



KOMMISJONEN FOR  
GJENOPTAKELSE AV STRAFFESAKER

# THE NORWEGIAN CRIMINAL CASES REVIEW COMMISSION ANNUAL REPORT 2020

## I. The Chair's report

When Norway went into lockdown on Thursday, 12 March 2020 because of the COVID-19 pandemic, the Norwegian Criminal Cases Review Commission had no tradition of working from home. Nevertheless, in the space of 24 hours we had found digital solutions that allowed us to work while not in the office. All the employees who went home on that Thursday were able to link up to a mobile solution on Friday, 13 March. The office at Tordenskioldsgate 6 was only manned one day a week in order to receive and send post, but the *digital* office was fully manned and operating as usual. Office meetings were held via Teams.

We worked from home until June, several of us sharing an office with children, students, partners and dogs. After that, we fluctuated between coming into the office and working from home until the end of September. From then and until the year-end, we worked from home as much as possible, as ordered by the authorities.

The pandemic was also difficult for those Commissioners who do not live in the capital city. In Oslo, there was a large danger of infection and we could not hold physical meetings. The Commission meeting in March was held as a telephone conference, while the other meetings were digital for the rest of the year. At first, the meetings were unsynchronised with poor sound and picture quality, but we gradually implemented better technical solutions and gained more experience of this way of seeing each other.

The COVID-19 pandemic meant that some cases took longer than they probably would have done under normal circumstances. For example, guidance meetings and interviews

were postponed, expert reports were delayed, and it was unfamiliar and challenging to hold digital meetings. Such meetings are different and take more time than physical meetings.

Digitalisation really took off in 2020. An extra grant for the digitalisation project we had been working on for several years allowed us to enter into a contract with Sikri AS for a new case and archive system in March. By the end of October, our employees had all been on courses and started to use the system. This project has taken time and resources but was completed both within the economic framework and in accordance with the time schedule.

For the 2020 budget year, the Commission had NOK 22,467,000 at its disposal and spent NOK 22,288,546. Most of the money was spent on fixed expenses such as ICT costs, rent, secretariat employee salaries and remuneration to the Commissioners. This amount also includes an extra grant due to the additional workload caused by the Labour and Welfare Administration (NAV) cases, and this grant allowed us to hire two lawyers on a temporary basis.

In 2020, the Commission received 200 applications to reopen cases, compared to 153 in 2019. A total of 161 cases were concluded, compared to 131 in 2019. The Commission reopened 37 cases (27%), while 20 applications were disallowed. Abbreviated versions of the reopened cases are included in this annual report. The Commission or Chair/Vice Chair rejected 78 applications. The average percentage of reopened cases for all the years in which the Commission has existed is the same as before, around 16%.

Starting in January, we received 32 so-called NAV (Labour and Welfare Administration) cases. So far, the Commission has reopened 18 of these. The first case reopened by the Commission is currently being heard by the Supreme Court, which has asked the EFTA Court for an advisory opinion on this case in order to clarify whether the National Insurance Act's requirement that a person must be in Norway in order to receive work assessment allowance, and the Labour and Welfare Administration's practice relating to this, are compatible with EEA law. The Director General of Public Prosecutions and the Commission found it natural to wait until these issues have been dealt with by the EFTA Court before deciding whether more Labour and Welfare Administration cases should be reopened. The EFTA Court is expected to issue its opinion in the first half of 2021.

The Baneheia case has taken up a lot of the secretariat's and Commission's time. There have been many all-day meetings and several extra meetings on this case. Other

extensive and well-known cases, such as the Torgersen and Orderud cases, have also taken up a lot of time and resources.

The Commission is an important part of the criminal justice system and helps to ensure we live in a state governed by the rule of law. Our goal is for our case work to be objective, thorough, and efficient. It must ensure materially correct decisions within a reasonable period of time. An open and critical attitude to the cases is important. Experienced, interested employees in the Commission's secretariat prepare the cases for the Commission. There were no changes to the Commission's composition in 2020. The Commissioners and employees are presented later on in this annual report.

The Commission did not reach its goal that the number of decisions was not to be less than the number of applications received. In a very special year and with the largest number of cases ever received in a year apart from when the Commission was established in 2004, I am nonetheless very pleased about what we have managed to do. The secretariat employees have been very flexible and shown great willingness to contribute. The Commission has worked very hard this year, spending far more hours on preparations and all-day meetings than normal. Without these efforts and the extra grant we received for two extra lawyers, our results would have been quite different.

Oslo, 15 February 2021

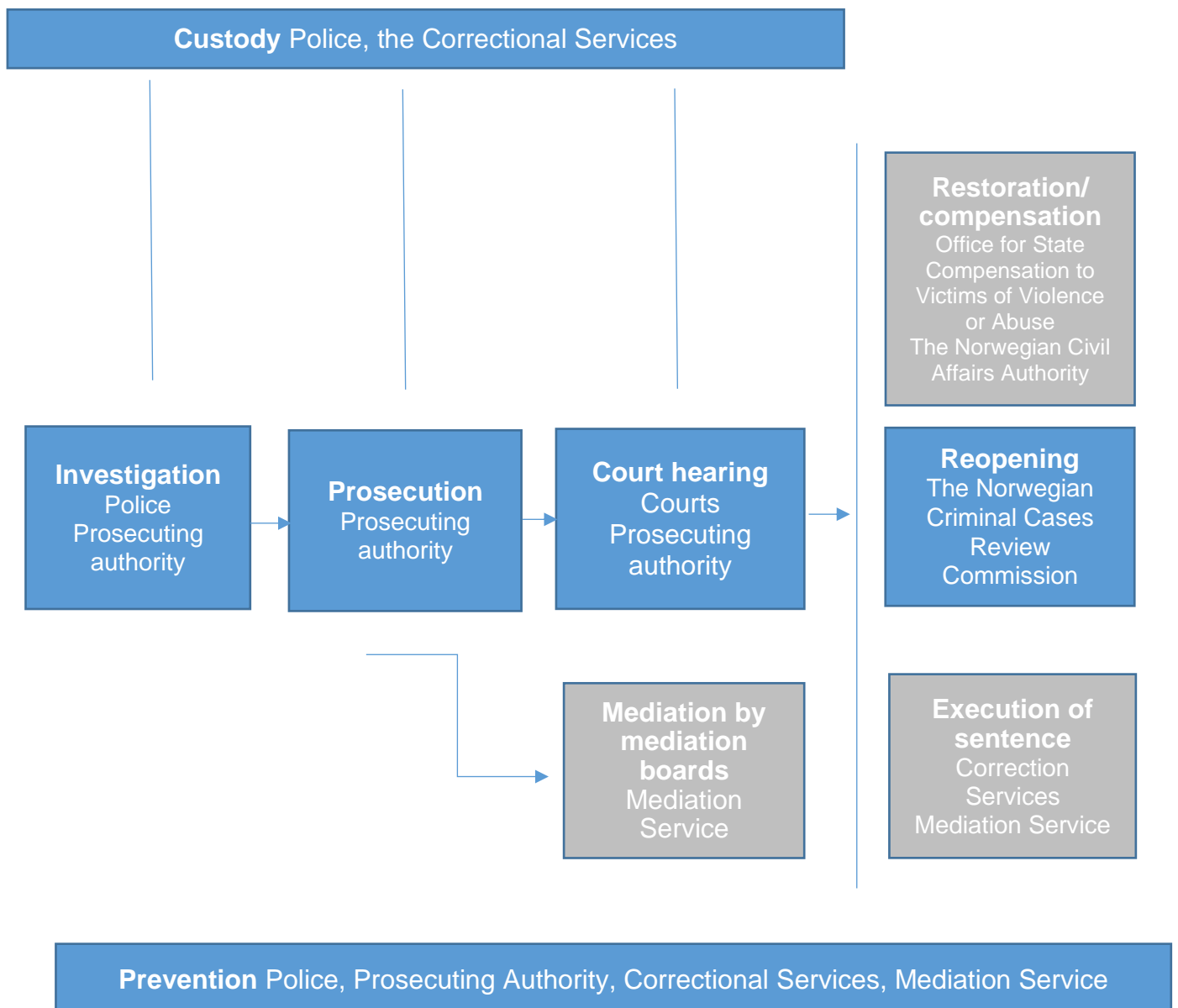
Siv Hallgren  
Chair

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## II. Introduction to the activities and main figures

### The Norwegian Criminal Cases Review Commission's place in the criminal justice chain

The figure below is intended to be a simplified illustration of the Commission's place in the criminal justice chain. The Electronic Interaction between Players in the Criminal Justice Chain (ESAS) project is intended to contribute to a more efficient and better quality criminal justice chain. A technical platform called Justishub (Justice Hub) has been established and enables electronic communication between the police, prosecuting authority, courts and correctional services. Several key agencies will gradually be linked to Justishub, and the Commission is also working on this. The Commission's digitalisation project is described in further detail below in the section headed "The Commission's other activities".



### Description of the activities and public service role

The opportunity to reopen cases is important for safeguarding the legal protection afforded to individuals. The Commission is an independent administrative body whose public service role is to deal with applications to reopen criminal cases which have been determined by the courts in legally enforceable convictions.

The Commission was established by the Act of 15 June 2001 no. 63 and started to operate in January 2004. The goal was to create increased confidence in the treatment of applications to reopen criminal cases by allowing an independent commission to deal with these cases. Previously, this task had been assigned to the court that had imposed a conviction in the case. The reason for the change was that there had been several controversial cases in the 1980s and 1990s. The Commission was to provide guidance to convicted persons and investigate and decide on cases. The reform also led to the prosecuting authority playing a less prominent role.

The Commission received 232 applications to reopen cases in its first year. Later, the Commission received 150-170 applications each year up to 2020, when 200 applications were received. From its beginning in 2004 until the end of 2020, the Commission has reviewed 2,202 cases on their merits.

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

A convicted person may apply for the reopening of a legally enforceable conviction, if, for example:

- 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 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 those who ask to have their cases reopened. Unless he/she is represented by a lawyer, the convicted person will usually be offered a guidance meeting. Such a meeting may take place over the 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 applying 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. When the Commission was established, it was regarded as desirable to create a body that could conduct an independent investigation into the cases. Since its formation in 2004, the Commission has dealt with several cases requiring major investigations.

If an application 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 comment. Aggrieved persons and surviving next of kin are to be informed of the application. Aggrieved persons and surviving next of kin are entitled to examine documents and state their views on the application 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.

Applications are decided on by the Commission. The Commission's Chair/Vice Chair may reject applications to reopen decisions which, due to their nature, cannot be reopened by the Commission, applications which do not stipulate any grounds for reopening in accordance with the law, or applications which obviously cannot succeed.

If the Commission decides that an application 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 Commissioners and three alternate Commissioners. The Chair, Vice Chair, one other Commissioner and two of the alternate Commissioners 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 Commissioners and alternate Commissioners are appointed by the King in Council for a three-year period. The Commissioners and alternate Commissioners may be reappointed once for another three-year period.

