available to the Commission. This means that expenses relating to defence counsel, counsel for aggrieved parties, interpreters or expert witnesses appointed by the Commission are rule-governed and not debited to the Commission's budget.

### Explanation of the under-utilisation

In 2017, the Commission received NOK 5,400 in refunds from the Norwegian Labour and Welfare Service. This is a result of sick leave. In addition, the Commission made savings because two investigating officers, who are

employed in full-time positions, have temporarily reduced their working hours due to caring for children and one investigating officer has had reduced working hours on compassionate grounds. One commission member did not attend the meetings in the first half of 2017.

The Commission's secretariat is small, so that refunds and savings like this are noticeable in the Commission's budget. At the same time, employees who have full-time jobs and temporarily reduced working hours will be entitled to work full-time again once the need for reduced working hours ends. The Commission cannot include the refunds and savings it had in 2017 in budgets for later years. We also calculate the costs of a Commission with all its members attending in 2018.

The Commission has a relatively small budget and many fixed expenses, of which salaries and rent are the largest items. The Commission's other expenditure depends, among other things, on the number of cases, which can be difficult to predict. If the Commission has to deal with complicated cases, it may have to increase the volume of investigative work and number of extraordinary meetings, and this in turn leads to higher costs.

### Additional information

The Office of the Auditor General of Norway is the external auditor and certifies the enterprise's annual accounts. The annual accounts have not been fully audited as at today's date.

Oslo, 15 February 2018



Siv Hallgren  
Chair

# Accounting principles

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The annual accounts of the Norwegian Criminal Cases Review Commission are prepared and presented in accordance with detailed guidelines stipulated in the regulations for financial management in central government ("the Regulations"). The annual accounts comply with item 3.4.1 of the Regulations, more detailed provisions stated in the Ministry of Finance circular R-115 of November 2016 and any additional requirements stipulated by a Ministry in charge.

The appropriation reporting statement and general ledger accounts reporting statement have been prepared on the basis of the provisions in item 3.4.2 of the Regulations – the fundamental principles for annual accounts:

- a) The accounts shall follow the calendar year
- b) The accounts shall contain all the reported expenses and revenues for the financial year
- c) Gross expenses and revenues shall be entered in the accounts
- d) The accounts shall be prepared in accordance with the cash accounting principle

The appropriation reporting statement and general ledger accounts reporting statement have been prepared in accordance with the same principles, but are grouped according to different charts of accounts. The principles correspond with the requirements stated in item 3.5 of the Regulations regarding how enterprises are to report to the central government accounts. The total "Net amount reported to the appropriation accounts" is the same in both statements.

The operations are linked to the state's group account scheme in Norges Bank in accordance with the requirements stipulated in item 3.7.1 of the Regulations. Gross-budgeted enterprises are not given any funding during the year but are entitled to draw on their group account. At the year-end, the balance of the individual settlement account is set at zero.

## Appropriation reporting statement

The appropriation reporting statement comprises an upper part containing the appropriation reporting and a lower part showing amounts the enterprise is stated to have in the capital accounts.

The appropriation reporting statement shows the accounting figures that the enterprise has reported to the central government accounts. These are stated in accordance with the chapters and items in the appropriation accounts that the enterprise is authorised to utilise. The total allocations column shows the amount made available to the enterprise in a letter of allocation for each government account (chapter/item). The statement also shows all the financial assets and liabilities that the enterprise has in the government's capital accounts.

Authorisations received to debit another enterprise's chapter/item (debit authorisations) are not shown in the total allocations column but are referred to in note B to the appropriation reporting statement. The expenses relating to received debit authorisations are entered in the books, reported to the central government accounts and shown in the accounts column.

Debit authorisations granted to others are included in the total allocations column but are not entered in the books or reported to the central government accounts by the enterprise itself. Debit authorisations granted to others are entered in the books and reported by the enterprise that has received the debit authorisation and are therefore not shown in the accounts column. The authorisations granted to others are stated in note B to the appropriations reporting statement.

## General ledger accounts reporting statement

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The general ledger accounts reporting statement has an upper part showing amounts reported to the central government accounts in accordance with the standard chart of accounts for state-owned enterprises and a lower part showing assets and liabilities included in outstanding accounts with the public treasury. The general ledger accounts reporting statement shows accounting figures that the enterprise has reported to the central government accounts in accordance with the standard chart of accounts for state-owned enterprises. The enterprise is entitled to draw on its group account with Norges Bank. The allocations are not taken to income and are therefore not shown as revenue in the statement.

