

# **Alternative report to the UN COMMITTEE AGAINST TORTURE**

**regarding the  
consideration of Norway's combined 6<sup>th</sup> and 7<sup>th</sup> report under the  
Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or  
Punishment**

from  
the Norwegian NGO-forum for Human Rights  
on behalf of

The Human Rights Committee of the Norwegian Bar Association  
The Norwegian Helsinki Committee  
Juss-Buss Legal Aid Clinic  
The Human Rights Committee of the Norwegian Psychologist Association  
The Norwegian Organisation for Asylum Seekers (NOAS)  
Save the Children Norway  
The International Commission of Jurists Norway

Oslo, 12 October 2012

Norwegian NGOs welcome this opportunity to provide additional information regarding the implementation of the Convention against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment in Norway on the occasion of the examination of Norway's combined 6<sup>th</sup> and 7<sup>th</sup> report under the Convention.

This alternative report provides specific information on the implementation by NORWAY of articles 1 to 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The report is organized in accordance with the "List of issues prior to the submission of the seventh periodic report of NORWAY (CAT/C/NOR/7).

In the present report we aim to provide additional information on several points on which we have solid information or where we need to highlight disagreement with what has been presented in the State Party report. The fact that we do no comment or do not comment critically a point in the State report does not mean that we condone the State report on that particular point.

**We would highlight as meriting particular attention for the consideration of Norway:**

- **Time spent in police cells (issue 5)**
- **Solitary confinement (issue 6)**
- **Training of all relevant personnel and the Istanbul Protocol (issue 12)**
- **Trandum (issues 3 and 18)**
- **Violence against women (issue 20)**
- **Use of force in psychiatric institutions (issue 26)**

**An overarching concern in many of these fields is the lack of routinely collected public statistics that could better inform, and as appropriate, alert, CAT, the responsible government ministers and ministries as well as the Norwegian public opinion on any troublesome developments.**

In addition to submitting this report, Norwegian NGOs are planning to attend the upcoming session in October-November 2012 at Geneva, during which we will seek to make ourselves available to interested members of the Committee, to whom we will be happy to provide further information. Representatives of Norwegian NGOs behind this report present at Geneva for the hearing will include, inter alia, Thomas Horn with a colleague from the Human Rights Committee of the Norwegian Bar Association, Olaf Rønning, Hedda Larsen Borgan and Victoria Wilkinson from JussBuss Legal Aid Clinic and Ole B. Lilleås from the Norwegian Helsinki Committee.

In the meantime, any question about the present alternative report may be directed to Norwegian NGO-Forum for Human Rights c/o Norwegian Helsinki Committee, Kirkegata 5, 0153 Oslo, Norway. E-mail: [lilleas@nhc.no](mailto:lilleas@nhc.no)

The present report is public and will be openly shared with the State Party at the same time as we are sending it to Committee. We are ready to discuss the reports and the views expressed herein also with any representative of the State Party. It is in this spirit that we have directed our recommendations directly to Norway. Especially we stand ready to discuss with Government of Norway the plans for concrete follow-up to the Conclusions and recommendations due from the Committee against Torture.

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## Articles 1 and 4

### Issue 1: Incorporation

**Please provide updated information on any changes in the State party's position on incorporating the Convention into domestic law, as recommended by the Committee in its previous concluding observations (CAT/C/NOR/CO/5, para. 4).**

The mentioned recommendation that Norway "should further consider incorporating the Convention into domestic law in order to allow persons to invoke the Convention directly in the courts, to give prominence to the Convention and to raise awareness of the provisions of the Convention among members of the judiciary and the public at large." (CAT/C/NOR/CO/5, para 4) is still valid and relevant.

Specific incorporation of the Convention into the Human Rights Act is the best way to ensure full compliance with the Convention and its spirit. Furthermore, incorporation matters for the interpretation and application of the law in concrete cases. In the Dar-case (a case concerning Norway's obligations to comply with a CAT interim measure), the Norwegian Supreme Court argued that the Convention should carry less weight in its decision, than it would have carried if the Convention had been incorporated into the Human Rights Act<sup>1</sup>.