### **Presentation of the Commissioners as at 31 December 2020**

**Siv Hallgren** (2017 – 2024 fixed term)

*Chair of the Norwegian Criminal Cases Review Commission*

Work experience with the Ministry of Justice and Public Security, executive officer with the Norwegian Labour Inspection Authority, police intendant II, 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 in Advokatfirmaet Elden DA. She was head of the Norwegian Bar Association's Legal Counsel for Aggrieved Parties' Committee for six years, and a member of the Health Personnel Appeal Board for three years. She has been a member of the Work Group aiming to increase the use of the Mediation Service, the Criminal Responsibility Committee and the Special Courts Committee.

**Sven Ole Fagernæs** (2015 - 2021, Vice Chair)

*Lawyer*

Fagernæs joined 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 been a deputy judge at Indre Sogn District Court and an extraordinary Court of Appeal judge at Hålogaland Court of Appeal. 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.

**Elin Ramleth Østli** (2019 – 2022, Commissioner)

*State-authorized public accountant*

Østli obtained a master's degree in auditing in 1986. Since 1994, she has been a privately practising auditor and a partner in Revisorsenteret Trysil DA. In 2004-2007 and since 2010, she has held quality-control posts with the Norwegian Institute of Public

Accountants. In 2012-2016, she was a member of the appeal board for complaints against auditors and accountants.

**Dag Jodaa** (2017 - 2023, Commissioner)

*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 in Advokathuset Helgeland DA from 2000-2015. Since then, he has been a Rana District Court judge.

**Tor Ketil Larsen** (2015 - 2021, Commissioner)

*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 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 130 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 lengthy experience as a forensic psychiatric expert.

**Hanne Helle Arnesen** (2016 - 2022, alternate Commissioner)

*Agder Court of Appeal judge*

Arnesen obtained a Master of Laws degree in 1986. She has previously been an executive officer/researcher with the Ministry of Justice and Public Security and a deputy judge at Larvik District Court, and she was a privately practising lawyer for 12 years. Arnesen has been a Court of Appeal judge since 2004.

**Arne Gunnar Aas** (2015 - 2021, alternate Commissioner)

*Lawyer*

Aas obtained a Master of Laws degree in 1977. He has previously been an executive officer with the Norwegian Maritime Authority, a deputy judge at Holt District Court and a police lawyer with Asker and Bærum Police. He was a lawyer with Advokatfirmaet Hjort from 1981 to 2020 and has had Supreme Court rights of audience since 1993. Aas was formerly employed as an advisor by the Ministry of Justice and Public Security, focusing on human rights in Moldova. He has been a permanent defence counsel at Oslo District Court, Borgarting Court of Appeal and the Supreme Court.



**Timothy John Brennen** (2019 – 2022, alternate Commissioner)  
*Professor in psychology at the University of Oslo*

Brennen conducts research into people's mental processes regarding topics such as personal identification, false memories and the effect of traumas on how people remember and think about things. He has several times been a court-appointed expert testifying on memory and related topics. He previously worked at the universities of Tromsø, Savoie and Grenoble, and has been head of research at the Department of Psychology and research dean at the Social Sciences Faculty of the University of Oslo.

#### **Presentation of the Commission's secretariat as at 31 December 2020**

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 15 employees at the year-end: 11 investigating officers with a legal background, two investigating officers with a police background, an office manager, and a senior secretary. Three of the investigating officers with a legal background were employed in temporary positions.

#### **Elisabeth Kjærheim**

*Administrative deputy head and senior advisor since 2004.*

Master of Laws degree from the University of Oslo in 1987. Work experience with 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.*

Graduated from the Norwegian Police University College in 1979. Work experience with 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*

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

**Hildegunn Sandhalla**

*Office manager since 2004*

Work experience with 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 in 1987. Work experience with the County Governor, as a deputy judge, police intendant II and trainee lawyer, and of statute 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 in 2000. Work experience as a lawyer with Advokatfirmaet Staff and as a deputy judge at Sandefjord District Court.

**Helene Cecilie Røer**

*Senior advisor since 2008*

Master of Laws degree from the University of Oslo in 1988. Work experience with the Labour Inspection Authority, as a legal 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 the law firms of Advokatfirmaet Schjødt AS and Advokatfirmaet Torkildsen, Tennøe & Co AS.

**Ksenija Nilsen**

*Senior advisor since 2019*

Master of Jurisprudence degree from the University of Bergen in 2009. Work experience as a lawyer with the Matrix law firm, the Ministry of Justice and Public Security, and as a senior advisor with the Norwegian Civil Affairs Authority.

**Tonje Brunvand Hauge (on leave)**

*Senior advisor since 2019*

Master of Jurisprudence degree from the University of Bergen in 2012. Work experience as a senior advisor with the Norwegian Civil Affairs Authority.

**Eva Bergman Kvamme (on leave)**

*Senior advisor since 2020*

Master of Laws degree from the University of Oslo in 2003. Work experience as an advisor to the Ministry of Justice and Public Security, a police lawyer and a deputy judge/acting district court judge.

**Vilde Ødegård**

*Advisor, temporary position 2020*

Master of Jurisprudence degree from the University of Oslo in 2019 and studies at the Université Jean Moulin Lyon 3 in 2019. Her work experience includes being a scholarship student with the Norwegian parliament's research services section, and working for the Ministry of Justice and Public Security's legislation department.

**Marie Bragnes**

*Advisor, temporary position 2020*

Master of Jurisprudence degree from the University of Bergen in 2019 and LLM in International Law from SOAS University of London in 2019. Work experience as an intern with Norway's permanent delegation to the Council of Europe, as well as trainee positions with various private law firms and the City Advocate of Oslo.

**Silje Andreassen Lind**

*Senior advisor, temporary position 2020*

Master of Jurisprudence degree from the University of Oslo in 2013. Work experience as an advisor in the Customs and Excise Directorate and as a lawyer with the law firms of Arntzen de Besche Advokatfirma and Deloitte Advokatfirma.

### Presentation of selected main figures

Parliamentary bill (Proposition to the Norwegian parliament (Storting)) no. 1 S (2019-2020) for the 2020 budget year proposed a draft budget of NOK 20,230,000. Following the parliamentary budget decision on 12 December 2019, the Commission was given funding of NOK 20,230,000. In addition, the Commission was granted NOK 1,800,000 to deal with the Labour and Welfare Administration (NAV) cases, was allowed to transfer unused funds of NOK 370,000 from 2018 and was given salary compensation of NOK 67,000. The total funding granted for 2020 was NOK 22,467,000.

Some of the Commission's secretariat are working part-time for a temporary period and some are on a leave of absence. The total number of full-time equivalents (FTE) in the secretariat was 13.61 in 2020.

The Commission's operating expenses came to NOK 22,288,546 in 2020. Employees' salaries and Commissioners' remuneration amounted to NOK 16,808,474, including pension costs and employer's National Insurance contributions. In addition to the appropriations relating to chapter 468, some operating expenses are debited to chapter 466 Special Criminal Case Expenses.

### **III. The year's activities and results**

The Commission is to deal with cases objectively, thoroughly and efficiently 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 no fewer than the number of applications it receives so that the backlog does not increase.

#### *The cases and procedure*

##### *Applications received and cases concluded*

During the year, the Commission held eight meetings lasting for a total of 23 days. The meetings were held as physical meetings until March 2020, after which they were held as digital/telephone meetings.

The Commission received 200 applications to reopen cases in 2020, compared to 153 in 2019. These figures represent the number of convictions the Commission has been asked to reopen, not the number of convicted persons who have applied to have their case reopened.

Of the applications to reopen a case that the Commission received in 2020, 30 concerned women and 170 concerned men. Some people applied to have several convictions reopened and are therefore registered as having several cases.

A total of 161 cases were concluded, of which 139 were reviewed on their merits. Of these 139 applications, 37 cases were reopened.

Eleven cases (convictions) were reopened because a subsequent expert report had raised doubts about the convicted person's criminal responsibility for his acts on the date of the offence, and four cases were reopened due to other new evidence or circumstances (section 391 no. 3 of the Criminal Procedure Act). Eighteen "the Labour and Welfare Administration" cases were reopened, among other things because it is assumed that the judgments were based on the wrong application of the law so that there are special circumstances that make it doubtful whether the judgment is correct (section 392 (2) of the Criminal Procedure Act). Four "Refugee Convention cases" (the Convention relating to the Status of Refugees) were reopened pursuant to the same aforementioned provision, in that several of the Convention's articles had not been considered by the court when convicting the defendant. Read more about these cases below.

The Commission disallowed 20 applications.

The remaining 82 applications were rejected by the Commission or the Chair/Vice Chair because they obviously could not succeed.

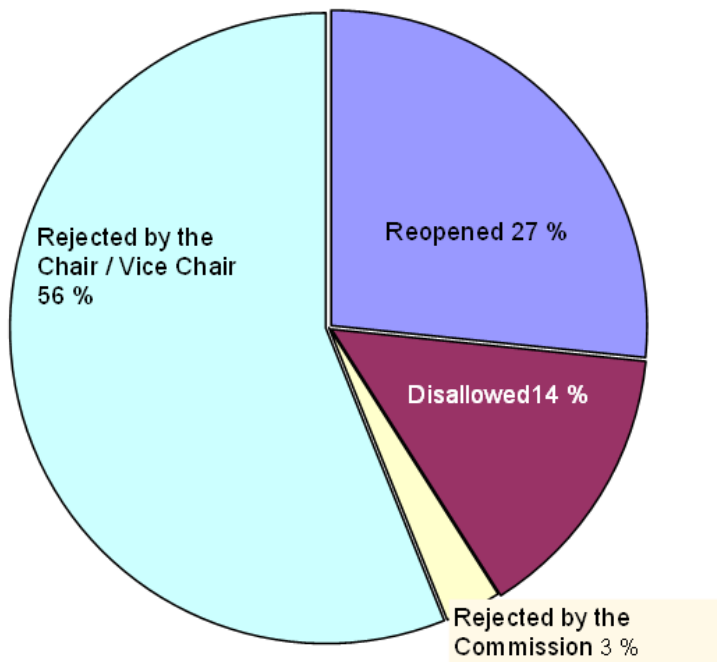
The other 22 cases that were concluded were not reviewed on their merits. These were, for example, applications to review civil cases, applications that lacked a legal interest, and applications that were withdrawn.

The Commission has also worked on cases that are extensive and time-consuming and have thus not been concluded in 2020. In some cases, large volumes of documents must be examined by the Commissioners and investigators and there may be a need to discuss the case at several meetings. These may be cases where investigative steps have been taken, and others where the question of starting investigative steps has been discussed by the Commission. Examples of cases that have to a greater or lesser extent been discussed at several meetings in 2020 are the Baneheia case and Torgersen case.