# Appropriation reporting statement

## 31.12.2017

Expense chapter	Chapter name	Item	Item text	Note	Total allocation*	Accounts 2017 /shortfall in expense	Additional expense (-)
0466	Special criminal case op. expenses	01			0	1 244 021	
0468	Operating expenses	01		A, B	17 213 000	15 942 036	1 270 964
0400	Ministry of Justice and Public Security	01			0	128 977	
1633	Net VAT govt. scheme	01			0	447 899	
<b>Total amount charged to expenses</b>					<b>17 213 000</b>	<b>17 762 932</b>	

Revenue chapter	Chapter name	Item	Item text	Total allocation*	Accounts 2017	Additional revenue/ shortfall in revenue (-)	
5309	Miscellaneous revenues	29		0	13 959		
5700	National Insurance revenues	72		0	1 508 798		
<b>Total amount taken to income</b>					<b>0</b>	<b>1 522 757</b>	

### Net reported to the appropriation account

16 240 174

### Capital accounts

60087201 Norges Bank GA/payments received

49 351

60087202 Norges Bank GA/payments made

-16 262 048

704485 Change in outstanding account with the public treasury

-27 477

### Total amount reported

0

### Balances reported to the capital accounts (31.12)

Account	Text	31.12.2017	31.12.2016	Change
704485	Outstanding account with the public treasury	-538 613	-511 136	-27 477

\* The total allocation shall not be reduced to take account of any debit authorisations granted to others. Refer to note B for a further explanation of this.



# Notes to the appropriation reporting statement

## Note A Explanation of the total allocations of expenses

Chapter and item	Transferred from last year	This year's allocations	Total allocations	
0468 01		397 000	16 816 000	17 213 000
xxxxxx				0
xxxxxx				0
xxxxxx				0

## Note B Explanation of used authorisations and calculation of the amount possibly transferrable to next year

Chapter and item	Key words	Additional expense(-)/reduced expense	Expensed by others in accordance with granted debit authorisations (-)	Additional expense(-)/reduced expense according to granted debit authorisations	Additional incomes/reduced incomes(-) according to an additional income authorisation
0468 01		1,270,964	-750,000	520,964	
Xxxx21				0	
Xxxx21	"may be utilised under item 01"			0	
Xxxx45				0	
Xxx45	"may be transferred"			0	
Xxxx70				0	N/A
Xxxx75	"estimated appropriation"			0	N/A

\* The maximum amount that can be transferred is 5% of the year's appropriations for operations items 01-29, apart from item 24, or the sum of the last two years' appropriations for items with the key words "may be transferred". Refer to annual circular R-2 for more detailed information on the transfer of unused appropriations.

### Explanation of the use of budget authorisations

A debit authorisation received from the Ministry of Justice and Public Security for NOK 390,000 registered to chapter/item 040001. The Commission has utilised NOK 128,977 of this debit authorisation.

The Commission has granted a debit authorisation to the Secretariat for the Conflict Resolution Boards equal to NOK 750,000 and registered to chapter/item 0468 01. The entire amount has been spent by the Secretariat for the Conflict Resolution Boards.

### Possible transferrable amount

The Commission's unused appropriation for chapter/item 046801 amounts to NOK 520,964.

### Appropriations relating to other budget chapters

In addition to the appropriation relating to chapter 0468, item 01, the Commission has appropriations at its disposal for chapter 0414 Conflict Resolution Boards and Other Court Expenses and chapter 0466 Special Criminal Case Expenses, etc. These appropriations are utilised in accordance with the regulations applicable to the rule-governed scheme.

Reallocations from item 01 to 45 or to item 01/21 from next year's appropriations	Savings(-)	Total basis for transfer	Max. transferrable amount *	Possible transferrable amount calculated by the enterprise
		520 964	860 650	520 964
		0	[5% of the year's appropriations in note A]	
		0	[5% of the year's appropriations in note A]	
		0		
		0	[Total of this year's and last year's appropriations]	
N/A	N/A	N/A		
N/A	N/A	N/A		

# General ledger accounts reporting statement

## 31.12.2017

	Note	2016	2015
<b>Operating revenues reported to the appropriation accounts</b>			
Payments received from fees		0	0
Payments received from subsidies and transfers		0	0
Sales and rental payments received		0	0
Other payments received		0	0
<b>Total payments received from operations</b>		<b>0</b>	<b>0</b>
<b>Operating expenses reported to the appropriation accounts</b>			
Salary payments	1	10 950 172	10 320 502
Other payments made relating to operations	2	4 848 501	5 436 372
<b>Total payments made relating to operations</b>		<b>15 798 673</b>	<b>15 756 874</b>
<b>Net reported operating expenses</b>		<b>15 798 673</b>	<b>15 756 874</b>
<b>Investment and financial income reported to the appropriation accounts</b>			
Financial income received		0	0
<b>Total investment and financial income</b>		<b>0</b>	<b>0</b>
<b>Investment and financial expenses reported to the appropriation accounts</b>			
Payments for investments	3	25 200	107 723
Payments to purchase shares		0	0
Payment of financial expenses		0	0
<b>Total investment and financial expenses</b>		<b>25 200</b>	<b>107 723</b>
<b>Net reported investment and financial expenses</b>		<b>25 200</b>	<b>107 723</b>
<b>Debt-collection operations and other transfers to the state</b>			
Taxes, fees, charges, etc received		0	0
<b>Total debt-collection operations and other transfers to the state</b>		<b>0</b>	<b>0</b>
<b>Grant management and other transfers from the state</b>			
Payments of grants and benefits		0	0
<b>Total grant management and other transfers from the state</b>		<b>0</b>	<b>0</b>
<b>Revenues and expenses reported for common chapters*</b>			
Group life insurance account 1985 (ref. chapter 5309, revenue)		15 557	15 602
Employer's NI contributions account 1986 (ref. chapter 5700, revenue)		1 355 836	1 281 335
Net bookkeeping scheme for VAT account 1987 (ref. chapter 1633, expense)		452 930	562 990
<b>Net expenses reported to common chapters</b>		<b>-918 463</b>	<b>-733 946</b>
<b>Net amount reported to the appropriation accounts</b>		<b>14 905 410</b>	<b>15 130 650</b>
<b>Overview of outstanding accounts with the public treasury**</b>			
		2017	2016
<b>Assets and liabilities</b>			
Receivables		0	0
Cash		0	0
Bank accounts containing state funds outside Norges Bank		0	0
Withholding tax due		-538 613	-511 136
Public taxes due		0	0
Other liabilities		0	0
<b>Total outstanding account with the public treasury</b>	<b>4</b>	<b>-538 613</b>	<b>-511 136</b>