*Recommendation to Norway:*

- *Incorporate the Convention into domestic law in order to allow persons to invoke the Convention directly in the courts, to give prominence to the Convention and to raise awareness of the provisions of the Convention among members of the judiciary and the public at large.*

## Article 2

### Issue 3: Trandum rights

**Please elaborate on the impact of the amendments of the Immigration Act, as referred to in the Committee's previous concluding observations, on the rights of persons staying at the Trandum Holding Centre (CAT/C/NOR/CO/5, para. 9). In this respect, please provide detailed statistics relating to the application of these amendments concerning the detention of foreign nationals.**

The Trandum Holding Centre has improved its facilities. However, several of the problems noted by the Committee under article 2 remain relevant.

According to the law<sup>2</sup> aliens may be held at Trandum for a maximum of 72 hours without a court order. Over the last year the Norwegian Bar Association has made numerous requests for statistics that could show whether aliens are held longer than the law provides. The statistics that the Committee eventually received are incomplete regarding the length of the stay of all individuals, and the numbers provided show that detention in several instances had no basis in law.

When analysing the State report and its appendix no. 3, regarding length of stay it is clear that the average lengths of stay has been relatively short, ranging in 2010 between 2,3 days and 5,3 days per month. This however, does not rule out that some individuals are held for considerably longer time in a location clearly unfit for any duration of stay. In appendix 3, it is said that in 2010 the longest stay was 18 months. The duration of the longest stay in the corresponding table appears to be shown for each month and is most often equal to the number of nights in that months, so that if a person or several persons spent several consecutive months at Trandum it may appear in the table as a

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<sup>1</sup> Rettstidende 2008, page 513.

<sup>2</sup> Immigration Act, section 106; and the Criminal Procedure Act, section 183.

maximum of 31 nights. A group of NGOs gave comments to the draft State report, asking Norway to provide information on how long the longest stays are, the grounds of those stays and whether children, women or families are among those being held for long durations. It appears that the State report does not provide this information.

We are concerned that complaint mechanisms regarding the use of restrictions at Trandum are not effective. According to Human Rights Committee of the Norwegian Bar Association, there is a failure in the routine meant to ensure the right of the alien to receive information regarding the right to appeal decisions to use restrictions. In the only case of such a complaint in 2011, *the case of Abu Arrah* against being held in a security cell in the security department following a suicide attempt on 25<sup>th</sup> December 2011, the appeals instance, The Directorate of Police, had yet to reply as of June 2012. The complaint mechanism does not have suspensive effect, and the remedies are in any event not effective.

To place persons with serious psychiatric problems in the security cells at the isolation section is of deep concern as these seem especially unfit for vulnerable individuals. The Norwegian Bar Association visited Trandum in June 2011 and sighted the four security cells there. The two cells causing most concern are about 5 square meters in size and have cement floors and walls with rounded corners. The toilet is a whole in the floor with direct connection to the sewer system, which creates at times a very strong and unpleasant smell. Daylight is provided only by a small window about 2 meters up on the wall, so that detainees cannot see anything else than a piece of the sky.

These two cells are most frequently in use as they are the only security cells equipped with video cameras allowing for electronic monitoring of mentally unstable detainees in order to detect attempts to harm themselves. However, it is exactly this group that will be in need of a more humane environment and have a particular need to be oriented about time and place. Exposing mentally unstable individuals to a strong smell of sewage might in itself amount to inhuman treatment. It is of great concern that these cells are not suitable and may harm aliens who already have serious mental health problems.

The case of Abu Arrah also illustrated how information from the detention and police file flowed to the health practitioner, indicating that the two files were not kept separate.<sup>3</sup> The Council of Europe Committee for the Prevention of Torture, noted from its visit to Trandum that there was a systematic failure to keep medical and police documents separate.<sup>4</sup>

The Royal Decree of 11 April 2008 number 355 (“Utlendingsinternatforskriften”) § 4 (1) b states the right of detainees in the Trandum Holding Centre to receive visitors. Volunteers from the Norwegian Red Cross have since 2010 carried out regular visits to the Trandum Holding Centre. The activity is based on an agreement between the Red Cross and the National Immigration Police (Politiets Utlendingsenhet) and aims at combating social isolation in detention and to give detainees the opportunity to interact with external independent actors. In 2011, 36 visits were conducted, each lasting two hours. Detainees reportedly show much appreciation for these visits. The agreement facilitating these visits, however, expired on 31 December 2011. From November 2011 the Red Cross has been in dialogue with the National Immigration Police about renewal of the agreement. Due to different views on the framework and guidelines of the visits, attempts to renew the agreement have been unsuccessful. In light of the right of detainees to receive visitors as stated in the Royal Decree § 4 (1) b, Norway is encouraged to work for an expeditious renewed agreement that allows the Red Cross to continue the visiting service in the Trandum Holding Centre.