The table below provides a complete overview of the number of received applications and concluded cases in 2020:

	Received	Concluded	Reopened	Disallowed	Rejected by the Commission	Rejected by the Chair/Vice Chair	Not reviewed on their merits
General	76	2				1	1
Sexual offences	50	30		3	2	23	2
Violence, threats	81	30	4	4	1	16	5
Drugs	11	9	1	4	1	2	1
Crimes of acquisition	53	50	26	5		17	2
Miscellaneous crimes	50	30	5	2	12	14	9
Miscellaneous minor offences	13	10	1	2		5	2
Discontinued prosecutions							
Interim rulings							
Seizures or annulments							
Inquiries							
Fines							
Civil cases							
Others concerning professional issues							
Total	200	161	37	20	4	78	22

The figure below shows the outcome of the cases reviewed on their merits in 2020



## 2004 - 2020

Since being established on 1 January 2004, the Commission has received 2,802 applications and concluded 2,573 cases. In total, 351 cases have been reopened and 474 applications have been disallowed. The Commission or Chair/Vice Chair has rejected 1,377 of the applications because they obviously could not succeed, while the remainder, 371 applications, have been rejected without being reviewed on their merits.

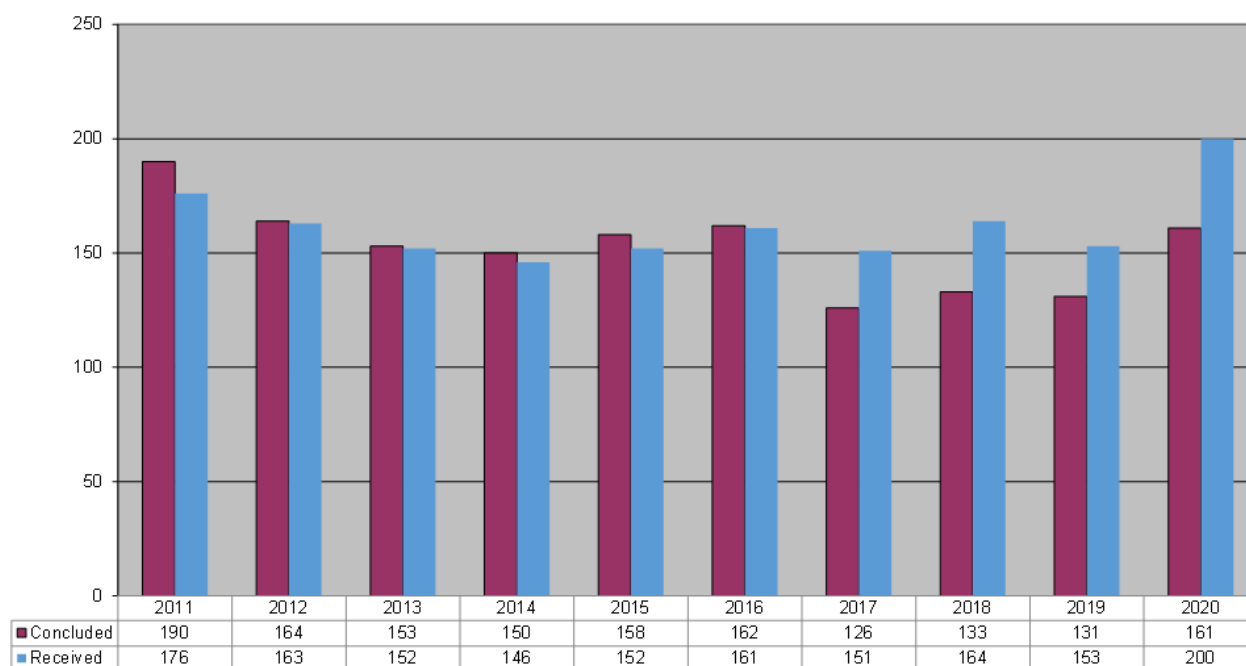
Table showing the total figures for the Commission's first 17 years in operation:

	<b>Received</b>	<b>Concluded</b>	<b>Reopened</b>	<b>Disallowed</b>	<b>Rejected by the Commission</b>	<b>Rejected by the Chair / Vice Chair</b>	<b>Not reviewed on their merits</b>
General	76	76	4	1	3	14	54
Sexual offences	504	464	39	89	59	248	29
Violence, threats	817	761	97	158	81	358	67
Drugs	267	251	38	61	27	110	15
Crimes of acquisition	514	463	116	95	47	158	47
Miscellaneous crimes	307	248	28	37	30	102	51
Miscellaneous minor offences	227	220	29	33	14	122	22
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>2802</b>	<b>2573</b>	<b>351</b>	<b>474</b>	<b>262</b>	<b>1115</b>	<b>371</b>



## 2011 - 2020

The number of applications received during this period varied from 146 (in 2014) to 200 (in 2020).



### Appointment of a defence counsel

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 application'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 responsible for his/her acts at the time of the offence, see section 397(2) and section 96 last subsection of the Criminal Procedure Act.

In 2020, the Commission appointed a defence counsel for 33 convicted persons, compared to 25 in 2019, i.e. a defence counsel was appointed in around 16% of the cases.

### Appointment of a counsel for an 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 107(a), et seq, of the Criminal Procedure Act.

This is particularly relevant when interviewing aggrieved persons and witnesses in cases involving sexual assault and violence.

The Commission appointed six counsel for aggrieved persons/surviving next of kin in six cases in 2020.

#### Appointment of experts

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

In 2020, the Commission appointed 10 experts in cases concerning six convicted persons. These were experts in the fields of forensic psychiatry, forensic psychology, forensic genetics and neuropsychology.

#### Use of interpreters/translators

The Commission used an interpreter in one case. This concerned interpretation from and to Arabic. The Commission has used a translator in four cases. These have involved translations from/to Arabic, Hungarian and Lithuanian.

### **Relevant decisions by the Commission in 2020**

In the autumn of 2019, it became known that the Norwegian Labour and Welfare Administration (NAV) had for many years practised the National Insurance Act's requirement of a presence in Norway for recipients of sickness benefit, attendance allowance and work assessment allowance in a way that might be in contravention of EEA law, apparently without this having been assessed.

Common to these cases is that the benefit recipient was in other EEA countries while receiving a cash benefit from the Labour and Welfare Administration. This was considered to be illegal. Several of the benefit recipients had not notified the Labour and Welfare Administration or applied for permission to travel out of Norway, and the employment status cards sent to the Labour and Welfare Administration also contained no information on the stay abroad. These recipients were charged and convicted of gross fraud against the Labour and Welfare Administration, and in several cases, they were also convicted of giving a false or incorrect statement to the Labour and Welfare Administration because they had submitted an employment status card without revealing that they were abroad.

After it became known that the Labour and Welfare Administration's practice in these cases might be in contravention of the EEA regulations, the prosecuting authority reviewed the cases. The Director General of Public Prosecutions found that the charges, decisions to prosecute and convictions were based on the wrong application of the law, at least after 1 June 2012 when Regulation (EC) No 883/2004 (The Social Security Regulation) was incorporated into Norwegian law.

In 2020, the Commission allowed 18 applications from the Director General of Public Prosecutions for the reopening of a case in favour of the convicted person on this basis. The Commission found there were special circumstances that made it doubtful whether the convictions were correct and that weighty considerations indicated that the question of the guilt of the person charged should be retried, see section 392 (2) of the Criminal Procedure Act. These cases contained several EEA-law issues that had not been considered by the court and which made it doubtful that the objective conditions for fraud and making a false statement had been met.

The acts in the reopened cases have taken place since 1 June 2012, ie, from the date when Regulation (EC) No 883/2004 (The Social Security Regulation) was incorporated into Norwegian law. In one case, the act was committed partly before and partly after this cut-off date. Before this date, Regulation (EEC) No 1408/71 applied, and this became applicable to Norway when the EEA Agreement entered into force in 1994. Cases where the act was committed in its entirety before 1 June 2012 have so far not been determined by the Commission.

In 2020, the Commission also reopened several convictions where asylum seekers who came directly to Norway have been convicted of illegally entering the country and of using false travel documents and/or making false statements to the Norwegian authorities in connection with entering the country. These convictions were reopened with reference to the prohibition against penalising refugees stated in article 31 no. 1 of the Refugee Convention. It is particularly relevant to reopen convictions where the court has not considered exemption from prohibition pursuant to the Refugee Convention.

In 2020, the Commission allowed four applications to reopen convictions on these grounds. The international-law issues had not been considered by the court, and the Commission found there were special circumstances which made it doubtful that the conviction was correct, see section 392 (2) of the Criminal Procedure Act. Weighty considerations indicated that the question of guilt should be retried by the courts.

For several years, a large percentage of the cases reopened by the Commission are because it has been shown, following a legally enforceable judgment, that the convicted person was not responsible for his/her acts when the offence took place so that he/she could not be punished (section 44 of the General Civil Penal Code of 1902 and section 20 of the Penal Code of 2005) or that he/she had a mild intellectual disability so that a less severe penalty should have been considered (section 56(c) of the General Civil Penal Code of 1902 and section 80 of the Penal Code of 2005).

What is typical in these cases is that the convicted person has previous convictions, and it is not until a new criminal case arises that his/her mental state is questioned. Based on this, forensic psychiatric experts are appointed, and their conclusions may lead to the prosecuting authority discontinuing the case or the defendant being acquitted by the court or given a reduced sentence. Following this, the defendant's mental state at the time of the offences covered by the previous conviction(s) will be called into question and it may be relevant to apply for these cases to be reopened. If new expert reports conclude that, at the time when the previous offences were committed, the convicted person lacked the capacity to incur criminal liability or was in a state that could result in a lesser penalty, this will be a new circumstance that may provide grounds for reopening a conviction pursuant to section 391 no. 3 of the Criminal Procedure Act.

In 2020, three applications were wholly or partly allowed on these grounds. Two of these cases led to the reopening of four and six convictions respectively. An application concerning one conviction was submitted by the Director of Public Prosecutions in favour of the convicted person. Thus, the reason for reopening 11 of the 37 convictions reopened in 2020 was that there was doubt about the convicted person's mental state at the time of the offence. In 2019, this applied to five of the 11 convictions that were reopened.

Below are abbreviated versions of all the cases where the Commission has allowed an application to reopen a conviction.

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

### **18.03.2020 (2018/187) Illegal motorised traffic in outfield land - Section 391 no. 3 (new circumstances)**

In 2017, Halden District Court sentenced a man to a fine of NOK 42,000 for vandalism, using a motorised vehicle in outfield land and driving on a public road with an all-terrain vehicle (ATV) that had a black number plate with yellow markings. He was also sentenced to pay compensation. He was refused leave to appeal to Borgarting Court of Appeal in a decision dated 29 August 2017, and his application to have this decision reversed was disallowed. Following an appeal to the Supreme Court, the Court of Appeal's decision regarding the vandalism in count I of the indictment was reversed and the case was referred to the Court of Appeal for re-trial. In a Court of Appeal conviction dated 29 September 2018, the convicted person was acquitted of vandalism, and the sentence for the two offences that had been finally and enforceably determined by the District Court conviction was stipulated to be a fine of NOK 10,000.

The convicted person had bought a forest property outside Halden, but had to cross the neighbouring property in order to access this by land. The convicted person believed he had a registered right of way across the neighbouring property. However, this road was overgrown, in that it had not been used for 60 years and the landowner had not maintained the road and did not want to either. The convicted person removed trees and bushes, etc, to maintain his right of way, and to do this work he used an ATV that had black number plates. He was charged with vandalism, illegal driving in outfield land and driving the ATV for a short distance on a public road.

