



Royal Decree

The Ministry of Local Government and
Modernisation

Minister: Jan Tore Sanner

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Appointment of a new Election Act commission

1 Background

The Government proposes to appoint a public legislative commission mandated to draft a new Election Act, in connection with which changes to the electoral system will be considered and assessed.

2 The Ministry's view

A well-functioning democracy requires a high degree of trust and confidence in political institutions. The legitimacy of democracy depends on the people elected representing the will of the people and elections being conducted properly and in a way that inspires confidence. In recent years, there has been international debate on whether public confidence in important institutions in politics is declining or not. In Norway, there is relatively high confidence in the electoral process and political institutions.

The Storting has adopted a regional reform, with a view to reducing the number of counties to around ten. In the wake of this, it is pertinent to consider whether the electoral system ought to be modified too, as the current counties are the constituencies for parliamentary elections. It is important to ensure that the changes in the county structure are incorporated in a good way.

The last Election Act commission was appointed 20 years ago. In the intervening years, extensive changes have been made in how elections are conducted in Norway, including increased use of technology, stricter accessibility requirements, and a higher degree of standardisation and professionalisation. The state has assumed a larger role in several areas through the development of an IT system for administration of elections, increased guidance and greater use of centralised systems.

3 The commission's mandate

The commission's work shall ensure continued high confidence in the electoral system and the conduct of elections in the future. The commission shall provide an account of elections as a cornerstone of democracy, both centrally and at the local level. Through its work, the commission shall help ensure good framework conditions for democracy in the coming years.

New Election Act

Both the Act and the Regulations have been amended several times since the previous Election Act commission. The amendments have been piecemeal and need to be considered in a comprehensive perspective. The commission shall prepare a cohesive bill for a new Election Act. Simplification, transparency, readability and practical applicability must be central considerations in the drafting of the new Act. Importance must be attached to creating clear rules that are easy to implement and ensuring that the provisions are largely technology-independent. The commission shall assess the relationship between what is regulated by law and what should be regulated in regulations and shall also draft new regulations. The commission shall assess which provisions ought to be included in the Constitution and which are better suited to regulation in the Election Act.

The electoral system

The Storting has adopted a new county structure. The commission will examine how the new county structure will affect the electoral system, including whether the current division into constituencies should be continued or whether the number of constituencies ought to be reduced in line with the new county structure. The commission shall also consider a new candidate selection system for parliamentary elections. The commission is free to look at other aspects of the electoral system, and also to look at the system for local government elections (county and municipal). The electoral system ought to be easy to grasp, seem fair, have legitimacy and ensure good political and geographical representation. In its inquiry, the commission shall look at how the electoral system affects fundamental elements of democracy such as predictability, participation, confidence and legitimacy. The new electoral system must be able to come into force from the parliamentary elections in 2025. Any need for amendments to the Constitution as a result of a new electoral system must be identified.

Conduct of elections

The commission shall undertake a comprehensive review of the procedures for the conduct of elections. The commission shall specifically review the following issues:

- a- *Responsibilities and roles.* There are currently electoral authorities at the municipal, county and state level in Norway, and the local electoral authorities have a high degree of autonomy. There have been several changes in the distribution of tasks between the different levels in recent years. The commission shall assess whether the current distribution of responsibilities and roles is appropriate and how local autonomy will be affected by increased state intervention. Among other things, the commission shall look at the responsibility for receiving votes, counting votes and approving elections.
- b- *The voting process.* In Norway it is possible to vote from 1 July until the election day in September, which is a very long voting period by international standards. There are several distinct phases in the conduct of elections, each of which is governed by different rules. The way in which elections are conducted and the different phases of elections affect deadlines and the amount of time required to prepare for an election. Compared with countries that have the option of ordering that an election be repeated, the preparatory phase for the elections in Norway is very long and resource-intensive. The commission shall also look at how the municipalities organise polling stations, polling

station security and accessibility, opening hours, and the need for special working hour provisions for electoral staff in the municipalities.