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<sup>3</sup> Vedtak Helsedirektoratet; Morgenbladet.

<sup>4</sup> <http://www.cpt.coe.int/documents/nor/2011-33-inf-eng.pdf>, item 35.

*Recommended questions:*

- *Request from Norway information about the longest stays at Trandum, their durations, their legal grounds and whether children, women or families are affected by long stays.*

*Recommendations to Norway:*

- *Ensure that persons are held at Trandum only according to the law and only for the duration prescribed by law.*
- *Ensure that detainees placed in security cells or subject to other restrictions at Trandum have access to an effective complaints mechanism and that they are routinely informed about their right to such complaint on arrival in a language they understand.*
- *Abolish the use of the existing security cells on detainees who are suicidal or suffer from psychiatric illness.*
- *Take measures to make effective the right to receive visitors at Trandum, inter alia by expeditiously renewing the agreement with the Norwegian Red Cross on visits by volunteers.*

#### **Issue 4: Preventive detention**

**The Working Group on Arbitrary Detention expressed several concerns regarding the system of preventive detention, including the frequency by which it is used, as well as the broad discretionary powers of the prison authorities (A/HRC/7/4/Add.2, paras. 79-82 and 98 (c). Please inform the Committee on steps taken to address these concerns and to evaluate the current system of preventive detention.**

As Norway states in its report<sup>5</sup>, in 2008 the Mæland Working Group concluded that the system of gradually preparing offenders for provisional release from preventive detention is not satisfactory, thus contributing to the prolonged detainment of offenders and increasing the indeterminate nature of the imprisonment. In the four years since, the government has still not implemented any specific measures in response to the working group's conclusions.

Children in the age from 15 to 18 may be subject to preventive detention. In the travaux préparatoires for the latest changes in the penal code, the government conceded that the use of preventive detention for children is especially harmful, due to the harmful nature of detention itself, the indeterminate nature of the preventive detention, the negative impact on the development of the child, the hampered possibilities of improvement, and the stigmatisation such a penalty imposes.<sup>6</sup>

Nonetheless, the Ministry of Justice concluded:

*"The Ministry ... does not support the committee's proposal for an absolute ban on the use of the reaction. The opportunity should be made very narrow, and it is therefore proposed that the wording used in a formulation that preventive custody should only be used for children who were under 18 years of the date of action when there are extraordinary circumstances."<sup>7</sup>*

From the State Party report, it appears that the government still has the same position. However, we are not convinced that the application is as strictly curtailed as the wording of the law suggests.

*Recommended questions:*

- *Norway could be asked to provide information about specific measures, existing as well as planned, taken by the government in their follow-up to 2008 Mæland Working Group's*

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<sup>5</sup> Para. 23.

<sup>6</sup> Prop. 135 L (2010–2011) Endringer i straffeloven, straffeprosessloven, straffegjennomføringsloven, konfliktrådsloven m.fl. (barn og straff) section 9.7.4

<sup>7</sup> Prop. 135 L (2010–2011) Endringer i straffeloven, straffeprosessloven, straffegjennomføringsloven, konfliktrådsloven m.fl. (barn og straff) section 9.7.4

*conclusion that the system of gradually preparing offenders for provisional release from preventive detention is not satisfactory, thus contributing to the prolonged detainment of offenders and increasing the indeterminate nature of the imprisonment.*

- *Norway could be asked to provide information on which guidelines are provided to decide what represents an 'extraordinary circumstance' that can legitimise sentencing a child to preventive detention. Furthermore; to provide information regarding the extent of the use of preventive detention towards perpetrators younger than 18 years at the time of the crime; and if applicable, to provide information about special measures provided for juvenile prisoners sentenced to preventive detention.*

*Recommendation to Norway:*

- *Norway should not subject children to preventive detention, except only in exceptional and extraordinary cases according to specific and strict criteria defined by law, and ensure that the law is strictly applied.*

### **Issue 5: Time spent in police cells**

**Please indicate further steps taken to reduce the length of pretrial detention in police cells. Please provide updated detailed statistics on the use of pretrial detention, including the number of persons held in police custody for more than 48 hours.**

Due to a constant lack of capacity for remand prison cells, detention in police cells has for a long time been used by Norwegian Authorities as a part of the regular prison capacity for remand prisoners, unlike the practice in many other countries. We recommend that police cells should only be used for restricted purposes, as elaborated below.