As regards the contravention of the Act relating to Motor Traffic on Uncultivated Land and in Watercourses stated in count II, the District Court ruled concerning the question of guilt that, among other things, the convicted person had been warned by the landowner that motorised traffic on this stretch of land was not permitted, and that the information he had received from the Ministry of Agriculture and Food only applied to motorised traffic on one's own property in connection with forestry operations.

Parallel to the criminal case, the landowners brought a civil claim against the convicted person regarding the extent of the right of way. Halden District Court issued a judgment on 20 October 2017 stating that the convicted person had the right to access his property by motorised vehicle and to carry out the necessary maintenance of the road. This judgment was appealed to the Court of Appeal, which issued a judgment on 30 April 2019. The Court of Appeal also found that the convicted person had the right to drive a motorised vehicle on the road and that he had the right to carry out the necessary tree-felling and maintenance of the road area.

The convicted person submitted an application to have the District Court conviction reopened as regards the conviction for contravening the Act relating to Motor Traffic on Uncultivated Land and in Watercourses pursuant to count II of the indictment, referring, among other things, to the new court decisions. He alleged that the use of the ATV was necessary when clearing the road on which he had a right of way, and that this was part of his forestry operations. The exception in section 4 c) of the above Act must in such case be applicable.

The Commission referred to the fact that, in its decision dated 29 August 2017, the Court of Appeal had refused to allow the appeal regarding unlawful motorised traffic pursuant to section 321 (1) of the Criminal Procedure Act because the convicted person had only been sentenced to pay a fine. The Court of Appeal had thus not conducted an independent assessment of the convicted person's claims relating to the assessment of evidence concerning the question of guilt. In the Commission's view, the facts of the case on which the Court of Appeal based its conviction of 20 September 2018, linked to the vandalism in count I of the indictment, were a new circumstance that could also have led to an acquittal pursuant to count II if the District Court had based its 2017 conviction on the same interpretation. In the 2018 conviction, the Court of Appeal found that the convicted person had a right of way and was entitled to clear the road in order to maintain his right of way. It must also be assumed that the District Court's assessment of the indictment for contravening the above Act might have been different if the civil Court of Appeal judgment dated 30 April 2019, which among other things stated that the convicted person had the right to use a motorised vehicle on the road, had been issued when the criminal case was heard in 2017.

The Commission found there were new circumstances pursuant to section 391 no. 3 of the Criminal Procedure Act and that there was a reasonable possibility that these might lead to an acquittal.

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

**19.03.2020 (2019/176) Social security fraud (Labour and Welfare Administration (NAV) case) - Section 392 (2) (special circumstances). Application of the law. The EEA rules, social security regulations. Application from the prosecuting authority**

In 2016, a man was convicted by a district court of grossly negligent gross fraud by having travelled to Italy several times and without asking the Labour and Welfare Administration's permission to do so while he was receiving work assessment allowance. The District Court sentenced him to an immediate prison sentence of 75 days. The convicted person appealed against the sentence to the Court of Appeal, which sentenced him to 45 hours of community service over a 90-day period, or alternatively to imprisonment for 45 days. The

prosecuting authority appealed against the Court of Appeal's sentence to the Supreme Court, which handed down an immediate prison sentence of 75 days.

Both the prosecuting authority and convicted person applied to have the case reopened in favour of the convicted person. These applications were based on it being in contravention of the EEA regulations, including the EU social security regulations, to refuse to pay work assessment allowance on the grounds that the convicted person had not asked the Labour and Welfare Administration (NAV) for permission to stay in another EEA country. EU social security regulation 1408/71 became applicable to Norway when the EEA agreement entered into force in 1994. This regulation was replaced by regulation 883/2004, which entered into force in the entire EEA on 1 June 2012. The prosecuting authority based its application on the fact that the conviction for fraud for receiving work assessment allowance when staying in the EU/EEA area after 1 June 2012 was based on a wrong application of the law. For the period prior to this, the prosecuting authority found the issue slightly more unclear. The convicted person alleged that the conviction for the period prior to 1 June 2012 was also based on the wrong application of the law. Both parties alleged that it was the application of the law to the question of guilt that doubt had been raised about, and that it would be very desirable for the criminal case to be retried by the Supreme Court.

The Commission pointed out that all the courts which had dealt with this case had assumed that a presence in Norway was a condition for receiving work assessment allowance pursuant to section 11-3 (1) of the National Insurance Act. It had also been assumed that, by having several temporary stays in another EEA country without informing the Labour and Welfare Administration or requesting the Labour and Welfare Administration's permission for this, the convicted person had deceived the Labour and Welfare Administration into paying him a benefit he was not entitled to receive. None of the courts had considered whether this might contravene EEA law, and thus whether there were grounds for convicting the man of fraud regarding money he had received while staying in another EEA country.

The Commission found there were special circumstances which made it doubtful that the conviction was correct and that weighty considerations indicated that the question of the convicted person's guilt should be retried.

The criminal offence in this case occurred over a period of three years, both before and after 1 June 2012. The matter had been adjudicated on as a continuing and continuous offence, as one instance of fraud. This was the only indictment count, and the conviction had to be reopened in its entirety. The case contained several EEA-law issues that had not been assessed and which made it doubtful that the strict conditions for fraud had been

met. Since both parties had wanted the case to be retried by the Supreme Court and the questions raised by the case are important to a number of similar cases, the Commission found that strong social considerations indicated that the Supreme Court should be given an opportunity to look at the case again with a view to making an authoritative decision if the Supreme Court did not decide to send the case to lower courts.

The conditions for reopening a case pursuant to section 392 (2) of the Criminal Procedure Act had been met.

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

### **20.03.2020 (2018/4) Domestic violence - Section 391 no. 3 (new evidence).**

#### **Dissenting vote**

In 2016, the Court of Appeal sentenced a man to seven months in prison for contravening section 216 of the General Civil Penal Code of 1902 by having maltreated his son.

He applied to have his case reopened, alleging that witnesses had lied and that there was new evidence.

The Commission's majority found that there was new evidence in the case that was likely to lead to an acquittal or application of a more lenient penal provision.

After the appeal hearing, an external review of the investigation had been conducted at the request of the police district. This review found defects in the investigation, including that special attention ought to have been paid to the risk that the aggrieved person's witness testimony could have been influenced. The printout of the dialogue of an emergency call to the police that had not been played during the appeal hearing because of its poor sound quality was included in the investigation report.

In the view of the Commission's majority, the printout of the emergency call to the police among other things provided specific evidence of attempts to influence the aggrieved party. This was in addition to the factors that the Court of Appeal found might be likely to influence the aggrieved party's statement – a high level of conflict between the parents for a long time, the aggrieved party's access to case documents, and the length of time which elapsed before the judicial examination out of court took place.

The majority commented that the evidentiary situation was difficult even before the new evidence – the emergency call to the police and the review report – was submitted, and found there was a reasonable chance that the uncertainty which the new evidence entailed would have been decisive, with the result that the convicted person would have been



acquitted or sentenced according to a more lenient penal provision, see section 391 no. 3 of the Criminal Procedure Act.

A minority of the Commissioners found that the emergency call to the police was not crucial new evidence in relation to the other evidence in the case, including the detailed out-of-court judicial examination of the aggrieved party.

The Commission decided to allow the application to reopen the case. Dissenting vote (3-2).

**31.03.2020 Gross fraud and making a false statement (Labour and Welfare Administration (NAV) cases) - Section 392 (2) (special circumstances). Application of the law. EEA rules, social security regulations. Application from the prosecuting authority**

At the end of 2019 and beginning of 2020, the Commission received 16 applications to reopen so-called Labour and Welfare Administration cases. What these cases had in common was that the convicted persons had been staying in other EEA countries while receiving work assessment allowance from the Labour and Welfare Administration. The convicted persons had not notified the Labour and Welfare Administration of this or applied for permission to leave Norway. The Labour and Welfare Administration had also not received any information about the stays abroad on employment status cards. On this basis, district courts convicted the convicted persons of fraud against the Labour and Welfare Administration in either a main hearing or a summary judgment on confession. In several of the cases, the convicted persons were also convicted of making a false/incorrect statement to the Labour and Welfare Administration. The false/incorrect statement was based on the convicted person having submitted an employment status card without stating that he/she was abroad. The sentences varied from community service to suspended and immediate prison sentences. The longest prison sentence was for five months. The convictions were not appealed. Some of the stays abroad went back to 2012, but all the convictions were issued in the 2014-2019 period.

The prosecuting authority and some of the convicted persons applied to have the cases reopened in favour of the convicted persons. The basis for these applications was that refusing to pay work assessment allowance on the grounds that the convicted persons had been staying in other EEA states and had not applied to the Labour and Welfare Administration for permission to do so was in breach of EEA regulations, including Regulation 883/2004 which entered into force in the entire EEA area on 1 June 2012. The prosecuting authority assumed that the convictions for fraud with regard to receiving work assessment allowance while staying in the EU/EEA area after 1 June 2012 were based on

the wrong application of the law. This in turn also had to apply to the indictment count regarding making a false statement.

The Commission pointed out that the district courts in question had assumed that staying in Norway was a condition for receiving work assessment allowance pursuant to section 11-3 (1) of the National Insurance Act. They had also assumed that, by having several temporary stays in another EU country without informing the Labour and Welfare Administration or requesting the Labour and Welfare Administration's permission for this, the convicted persons had deceived the Labour and Welfare Administration into paying them a benefit they were not entitled to receive. The district courts had not considered whether this could be in breach of EEA law, and thus whether there were grounds for a conviction for fraud regarding benefits that the convicted persons had received while they were staying in other EEA countries.

As regards making a false/incorrect statement, the Commission believed the two indictment counts were so closely linked that, for making a false statement too, there was a justified doubt about whether the understanding of the law on which the convictions were based was correct.

The Commission thus found there were special circumstances which made it doubtful that the convictions were correct, and that weighty considerations indicated that the question of the convicted persons' guilt should be retried. The cases contained several EEA-law issues that had not been considered and which made it doubtful whether the strict conditions for fraud and making a false statement had been met. The conditions for reopening a case pursuant to section 392 (2) of the Criminal Procedure Act had been fulfilled.

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

#### **06.05.2020 (2019/54) Domestic violence - Section 391 no. 3 (new circumstance)**

In 2016, a district court gave a woman a suspended prison sentence of 45 days and ordered her to pay damages for non-pecuniary loss and litigation costs. She was convicted of passively aiding and abetting in violence, carried out by her then spouse, against their daughter. The convicted person did not appeal against the conviction. Her spouse, who was also convicted, appealed against the conviction to the Court of Appeal, where he was acquitted.

The convicted person alleged that the acquittal of her spouse in the Court of Appeal provided grounds for reopening her District Court conviction, as she could not have passively aided and abetted in something that had not been found proven. The public prosecutor agreed that the conditions for reopening the case had been met. The

Commission found that the Court of Appeal judgment was a new circumstance in the case. The Commission pointed out that, following the Court of Appeal judgment, she was the only person convicted of passively having aided and abetted in an offence that the Court of Appeal did not find proven. The Commission decided that the conditions for reopening the case had been met, see section 391 no. 3 of the Criminal Procedure Act.