\* Any other revenues/expenses reported for common chapters are to be specified in separate lines if required.

\*\* Specify and add lines if required.

# Notes to the general ledger accounts reporting statement

## Note 1 Salary payments

	31.12.2017	31.12.2016
Salaries	8 419 585	8 433 591
Employer's NI contributions	1 508 798	1 355 836
Pension expenses*	1 012 708	0
Sickness benefit and other refunds (-)	-5 400	-8 668
Other benefits	1 247 460	1 169 413
<b>Total salary payments</b>	<b>12 183 151</b>	<b>10 950 172</b>
* This line is to be used by enterprises that pay a pension premium to the Norwegian Public Service Pension Fund.		
<b>No. of FTE:</b>	<b>10.6</b>	<b>11</b>

### \*Further details on pension expenses

For enterprises covered by circular R-118

As from 1 January 2017, the enterprise pays a pension premium to the Public Service Pension Fund. For 2017, the employer's share of the pension premium is 12 per cent.

## Note 2 Other payments relating to operations

	31.12.2017	31.12.2016
Rent	2 045 327	1 878 446
Maintenance of own buildings and facilities	0	0
Maintenance and modification of rented premises	825	1 720
Other expenses relating to the running of properties and premises	275 301	239 296
Repair and maintenance of machinery, equipment, etc	0	4 479
Minor equipment acquisitions	78 805	28 888
Rental of machinery, fixtures and fittings, etc	6 117	9 669
Purchase of services from external parties	1 327 550	1 377 992
Travel and per diem allowances	426 147	422 745
Other operating expenses	816 783	885 267
<b>Total other payments relating to operations</b>	<b>4 976 854</b>	<b>4 848 501</b>

## Note 3 Payments relating to investments and share purchases

	31.12.2017	31.12.2016
<b>Payments for investments</b>		
Intangible assets, etc	0	0
Plots of land, buildings and other real property	0	0
Emergency-preparedness acquisitions	0	0
Infrastructure assets	0	0
Machinery and vehicles	155 028	25 200
Operating equipment, fixtures, fittings, tools, etc		
<b>Total payments for investments</b>	<b>155 028</b>	<b>25 200</b>
<b>Payments for share purchases</b>		
Contributions of capital	0	0
Bonds	0	0
Investments in shares and partnerships	0	0
<b>Total payments for share purchases</b>	<b>0</b>	<b>0</b>

## Note 4 Link between the settlement with the public treasury and the outstanding account with the public treasury

### Part A The difference between the settlement with the public treasury and the outstanding account with the public treasury

	31.12.2017	31.12.2017	Differen ce
	Specification of the recorded settlement with the public treasury	Specification of the reported outstanding account with the public treasury	
<b>Fixed-asset investments</b>			
Investments in shares and partnerships*	0	0	0
Bonds	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Current assets</b>			
Trade debtors	0	0	0
Other receivables	0	0	0
Cash in hand and at the bank, etc	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Long-term liabilities</b>			
Other long-term liabilities	0	0	0
<b>Total</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Current liabilities</b>			
Trade creditors	0	0	0
Withholding tax due	-538 613	-538 613	0
Public taxes due	0	0	0
Other current liabilities	0	0	0
<b>Total</b>	<b>-538 613</b>	<b>-538 613</b>	<b>0</b>
<b>Total</b>	<b>-538 613</b>	<b>-538 613</b>	<b>0</b>

\* Enterprises that own fixed-asset investments in the form of investments in shares and partnerships must also fill in note 8 B

### Part B Specification of investments in shares and partnerships

	Acquisition date	No. of shares	Ownership share	Voting shares	Firm's profit/loss for the year	Firm's capitalised equity	Capitalised value in the accounts
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Shares

Firm 1

Firm 2

Firm 3

**Capitalised value 31.12.2017**

**0**

\* Investments in shares are recorded at their original cost. The capitalised value is the same in both the enterprise's account specification and the capital accounts.

The Norwegian Criminal Cases Review Commission is an independent body which is responsible for deciding whether convicted persons should have their cases retried in a different court



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