In 2006, as a result of international bodies like CAT, CPT and WGAD urging Norway to reconsider the systematic use of police cells, Norway introduced something that appears to be a two day time limit<sup>8</sup>, the so-called "48-hour rule". However, this is only apparently, as the rule is undermined by practical considerations. The rule itself specifically states that the limit does not apply if there is a lack of ordinary prison cells<sup>9</sup>. Obviously, as the primary problem is lack of ordinary prison cells, it is of no use to introduce a rule which allow the use of police cells whenever there is a lack of ordinary prison cells. Hence, it is misleading when the Norwegian Government claims that "*the conditions for exemption from the [two day] rule are strict*"<sup>10</sup>.

Further, breaking the "48-hour rule" can be done without any consequence (except from recording the reason – which is always lack of prison cells – in the police logbook).

It is also misleading when the state report claim that there is a breach of "48-hour rule" in only 7,3 % of cases<sup>11</sup>. This percentage seems to be based on a total of all people arrested by the police, including those who are released within two days. The percentage of remand prisoners kept in police cells for more than two days out of the total of remand prisoners *who are kept for more than 48 hours*, would be a much higher percentage. Obviously, this figure would be a more appropriate indicator on the degree to which there is a failure to transfer persons from police cells to ordinary prison cells within the established deadline. According to the official statistics of the Norwegian Prison Authorities (Kriminalomsorgen) for the year 2010, the percentage of remand prisoners who had been transferred to prison within the 48 hours limit was between 54 % and 81 %. Thus, the 48-hour rule seems to be violated in as much as 19% - 46% of cases. Expressed in absolute figures: Of the total 3.858 remand prisoners transferred to an ordinary prison, somewhere between 1.043 and 1.845 remand prisoners were transferred after the expiry of the 48 hours deadline. The corresponding

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<sup>8</sup> Cf section 3-1 of the Police Cell Regulations

<sup>9</sup> "*if transferring the prisoner to an ordinary prison cell is not possible due to practical reasons*"

<sup>10</sup> State report, para 35.

<sup>11</sup> State report, para 38.

figures for 2011 are even worse: 24 % - 56 %.<sup>12</sup> The numbers may be subject to some discussion<sup>13</sup> and the indicated range is quite wide, but anyhow, the statistics clearly indicate that violation of the two-day rule is commonplace. This conclusion is also supported by a survey of the Police Cell establishment in Oslo<sup>14</sup>, performed with the assistance of the police cell establishment itself, which found 977 violations of the two-day rule only in the City of Oslo for the period January-July of 2010.

The systematic and indiscriminate use of Police Cells as part of the remand prison system is highly problematic as placement in a police cell implies *solitary confinement*. The prisoners are *de facto* kept isolated from other prisoners as well as family and friends, and there is no substantial contact with prison officers. It is generally accepted that solitary confinement puts a heavy burden on prisoners and also may have very damaging effects.<sup>15</sup> Prisoners in police cells are particularly vulnerable to the tolls of solitary confinement. Being recently arrested, police cell prisoners often experience a dramatic change in their whole life situation, often worrying about the future, family and friends, work etc.

In his special report on solitary confinement the UN Special Rapporteur on Torture (A/66/268) has recommended that *"all states should take necessary steps to put an end to the practice of solitary confinement in pretrial detention"* (para 85). Further, the Special Rapporteur *"reiterates that solitary confinement should be used only in very exceptional circumstances, as a last resort, for as short a time as possible"* (para 89). In this respect it is highly problematic that the use of *de facto* solitary confinement in Norwegian police cells is applied on a systematic basis, without discretion and without consideration of the actual need for imposing solitary confinement. We acknowledge that solitary confinement in some case may be justified as a mean to avoid collusion and protecting the due course of justice. However, there is no need to make systematic use of solitary confinement for all remand prisoners in police cells, without even considering the actual need in each individual case. Imposing solitary confinement without individual justification cannot be justified by historical tradition and lack of will to abolish the widespread use of police cells, and should be avoided.