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

**06.05.2020 (2020/16) Uttering a forged document (Refugee Convention) - Section 392 (2) (special circumstances)**

In 2011, a district court convicted a Somali man of contravening section 182 (1) of the General Civil Penal Code of 1902 (uttering a forged document). He had shown a forged Finnish passport to the Customs when entering Norway. He immediately admitted that the passport was forged and that he had come to Norway to seek asylum. He was sentenced to imprisonment for 45 days.

The convicted person applied to have his case reopened with reference to the prohibition against penalising refugees stated in article 31 no. 1 of the Refugee Convention and to the decision included in Rt. (Supreme Court law reports) 2014 page 645. Exemption from prosecution pursuant to the Refugee Convention had not been considered by the District Court.

In the Commission's view, the Convention's condition of "...present themselves without delay" - as this is explained in greater detail in Rt. 2014 page 645 – had been met in this case. The convicted person's admission that he had used a false passport and information that he had come to Norway to seek asylum were so intertwined and close in time to each other that the Commission believed it must be up to the court to consider the question of whether the condition of "without delay" had been met.

The other conditions in the Convention had also not been considered. On this basis, the Commission decided there were special circumstances which made it doubtful whether the judgment was correct, see section 392 (2) of the Criminal Procedure Act. International-law issues had not been considered. These should be clarified and finally ruled on by the court. Weighty considerations indicated that the question of the guilt of the person charged should be retried.

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

**06.05.2020 (2019/122, 2019/123, 2019/124, 2019/125). Violence, vandalism, etc - Section 391 no. 3 (new expert report, criminal responsibility)**

In 2009-2016, a man was convicted four times of mainly similar offences. These included crimes of acquisition, threats, crimes of violence and drug offences. The sentences varied from community service to imprisonment for 18 months.

In connection with a new indictment for new offences committed in 2016-2018, the convicted person was subjected to a forensic psychiatric examination. He was declared to be psychotic and not responsible for his acts at the time of the criminal offences committed during this period, see section 20 of the Penal Code of 2005. On this basis, the convicted person applied to have his cases reopened, alleging that he had also not been criminally responsible at the time of the criminal offences covered by the various convictions from 2009-2016. The Commission appointed two forensic psychiatric experts, who concluded that the convicted person was psychotic and thus not responsible for his acts at the time of the offences appealed against. The application was thereafter endorsed by the prosecuting authority.

The Commission found that the expert opinion was a new circumstance that was likely to lead to acquittal, see section 391 no. 3 of the Criminal Procedure Act.

The Commission unanimously decided to allow the application to reopen the convictions.

**06.05.2020 (2020/23) Uttering a forged document. Making a false statement (Refugee Convention) - Section 392 (2) (special circumstances)**

In 2010, a district court convicted an Iranian man of contravening section 166 (1) of the General Civil Penal Code of 1902 (making a false statement to a public authority). He had shown an Italian passport to the police when entering Norway. He originally alleged that the passport was his, but later claimed he had bought the passport. He had come to Norway to seek asylum. He was sentenced to imprisonment for a term of 45 days, some of which was suspended.

The convicted person applied to have his case reopened with reference to the prohibition against penalising refugees stated in article 31 no. 1 of the Refugee Convention and the decision included in Rt. (Supreme Court law reports) 2014 page 645. Exemption from prosecution pursuant to the Refugee Convention had not been considered by the District Court.

In the Commission's view, the Convention's condition of "present themselves without delay" - as this is explained in greater detail in Rt. 2014 page 645 – had been met in this case. The convicted person's admission that he had used a false passport/false identity

and information that he had come to Norway to seek asylum were so intertwined and close in time to each other that the Commission believed it must be up to the court to consider the question of whether the condition of “without delay” had been met.

The other conditions in the Convention had also not been considered. On this basis, the Commission decided there were special circumstances which made it doubtful whether the judgment was correct, see section 392 (2) of the Criminal Procedure Act. International-law issues had not been considered. These should be clarified and finally ruled on by the court. Weighty considerations indicated that the question of the guilt of the person charged should be retried.

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

**17.06.2020 (2020/43) Social security fraud - Labour and Welfare Administration (NAV) case) - Section 392 (2) (special circumstances). Application of the law. The EEA rules, social security regulations. Application from the prosecuting authority**

In 2019, a district court sentenced a woman to 75 days in prison for gross fraud and making a false statement. In 2013-2017, she had received work assessment allowance from the Labour and Welfare Administration while living in various EEA countries and Turkey for much of the time. When filling in her employment status card, she did not inform the Labour and Welfare Administration of her stays abroad.

The prosecuting authority applied to reopen the case in its entirety in favour of the convicted person. The application was based on it being in contravention of EEA regulations, including Regulation 883/2004 which entered into force in the entire EEA area on 1 June 2012, to refuse to pay work assessment allowance because the convicted person was staying in other EEA countries and had not asked the Labour and Welfare Administration for permission to do so. The prosecuting authority believed that the convictions for gross fraud regarding work assessment allowance received when staying in the EU/EEA area after 1 June 2012 were based on the wrong application of the law. The authorities also applied to reopen the fraud conviction for the stay in Turkey since the size of the amount meant that this offence was now a minor fraud, not a gross fraud.

The prosecuting authority applied to reopen the conviction for making a false/incorrect statement regarding the stays abroad too. The reason stated for this was that the error in the application of the law that applied to the fraud would also affect the conviction for making a false statement. The size of the amount and link to the fraud meant that the entire case should be reopened.

The convicted person alleged that the entire conviction should be reopened. As the length of her stay in Turkey was uncertain how long she had stayed in Turkey, the information in the case was also uncertain.

The Commission pointed out that the District Court had assumed that a presence in Norway was a condition for receiving work assessment allowance in accordance with section 11-3 (1) of the National Insurance Act. The court had also assumed that, by having several temporary stays in another EEA country without informing the Labour and Welfare Administration or requesting the Labour and Welfare Administration's permission for this, the convicted person had deceived the Labour and Welfare Administration into paying her a benefit she was not entitled to receive. The District Court had not considered whether this might contravene EEA law, and thus whether there were grounds for convicting the woman of fraud regarding benefits she had received while staying in another EEA country.

The fraud case relating to the stay in Turkey was also reopened. The Commission commented that if only stays outside an EEA country (in this case Turkey) were to be adjudicated on, the defrauded amount could now lead to the indictment being reduced to fraud. The stays in EEA countries and Turkey had been adjudicated on as an ongoing, continuous crime, and the indictment had not differentiated between stays in and outside EEA countries.

The Commission also found that the indictment counts of gross fraud and making a false statement were so closely linked that the error in the application of the law that applied to the fraud also had to affect the conviction for making a false statement, which had to mean that the entire conviction had to be reopened.

The Commission thus found there were special circumstances which made it doubtful that the conviction was correct and that weighty considerations indicated that the question of the convicted person's guilt should be retried. The case contained several EEA-law issues that had not been considered. The conditions for reopening a case pursuant to section 392 (2) of the Criminal Procedure Act had been met.

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

### **17.06.2020 (2019/86) Grossly negligent fraud - Section 391 no. 3 (new circumstances)**

In 2017, a district court gave a man a suspended 24-day prison sentence for grossly negligent gross fraud after he had failed to state he was in Thailand while receiving daily unemployment benefit from the Labour and Welfare Administration (NAV). He was also ordered to pay NOK 2,000 in litigation costs.

Via his lawyer, the convicted person applied for a reopening of his case, alleging that new circumstances had been revealed after the conviction. The repayment claim from the Labour and Welfare Administration which formed the basis of the conviction had been reduced by the Labour and Welfare Administration from NOK 144,224 to NOK 79,838. Based on case law, the Commission took the view that if the correct amount had been known to the court on the date of the conviction, the offence would have been regarded as grossly negligent fraud, see section 271a of the General Civil Penal Code of 1902, see section 270. The Commission found there were new circumstances which seemed likely to lead to the application of a “more lenient penal provision”, see section 391 no. 3 of the Criminal Procedure Act.

The Commission referred to a decision included in Rt-1995-928 (Supreme Court law reports) which concerned actual bodily harm, where it was found that a reduction in the indictment from the second to the first penal alternative in section 229 of the General Civil Penal Code of 1902 provided grounds for reopening the case, even though it had to be expected that the penal sanction would have been the same. The Commission commented that the reduction in the indictment in the 1995 decision entailed a change in the prescribed penalty limits. In this case, section 271a of the General Civil Penal Code of 1902 regulated both fraud and gross fraud, for which the prescribed penalty limits were the same. The Commission nonetheless found there were grounds for reopening this case too. It was stated that the provision referred to two different penal provisions - sections 270 and 271 of the General Civil Penal Code of 1902. The Commission also pointed out that the prescribed penalty limits are not the same in the new Penal Code of 2005. The penalty limit for grossly negligent fraud has been reduced to one year, while the penalty limit for grossly negligent gross fraud is still two years. The preparatory works showed that the reduction in the prescribed penalty limit was not intended to lead to more lenient sentencing compared to the previous Act.

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

**27.08.2020 (2018/151, 2020/146, 2020/147, 2020/148, 2020/149, 2020/150, 2020/152, 2020/153, 2020/154, 2020/155) Violence, vandalism etc. - Section 391 no. 3 (new circumstances – criminal responsibility)**

In 1989-2012, a man was convicted 10 times, mainly of similar offences. These included crimes of acquisition, threats, violent crimes and drug offences. The sentencing varied from community service to 120 days in prison.

In connection with a new indictment for new criminal offences committed in 2016, the convicted person was subjected to a forensic psychiatric examination. He was declared to be psychotic and not responsible for his acts at the time of the offences committed in

2016, see section 20 of the Penal Code of 2005. On this basis, the convicted person applied to have the 10 previous convictions reopened, alleging that he had not been criminally responsible at the time of the criminal offences adjudicated on in 1989-2012. The Commission appointed two forensic psychiatric experts who concluded that the convicted person had been psychotic since 2002. The Norwegian Board of Forensic Medicine asked whether the convicted person might have been psychotic as early as in 1997. Following this, the application was partly endorsed by the prosecuting authority, in that the authority believed the convictions after 1997 had to be reopened.

The Commission found that the experts' report was a new circumstance that was likely to lead to an acquittal, see section 391 no. 3 of the Criminal Procedure Act. This applied to the six convictions issued from 2002 to 2012. There was little documentation and information on the four convictions issued from 1989 to 1994, and the Commission had no grounds for reopening the convictions issued during this period.

The Commission unanimously decided to allow the application to reopen the convictions issued from 1997 to 2012. The application to reopen the convictions issued before 1997 was disallowed.

### **23.10.2020 (2020/59) Uttering a forged document (Refugee Convention) - Section 392 (2) (special circumstances)**

In 2012, a district court convicted an Iranian woman of contravening section 182 (1) of the General Civil Penal Code of 1902 (uttering a forged document). She had presented a passport with a false Schengen visa when entering Norway. When questioned that same day, she admitted that the visa was false and that she had come to Norway to seek asylum. She was sentenced to 45 days in prison.