- c- *Shipment of ballots cast in advance.* All ballots cast in advance in a municipality other than the municipality on whose register of electors the voter is registered are currently sent to the correct municipality by post for verification and approval. The postal sector in Norway is changing. These changes have already had consequences for the time required for shipment of ballots cast in advance. Consequently, in 2016, the deadline for when votes had to be received by the electoral committee for approval was moved to the Tuesday after election day. However, this will not be sufficient in the long term. The commission shall assess future methods for shipment of ballots cast in advance with a view to ensuring that no votes have to be rejected.
- d- *Practical matters related to the conduct of elections to the Sami Assembly.* Elections to the Sami Assembly are held at the same time as parliamentary elections, and the municipalities are responsible for the practical conduct of the elections. It is important to ensure that the conduct of elections to the Sami Assembly and the conduct of parliamentary elections are considered together. The rules on the practical conduct of elections to the Sami Assembly are governed by the Regulations for elections to the Sami Assembly. The commission shall assess whether, for practical reasons, the rules on the practical conduct of parliamentary elections ought also to apply to elections to the Sami Assembly. The commission shall not assess Sami political issues or matters that affect overarching aspects of the system for elections to the Sami Assembly, such as the principles for distribution of mandates, the distribution of mandates among constituencies, and the division into constituencies.

Appeals system

In connection with observation of the elections in 2009 and 2013, the OSCE criticised the Norwegian system for complaints and appeals related to elections, stating that the appeals system is not in compliance with international conventions. Under the current system, it is not possible to appeal a decision in an appeal case relating to an election to the courts. Following the OSCE's criticism, Norway requested an opinion from the Council of Europe's advisory body on legal matters, the Venice Commission. The Venice Commission supported the OSCE's assessment and issued a statement recommending that Norway amend the appeals system. The commission shall investigate issues pertaining to the appeals system for matters relating to elections. In this context, the commission shall consider legislation and practices in other comparable countries.

Provision for national emergencies

Pursuant to the Election Act, the Storting may only order a repeat election if the election in a municipal authority area or county has been declared invalid due to an error that is believed to have had an influence on the outcome of the election. It is not possible to postpone the election day. It is conceivable that major natural disasters, terrorism or other extraordinary circumstances could impact people's ability to participate in an election in such a way that there will be a need to postpone the election day or order that an election be repeated if the incident occurred on election day. The legal basis and procedure for making a decision in this kind of emergency situation ought to be in place. The legal basis must have strict conditions, and it must be ensured that no doubts can be raised regarding the legitimacy of the decision. The commission shall investigate

this issue and, in this context, also obtain information on international experience with similar issues and legislation in other countries.

4 Organisation of the commission's work

The commission shall base its work on research and empirical knowledge and shall contribute to increased understanding of democracy and elections. In its work, the commission shall ensure that relevant input from affected stakeholders is appropriately taken into account. International experience must be obtained where relevant. The commission may request special in-depth information and/or investigations in individual areas. In accordance with the Instructions for Official Studies and Reports, the commission shall provide an account of the short-term and long-term financial and administrative implications and any other significant consequences of the proposals and identify needs for any further studies, surveys, etc.

The commission shall submit its report to the Ministry of Local Government and Modernisation by 31 December 2019.

5 The composition of the commission

This topic is of great social and political significance and encompasses a number of conflicting interests and dilemmas. It is therefore essential that the composition of the commission ensures that a wide range of different professional, academic, political and practical considerations are included. The composition of the commission reflects broad and relevant experience in the area. All the parliamentary parties are represented.

The composition of the commission is also balanced in terms of geographical and gender representation.

A statement has been obtained from the Norwegian National Courts Administration regarding the appointment of the Appellate Judge Ørnulf Røhnebæk.

6 Financial and administrative consequences

Costs related to the Election Act commission will be covered within the framework of the Ministry of Local Government and Modernisation's budget.