The convicted person applied for her conviction to be reopened with reference to the prohibition against penalising refugees stated in article 31 no. 1 of the Refugee Convention and to the decision included in Rt. (Supreme Court law reports) 2014 page 645. Exemption from prosecution pursuant to the Refugee Convention had not been considered by the District Court.

In the Commission's view, it seemed that the Convention's condition of "...present themselves without delay" - as this is explained in greater detail in Rt. 2014 page 645 - should be considered by the court in order to clarify whether the convicted person was protected by the exemption from prosecution rule stated in article 31 no. 1 of the Refugee Convention. The convicted person's admission that she had used a false passport and information that she had come to Norway to seek asylum were so intertwined and close in



time to each other that the Commission believed it must be up to the court to consider the question of whether the condition of “without delay” had been met.

The other conditions in article 31 no. 1 of the Refugee Convention had also not been considered. On this basis, the Commission decided there were special circumstances which made it doubtful whether the judgment was correct, see section 392 (2) of the Criminal Procedure Act. International-law issues had not been considered. These should be clarified and finally ruled on by the court. Weighty considerations indicated that the question of guilt should be retried.

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

### **23.10.2020 (2020/110) Uttering a forged document. Making a false statement (Refugee Convention) - Section 392 (2) (special circumstances)**

In 2014, a district court convicted a Syrian man of contravening section 166 (1) of the General Civil Penal Code of 1902 (making a false statement to a public authority). He had shown police a Hungarian passport when entering Norway. He initially alleged that the passport was his, but after a while stated that he had instead bought the passport in Turkey in order to come to Norway and seek asylum. He was sentenced to 45 days in prison.

The convicted person applied to have his case reopened with reference to the prohibition against penalising refugees stated in article 31 no. 1 of the Refugee Convention and to the decision included in Rt. (Supreme Court law reports) 2014 page 645. Exemption from prosecution pursuant to the Refugee Convention had not been considered by the District Court.

In the Commission’s view, it seemed that the Convention’s condition of “...present themselves without delay” - as this is explained in greater detail in Rt. 2014 page 645 – should be considered by the court in order to clarify whether the convicted person was protected by the exemption from prosecution rule stated in article 31 no. 1 of the Refugee Convention. The convicted person’s admission that he had used false documents/a false identity and information that he had come to Norway to seek asylum were so intertwined and close in time to each other that the Commission believed it must be up to the court to consider the question of whether the condition of “without delay” had been met.

The other conditions in article 31 no. 1 of the Refugee Convention had also not been considered. On this basis, the Commission decided there were special circumstances which made it doubtful whether the judgment was correct, see section 392 (2) of the Criminal Procedure Act. International-law issues had not been considered. These should

be clarified and finally ruled on by the court. Weighty considerations indicated that the question of guilt should be retried.

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

**25.11.2020 (2020/124) Drugs - Section 391 no. 3 (new circumstances – criminal responsibility). Application from the prosecuting authority**

In 2013, a district court gave a man a suspended prison sentence of 45 days for illegally possessing methamphetamine. His appeal to the Court of Appeal was dismissed. In connection with a new criminal offence, he was subjected to a forensic psychiatric examination in 2020. The experts concluded that the convicted person was psychotic at the time of the offence and that his paranoid schizophrenia had probably started when he was 17-18 years old. Based on this, the prosecuting authority applied to have the 2013 conviction reopened in favour of the convicted person. In the Commission's view, it was not necessary to appoint an expert to assess the convicted person's mental state at the time of the offences in 2011-2012, in that the experts' 2020 report also covered this period. The Commission found that the experts' report was a new circumstance that was likely to lead to an acquittal and that the conditions for reopening a case pursuant to section 391 no. 3 of the Criminal Procedure Act had been met.

The Commission unanimously agreed to allow the application to reopen the case.

## **The Commission's other activities**

### *The Commission's digitalisation project*

In accordance with instructions stated in the Digitalisation Circular (H-7/17) issued by the Ministry of Local Government and Modernisation, the Commission started to prepare for an integrated digitalisation project in 2018. The Commission's website was out of date and did not meet universal design requirements. The form for applying to reopen a case could be filled in digitally, but had to be printed out and sent to the Commission in paper form. The user thus did not have a digital first choice. The Commission sent all documents in paper form, something which represented a risk of personal data going astray. This has not happened so far, but the Commission wanted to minimise this risk. The digitalisation of the procedure was also expected to lead to more efficient processing, which could free-up time for the Commission's core activity which is dealing with applications to reopen cases. A reduction in the processing period would benefit convicted persons, aggrieved parties and other people.

The project really got started in 2019. The Commission started the work of procuring an efficient and expedient case and archive system for the secretariat and Commission. The financing was in place in 2020, an agreement to buy a new case and archive system for the secretariat was entered into in March and the system started to be used at the end of October. The project was completed within the stipulated time and cost limits. A digital form for applications to reopen cases will be available on the new website in early 2021.

The next stage of the project is to link up the Commissioners so that they can work electronically. This is intended to take place at the beginning of 2021.

As part of this project, the Commission also wants to be connected to Justishub, the new communication channel between key players in the criminal justice chain. By using Justishub as a communication channel, the Commission hopes to contribute to greater efficiency in both its own operations and the operations of other actors in the criminal justice chain.

### *Upgraded website*

Upgrading the Commission's website was also part of the digitalisation project. We therefore hired a consultancy firm to help us do this. The website was ready in May 2020, with a new design, new colours and some new content. The pages are now universally designed and in both the Norwegian languages as well as in English. In addition, key information is available in 12 languages.

### Contact with other authorities

The Chair of the Commission attended the Ministry of Justice and Public Security's conferences for heads of government agencies in January, June and September, and a human resources manager conference in January. In March, the Chair attended a government agency management meeting with the administrative management of the Ministry's Civil Affairs Department.

We have an annual meeting with the Director of Public Prosecutions, and this took place in January.

We had two visits from our political leadership during the year - in January from State Secretary Kristoffer Sivertsen, and in October from State Secretary Lars Jacob Hiim, on both occasions accompanied by Director General Fredrik Bøckmann Finstad.

After 12 March, most meetings and gatherings were naturally digital, and we attended several of these, such as conferences arranged by JustisCERT and the Digitalisation Conference.

### International contact

In February, we had a visit from the Chairman of the English Criminal Cases Review Commission (CCRC), Helen Pitcher.

In June, we had a digital meeting with the commissions in England/Wales/Northern Ireland (CCRC), Scotland (SCCRC) and, not least, the new commission in New Zealand (NZ CCRC), which started to accept applications to reopen cases on 1 July 2020.

Links to the Commissions' websites:

<https://ccrc.gov.uk/>

<https://www.sccrc.co.uk/>

<https://www.ccrn.nz/>

### KORO – Public Art Norway

In July 2019, we were informed that the Commission was one of 11 institutions that had been awarded an art project.

Artists Vibeke Slyngstad (born 1968) and Thorbjørn Sørensen (born 1961) have both created new works especially suited to the Commission's newly refurbished common areas and meeting rooms. This was an exciting project that has greatly improved our premises and increased employee wellbeing.

<https://koro.no/prosjekter/kommisjonen-for-gjenopptakelse-av-straffesaker/>

### Other activities

The Commission arranged a professional seminar for Commissioners and the secretariat in 2020. This was held on Svalbard in February. On the agenda was a meeting with the Governor of Svalbard, Kjerstin Askholt, and Assistant Governor Berit Sagfossen, who gave a talk about Svalbard on board the Governor's boat, the *Polarsysse*.

Former Acting Governor of Svalbard and current Vice Chair of the Commission, Sven Ole Fagernæs, supplemented this by giving several talks about Svalbard. Former Secretary to the Government Nina Frisak gave a talk on the work carried out by the Office of the Prime Minister. Commissioner and Professor Timothy Brennen gave a talk on psychology and the legal system. We also managed to visit Svalbard Museum before returning to the mainland.

Some employees attended a breakfast meeting on the EEA and Labour and Welfare Administration (NAV) cases at the beginning of March.

### Efforts to lease premises

The Commission's lease expires on 28 February 2022, so in 2020 we started to consider where we are to be located in the years to come. We have hired Statsbygg as a consultant, in accordance with the Instructions on the Handling of Building and Lease-related Matters in the Civilian Central Government Sector.

### Information activities

In so far as possible, requests for talks, etc, about the Commission's activities are granted. Several events have been cancelled or postponed due to the pandemic and information activities in 2020 have only consisted of two lectures.

- In January, the Chair and Vice Chair gave a talk to law students at the Wadahl seminar.
- In May, the Chair gave a digital talk to Oslo West Rotary Club.

### Media contact

We have noticed a clear increase in the interest in the Commission's work on the part of several media over the past few years. Retriever, a media company, registered 754 mentions of the Commission in 2020, compared to 808 in 2019 and 461 in 2018. We particularly relate this to "True Crime" series, books and articles. Among other things, the Chair was interviewed several times on the radio and TV, as well as in newspapers and various podcasts. The Commission places emphasis on being open and available for questions and inquiries from journalists.

The Commission's media and information strategy is stated in a separate document.

The Commission's website [www.gjenopptakelse.no](http://www.gjenopptakelse.no) contains information on the Commission and regulations, press releases, downloadable forms for applications to reopen cases, the Commission's annual reports, anonymised abbreviated versions of decisions to reopen cases, etc. Key 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.

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

## **IV. Management and control of the activities**

### Internal controls

According to section 14 of the Regulations on Financial Management in Central Government, the Commission shall have satisfactory internal controls so that its operations are effective for achieving its objective, cost-efficient and in compliance with prevailing laws and regulations and so that the reporting is reliable and accurate. Good internal controls mean that any material non-conformances are prevented, revealed and rectified to the extent necessary. The Commission normally has effective internal controls and no significant weaknesses in these were identified in 2020. The last risk assessment was conducted on 8 November 2019.

The internal controls have been carried out and documented to the extent regarded as necessary based on the nature of the operations, activities, risk factors and size.

The Commission is not aware of any particular challenges and no specific weaknesses have been identified.

### New Security Act

The Commission has no object/infrastructure that is especially important for maintaining fundamental national functions and is thus important to national security interests.

### Comments by the Office of the Auditor General of Norway

The Commission did not receive any comments from the Office of the Auditor General in 2020. In general, it is pointed out that any such comments will be given high priority. The same applies to any criticism from the Parliamentary Ombudsman.

### Inclusiveness work

The Commission focuses on inclusiveness when hiring new employees. Job adverts include a diversity declaration. In 2020, the Commission used the following wording in its job adverts:

*“The state workforce must, to the largest possible extent, reflect the diversity of society. The Criminal Cases Review Commission urges all qualified candidates, irrespective of their background or affiliation, to apply for a job with us. We particularly encourage candidates with disabilities or who have not been working or studying for a lengthy period to apply. Information on this may be used for registration purposes. We will make adaptations to meet any special needs in the workplace.”*

We also attended seminars and courses on inclusiveness work.

In accordance with section 6 of the State Employee Act, we have invited applicants with disabilities to interviews.

The Commission hired fewer than five new employees in 2020 and thus does not report the percentage with a disability or gap in their CV.

We will continue the work described above.

### *Gender equality report, diversity and an inclusive working life*

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

The Commission's goal is to have a corporate culture based on equality, diversity and respect for the individual, so that everyone has the opportunity to develop their abilities and use their skills. Job adverts include a diversity declaration.

The Commission continues to apply the principles of the Inclusive Working Life (IA) Agreement, which aim to ensure that everyone who wants to, and can is to be allowed to contribute to working life. The Commission also has measures aimed at older employees.

The Commission's secretariat is headed by a woman and otherwise consisted of 13 women, of whom two were on a leave of absence, and two men in 2020. This means that the secretariat's gender distribution in 2020 was 86% women and 14% men. All the organisation's management positions are held by women. The secretariat has thus achieved the state's goal of a 40% share of female managers.

Measures to prevent discrimination, bullying and harassment are stipulated in the Commission's HSE plan. The Commission has continued the work of determining more detailed procedures for whistleblowing cases.

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



## V. Assessment of the outlook

The Commission's core activity is dealing with applications to reopen cases. The Commission is obliged to deal with the applications it receives as long as these lie within its area of authority.

For a number of years, the volume of applications to the Commission has been stable at an average of 165 applications. The 200 applications received in 2020 thus entailed a clear increase in the number of cases.

The number of convictions in Norway has fallen from around 20,500 in 2015 to 16,900 in 2018 (figures taken from Statistics Norway's article on criminal sanctions published on 12 December 2019). A reduction in the number of persons charged has also been reported in 2020, but this may be linked to the pandemic and measures to combat it. These reductions have not led to a decline in the number of applications to the Commission, rather the opposite.

We believe it is likely that the number of cases dealt with by the Commission will *increase* in the next five years, and that many of these cases will require a lot of work.

Some trends that will be important in the next five-year period are:

### Increased internationalisation

The EU/EEA regulations and international practice are becoming increasingly important. The Labour and Welfare Administration (NAV) cases are an example of this. The Commission has fully dealt with 18 of 32 Labour and Welfare Administration cases and expects to receive a further 40 applications from the prosecuting authority in 2021. In addition, an unknown number of cases from the period prior to 2012 may be received, see Official Norwegian Report (NOU) 2020:9 *Blindsonen - Gransking av feilpraktiseringen av folketrygdlovens oppholdskrav ved reiser i EØS-området* (The Blind Zone – investigation into the wrongful practising of the National Insurance Act's residence requirements in the case of travel in the EEA. We are awaiting a preliminary statement from the EFTA Court.

Another example is the Refugee Convention cases. We had four such cases in 2020, and assume that we will receive more applications to reopen cases on these grounds when these cases become better known.

### Technological developments/risk of error

Technological developments have to a large extent enabled online-related abuse, and a considerable increase in the number of online-related cases where the aggrieved party is less than 16 years of age has been registered, see the STRASAK report published in 2019. These cases often have a large number of aggrieved parties, see the Director of Public Prosecution's comments on the treatment of criminal cases in 2019, published on 14 March 2020. Such cases can be very demanding for the Commission and may require additional personnel and special expertise.

Increased digitalisation also entails a risk of technological and/or human error that affects criminal cases. Reference is made to the Director of Public Prosecution's investigations into cases involving reports from the Norwegian Public Roads Administration that may contain errors. It is not yet clear how many applications to reopen cases we may receive, but there is reason to believe that this number may be considerable.

### Amendments to legislation/regulations/practice in Norwegian law

Section 321 (3) of the Criminal Procedure Act was repealed on 1 January 2020. Thus, the most serious cases must now also be assessed for appeal filtering. We do not know what actual significance this will have, but there is reason to assume that the Commission may receive several applications to reopen cases involving a prison sentence of more than six years for which an appeal has been denied.

The criminal responsibility rules have now been amended so that a larger degree of discretion is allowed. The statutory amendment has been criticised as making the situation more unclear. This may potentially lead to more applications to open cases.

### Complex cases

A trend towards extensive, complex cases in the courts, for example cases that relate to serious economic crime and various types of organised crime, also mean extensive, complex cases for the Commission.

### Media attention

The media attention paid to individual cases dealt with by the Commission makes the scheme better known and leads to more applications to reopen cases.

### Effects of COVID-19 measures

The challenges resulting from absences due to closed schools/kindergartens and sickness, flexible office solutions and strict infection-control requirements have affected our efficiency and production. It seems this is something we will have to live with in 2021 too.

### Measures to deal with the challenges:

Like the courts, the Commission cannot determine which, how many or what types of cases it receives. This makes it difficult to plan measures.

Experience gained from the Labour and Welfare Administration cases in 2020 has shown how important it is to have a close dialogue with the Ministry if/when unforeseen events occur. It is also important that the organisation is flexible and can adapt quickly by increasing its manpower for periods.

We assume the EFTA Court will issue its advisory statement in the first half of 2021. We are prepared to accept additional Labour and Welfare Administration cases in 2021, and other areas may also lead to more work in 2021. In 2020, we held extra all-day meetings and, because we were given extra funding, we could hire new staff for a period. This may also be necessary in 2021, and if the number of applications continues to increase the Commission will have to ask for a bigger budget in order to deal with the cases in a good and efficient manner.

It is also likely that we must, to a greater extent obtain expertise and manpower that we do not have ourselves. This may lead to greater use of external expertise in cases that require this, such as digital or financial expertise.

If our staff numbers are increased for a lengthy period, we must also consider changes to our office needs, or possibly look into more flexible office solutions in our current premises.

## **VI. Annual accounts**

### **The Chair's comments on the 2020 annual accounts**

#### Objective

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

#### Confirmation

The annual accounts have been presented in accordance with the Regulations on Financial Management in Central Government, circular R-115 issued by the Ministry of Finance, and requirements stipulated by the Ministry of Justice and Public Security in its main instructions to the agency. I believe the accounts provide a full picture of the Commission's available appropriations and recorded expenses, revenues, assets and liabilities.

#### Assessment of some important factors

The Commission was allocated a total of NOK 22,030,000 for 2020. In addition, the amount of NOK 370,000 in unused appropriations was transferred from 2019. The Commission was also allocated NOK 67,000 to compensate for the pay settlement in 2019. This means that the total funding allocated to the Commission for 2020 was NOK 22,467,000. This amount includes an extra grant of NOK 1,800,000 for dealing with the Labour and Welfare Administration (NAV) cases, and we also received an extra grant of NOK 2,800,000 for our digitalisation project.

The Commission buys ICT, salary and accounting services from the Secretariat for the Norwegian Mediation Service, and has in connection with this granted the Secretariat a debit authorisation equal to NOK 825,000 that is registered to chapter 0468, item 01. The entire amount has been utilised by the Secretariat for the Mediation Service.

Of our total available funding, NOK 178,454 or 0,79 % was not utilised. In addition, reference is made to the Ministry of Finance circular R-2/2021, according to which government agencies affected by the change to the Norwegian Agency for Public and Financial Management's payment solution for overtime, travel time and hourly pay may, in accordance with parliament's authorisation, exceed their operating grant by an amount equal to the one-off effect of the change. This one-off effect is taken into account when

calculating the transferred, unused operating grant for 2021. This amounts to NOK 15,637 for the Commission.

The Commission had 13.61 full-time equivalents (FTE) in 2020, compared to 10.29 in 2019.

In addition to chapter 468 appropriations, appropriations relating to chapter 414 Conciliation 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 and experts appointed by the Commission are rule-governed and not debited to the Commission's budget.

#### Explanation of the under-utilisation

In 2020, the Commission received NOK 213,422 in refunds from the Norwegian Labour and Welfare Administration relating to parental benefits and sick leave.

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

This was the situation in 2020. We dealt with several large, difficult cases that took up the time of several FTE in the secretariat, and we held more all-day meetings than normal. We also received applications for 200 cases last year, compared to an annual average of 162 for the past 10 years.

Due to this and some challenges relating to COVID-19, the Commission has a certain backlog, and we also expect the number of cases to increase in 2021, including several Labour and Welfare Administration cases (around 40). We see that this may mean the Commission has to request increased appropriations, depending on developments. If relevant, we will return to this matter later on. The Commission received refunds of NOK 213,422 from the Labour and Welfare Administration in 2020. These relate to parental benefits and sick leave. In addition, the Commission has saved money because several full-time employees have temporarily reduced their working hours for various reasons.

### Additional information

The Office of the Auditor General is the external auditor and certifies the Commission's annual accounts. The audit of the annual accounts is not fully complete as at today's date. The auditor's report will be available on the Commission's website [www.gjenopptakelse.no](http://www.gjenopptakelse.no) as soon as it is published.

Oslo, 15 February 2021

Siv Hallgren  
Chair

*This document has been electronically approved*

## **Accounting principles**

The annual accounts of the Norwegian Criminal Cases Review Commission are prepared and presented in accordance with detailed guidelines stipulated in the Regulations on Financial Management in Central Government (“the Regulations”). The annual accounts comply with item 3.4.1 of the Regulations, more detailed provisions stated in Ministry of Finance circular R-115 and any additional requirements stipulated by the Ministry in charge.

Ministry of Finance circular R-110 provides a temporary exemption from the Regulations on Financial Management in Central Government so that salary can be paid to government employees at the right time during the COVID-19 outbreak and so that suppliers can be paid before the due date. The Commission did not need to use these exemptions in 2020.

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

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 comply with the requirements stated in item 3.5 of the Regulations on how agencies are to report to the central government accounts. The total “Net amount reported to the appropriation accounts” is the same in both statements.

The agency is linked to the state's group account scheme with Norges Bank in accordance with the requirements stipulated in item 3.7.1 of the Regulations. Gross-budgeted agencies 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**

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

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

Authorisations received to debit another agency's chapter/item (debit authorisations) are not shown in the total allocations column but are referred to in note B to the appropriation 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 agency itself. Debit authorisations granted to others are entered in the books and reported by the agency 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 appropriation statement.

### **General ledger accounts reporting**

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 government agencies and a lower part showing assets and liabilities included in outstanding accounts with the public treasury. The general ledger accounts reporting shows the accounting figures that the agency has reported to the central government accounts in accordance with the standard chart of accounts for government agencies. The agency 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.

The accounting figures in the appropriation and general ledger accounts reporting with notes are accounting figures reported to the central government accounts. In addition, the note to the general ledger accounts reporting called 'Link between the settlement with the public treasury and the outstanding account with the public treasury' shows the recorded figures from the agency's account specification in the column called 'Specification of the recorded settlement with the public treasury'. This note shows the difference between amounts the agency has entered in asset and liability accounts in the agency's account specification (including the balance of accounts receivable and accounts payable) and the



amounts the agency has reported to the central government accounts as receivables and liabilities and which form part of the outstanding balance with the public treasury.

The agency has arranged its bookkeeping such that it complies with the requirements of the Regulations on Financial Management in Central Government. This means that all the information on transactions and other accounting acts necessary to prepare mandatory accounting reports, see the regulations in item 3.3.2, and a specification of mandatory accounting reports, see the regulations in item 4.4.3, has been recorded in the accounts. The regulations require a specification of customers and suppliers to be prepared, among other things. This means that sales and purchase transactions are recorded in the account specification at an earlier date than they are reported to the central government accounts, and that amounts due from customers and amounts due to suppliers are stated in the account specification.

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## Appropriation reporting statement 31.12.2020

Expense chapter	Chapter name	Item	Item text	Note	Total allocation*	Accounts 2020	Additional (-) /reduced expense
0466	Special criminal case expenses, etc	01	Operating expenses	B	0	1 396 299	
0468	Criminal Cases Review Commission	01	Operating expenses	A, B	22 467 000	21 463 546	1 003 454
1633	Net scheme for VAT in the state	01	Operating expenses		0	910 534	
<i>Total amount charged to expenses</i>					22 467 000	23 770 379	

Revenue chapter	Chapter name	Item	Item text	Total allocation*	Accounts 2020	Additional/reduced (-) revenue	
5309	Miscellaneous revenue	29	Misc.	0	18 700		
5700	National Insurance revenues	72	Employer's NI contribution	0	2 088 244		
<i>Total amount taken to income</i>					0	2 106 944	

### Net reported to the appropriation accounts

**21 663 435**

### Capital accounts

60087201	Norges Bank GA/payments received				215 937	
60087202	Norges Bank GA/payments made				-21 649 682	
704485	Change in outstanding account with the public treasury				-229 690	
<i>Total amount reported</i>					0	

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

		31.12.2020	31.12.2019	Ending
xxxxxx	[Shares]	0	0	0
704485	Outstanding account with the public treasury	-772 707	-543 017	-229 690

\* The total allocation shall not be reduced to take account of any debit authorisations granted to others (both for expense and income chapters). Refer to note B, Explanation of used authorisations and calculation of the amount possibly transferrable to next year, for a further explanation of this.

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<b>Note A Explanation of the total allocation of expenses</b>			
<b>Chapter and item</b>	<b>Transferred from last year</b>	<b>The year's allocations</b>	<b>Total allocation</b>
046801	370 000	22 097 000	22 467 000
xxxxxx			0
xxxxxx			0
xxxxxx			0

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

Chapter and item	Key words	Additional (-)/ reduced expense	Charged to expenses by others pursuant to granted debit authorisation (-)	Additional (-)/ reduced expenses pursuant to granted debit authorisations	Additional/reduced (-) revenues according to additional revenue authorisations	Transferred from item 01 to 45 or to item 01/21 as from next year's appropriations	Savings (-)	Authorisation to exceed the appropriations due to overtime, travel time and hourly pay for November 2020*	Total basis for transfer	Max transferrable amount *	Possible transferrable amount calculated by the agency
046801		1 003 454	-825 000	178 454				15 634	194 088	1 104 850	194 088
xxxx21	<i>"may be utilised under item 01"</i>			0						0% of the year's allocation in note A]	
xxxx21				0						0% of the year's allocation in note A]	
xxxx45				0							
xxxx45	<i>"may be transferred"</i>			0							
xxxx70				0	N/A	N/A	N/A		N/A		
xxxx75	<i>"preliminary allocation"</i>			0	N/A	N/A	N/A		N/A		

"This column is only relevant for agencies that are a salary customer of the Norwegian Agency for Public and Financial Management (DFØ) and are affected by the change to DFØ's payment solution. DFØ changed its payment solution for overtime, travel time and hourly pay in 2020. This means that agencies that are salary customers of DFØ for the 2020 financial year will pay overtime for 13 months (November and December 2019 and January to November 2020). Affected agencies have been authorised to exceed their appropriations in 2020 by the one-off effect linked to the change to DFØ's payment solution.  
 \*\*The maximum amount that can be transferred is 5% of the year's appropriations in operating 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". See annual circular R-2 for more detailed information on the transfer of unused appropriations.

**Information on debit authorisations granted to others for revenue chapters\***

Chapter and item	Additional/reduced (-) revenue	Taken to revenue by others according to granted debit authorisations (+)	Additional/reduced (-) revenues according to granted debit authorisations
3xxxxx			0
xxxxxx			0
xxxxxx			0

\* This part is only to be filled in and presented by agencies that have granted debit authorisations for revenue chapters.

**Explanation of the use of budget authorisations**

**Granted debit authorisations (charged to expenses by other parties)**

The Norwegian Criminal Cases Review Commission has granted a debit authorisation to the Secretariat for the Mediation Service equal to NOK 825,000 for chapter 0468, item 01. The entire amount has been utilised by the Secretariat for the Mediation Service.

**Possibly transferrable amount**

The Norwegian Criminal Cases Review Commission's unused appropriations relating to chapter 0468 item 01 amount to NOK 194,088.

**Appropriations relating to other budget chapters**

In addition to appropriations relating to chapter 0468 item 01, the Norwegian Criminal Cases Review Commission has appropriations at its disposal relating to chapter 0414 Conciliation Boards and Other Court Expenses and

## General ledger accounts reporting statement 31.12.2020

	Note	2020	2019
<b>Operating revenues reported to the appropriation accounts</b>			
Fees received		0	0
Grants and transfers received		0	0
Sales and rental payments received		0	0
Other payments received		0	0
<i>Total payments received from operations</i>		0	0
<b>Operating expenses reported to the appropriation accounts</b>			
Salary payments	1	16 808 474	12 842 980
Other operating expenses	2	5 727 529	5 272 647
<i>Total operating expenses</i>		22 536 004	18 115 627
<b>Net reported operating expenses</b>		<b>22 536 004</b>	<b>18 115 627</b>
<b>Investment and financial income reported to the appropriation accounts</b>			
Financial income received		0	0
<i>Total investment and financial income</i>		0	0
<b>Investment and financial expenses reported to the appropriation accounts</b>			
Investments	3	323 841	182 861
Share purchases		0	0
Financial expenses		0	0
<i>Total investment and financial expenses</i>		323 841	182 861
<b>Net reported investment and financial expenses</b>		<b>323 841</b>	<b>182 861</b>
<b>Debt-collection operations and other transfers to the state</b>			
Taxes, fees, charges, etc, received		0	0
<i>Total debt-collection operations and other transfers to the state</i>		0	0
<b>Grant management and other transfers from the state</b>			
Payment of grants and benefits		0	0
<i>Total grant management and other transfers from the state</i>		0	0
<b>Revenues and expenses reported for common chapters *</b>			
Group life insurance account 1985 (ref. chapter 5309, revenue)		18 700	14 700
Employer's NI contributions account 1986 (ref. chapter 5700, revenue)		2 088 244	1 591 279
Net bookkeeping scheme for VAT account 1987 (ref. chapter 1633, expense)		910 534	602 199
<i>Net expenses reported for common chapters</i>		-1 196 410	-1 003 781
<b>Net amount reported to the appropriation accounts</b>		<b>21 663 435</b>	<b>17 294 707</b>

### Overview of outstanding account with the public treasury \*\*

	2020	2019
<b>Assets and liabilities</b>		
Receivables	0	0
Cash	0	0
Bank accounts containing state funds, outside Norges Bank	0	0
Withholding tax and other deductions due	-772 707	-543 017
Public taxes due	0	0
Other liabilities	0	0
<b>Total outstanding account with the public treasury</b>	<b>4</b>	<b>-772 707</b>

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

\*\* Specify and add lines if required.

**Checksum:**

21 663 435

21 663 435

0

Agency: **The Norwegian Criminal Cases Review Commission**

**Note 1 Salaries**

	<b>31.12.2020</b>	<b>31.12.2019</b>
Salaries	10 904 989	8 993 364
Employer's NI contributions	2 088 244	1 591 279
Pension expenses*	1 284 334	1 064 355
Sickness benefit and other refunds (-)	-213 422	-36 449
Other benefits	2 744 330	1 230 429
<b>Total salary payments</b>	<b>16 808 474</b>	<b>12 842 980</b>
<b>No. of full-time equivalents (FTE):</b>	13,61	10,29

**\* Further pension expense details**

Pensions are entered as expenses in the profit and loss account based on the premium actually accrued for the financial year. The premium rate for 2020 is 14.00 per cent. The premium rate for 2019 was 14.00 per cent.

Agency:       **The Norwegian Criminal Cases Review Commission**

**Note 2 Other operating expenses**

	<b>31.12.2020</b>	<b>31.12.2019</b>
Rent	2 009 871	2 128 016
Maintenance of own buildings and facilities	0	0
Maintenance and modification of leased premises	0	10 074
Other expenses relating to the running of property and premises	288 163	291 050
Repair and maintenance of machinery, equipment, etc	0	0
Minor equipment purchases	52 488	72 805
Rental of machinery, fixtures, fittings, etc	0	0
Purchase of consultancy services	2 230 775	1 379 620
Purchase of other external services	239 740	253 673
Travel and per diem allowances	126 451	310 278
Other operating expenses	780 042	827 132
<b>Total other operating expenses</b>	<b>5 727 529</b>	<b>5 272 647</b>



Agency:       **The Norwegian Criminal Cases Review Commission**

**Note 3 Investments and share purchases**

	<b>31.12.2020</b>	<b>31.12.2019</b>
<i>Investments</i>		
Intangible assets, etc	0	0
Land, buildings and other real property	0	0
Infrastructure assets	0	0
Machinery and vehicles	0	0
Operating equipment, fixtures, fittings, tools, etc	323 841	182 861
<b>Total investments</b>	<b>323 841</b>	<b>182 861</b>

	<b>31.12.2020</b>	<b>31.12.2019</b>
<i>Share purchases</i>		
Contributions of capital	0	0
Bonds	0	0
Investments in shares and partnerships	0	0
<b>Total 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**

	<b>31.12.2020</b>	<b>31.12.2020</b>	Difference
	Specification of the <u>recorded</u> settlement with the public treasury	Specification of the <u>reported</u> outstanding account with the public treasury	
Fixed-asset investments			
Investments in shares and partnerships*	0	0	0
Bonds	0	0	0
<i>Total</i>	<b>0</b>	<b>0</b>	<b>0</b>
Current assets			
Trade debtors	0	0	0
Other receivables	0	0	0
Bank deposits, cash, etc	0	0	0
<i>Total</i>	<b>0</b>	<b>0</b>	<b>0</b>
Long-term liabilities			
Other long-term liabilities	0	0	0
<i>Total</i>	<b>0</b>	<b>0</b>	<b>0</b>
Current liabilities			
Trade creditors	10 961	0	10 961
Withholding tax due	-772 707	-772 707	0
Public taxes due	0	0	0
Other current liabilities	0	0	0
<i>Total</i>	<b>-761 746</b>	<b>-772 707</b>	<b>10 961</b>
<b>Total</b>	<b>-761 746</b>	<b>-772 707</b>	<b>10 961</b>
* Agencies that own fixed-asset investments in the form of shares and partnership shares must also fill in note 8 B			

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

Acquisition date	No. of shares	Ownership share	Voting share	Firm's profit/loss for the year	Firm's balance-sheet equity	Carrying value in the accounts*
<i>Shares</i>						
Company 1						
Company 2						
Company 3						
<b>Carrying value 31.12.2020</b>						<b>0</b>

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