The use of police cells and *de facto* solitary confinement is especially problematic as no procedural safeguards exist to restrict the use of solitary confinement in police cells to cases where it is actually needed. We refer to the report of the UN Special Rapporteur on Torture (A/66/268) para 89: *"He emphasizes that when solitary confinement is used in exceptional circumstances, minimum procedural safeguards must be followed. These safeguards reduce the chances that the use of solitary confinement will be arbitrary or excessive, as in the case of prolonged or indefinite confinement."*

In many cases *de facto* solitary confinement in police cells is applied even if a court of justice (or the police/prosecuting authorities) have decided that there is no need for solitary confinement. This will often be the case where remand prisoners, due to lack of prison cells, do not get transferred to ordinary prison cells even after being presented in court. Additionally, in such cases there is no legal basis for the imposition of solitary confinement in police cells.

Further, the widespread use of police cells imposing solitary confinement *"creates a de facto situation of psychological pressure which can influence detainees to make confessions or statements against others and undermines the integrity of the investigation"*<sup>16</sup>. The systematic use of police cells also represents a risk of misuse as the police may be tempted to intentionally use police cells in order

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<sup>12</sup> Kriminalomsorgens årsstatistikk 2011, page 11

<sup>13</sup> These figures from 2010 and 2011, also reflect remand prisoners being transferred to ordinary prison from other places than police cells (transfer from hospital, foreign countries, asylum centers). However, this probably has very little effect on the overall numbers, as such transfers occur much more seldom than transfers from police cells do.

<sup>14</sup> Hanna Torvinen Kaplon, "Politiarrestforskriften § 3-1 og opphold i arresten ut over 48 timer" University of Oslo, 2010.

<sup>15</sup> It is also recognised that the damaging effects of solitary confinement can be "immediate", c.f. i.a. the 21st General report of CPT (2011) page 39, also cited in recent jurisprudence by ECHR (c.f. i.a. Babar Ahmad and others vs UK 2012 para 207).

<sup>16</sup> Report of the UN Special Rapporteur on Torture (A/66/268), para 73.

to extract confessions from remand prisoners. This would obviously be in breach of the Convention. Necessary steps should therefore be taken to minimize such risks.

The Norwegian Government has previously stated that it is important that civil society should be part of the control mechanism for detention facilities. Thus, the *Norwegian Bar Association* and the *Association of Defence Lawyers* have proposed that lawyers or law students should be allowed to stay in the central police arrest in Oslo to supervise and report the practise of the regulation of the police arrest. However, the Norwegian authorities have refused to allow this<sup>17</sup>.

*Recommendations to Norway:*

- *The current widespread and systematic use of police cells should be abolished. Remand prisoners should be transferred directly to prison. The use of police cells should be limited to exceptional circumstances.*
- *The use of police cells should be regulated in the Criminal Procedure Act and the Act on execution of sentences, securing sufficient material and procedural safeguards for police cell prisoners.*
- *The use of solitary confinement in police cells should be limited to exceptional circumstances, limited to situations where a real need for solitary confinement has been identified in each individual case.*

### **Issue 6: Solitary confinement**

**Please provide further information on steps taken to: (a) Restrict the use of solitary confinement as a preventive measure. In this respect, please provide updated detailed statistics on the use of solitary confinement and the number of days spent in solitary confinement. (b) Establish an external commission for challenging decisions taken by the correctional services authorities on restrictions or partial or total isolation imposed upon prison inmates serving their sentences, as recommended by the Working Group on Arbitrary Detention in its report on the visit to Norway in May 2007 (A/HRC/7/4/Add.2, paras. 73-78 and 98(b)).**

#### ***Pre-trial solitary confinement***<sup>18</sup>

A recent survey conducted by the Police Academy Research Unit<sup>19</sup> show that the police's applications for restrictions like solitary confinement are often poorly reasoned, and phrased in a stereotyped manner. This applies to court decisions as well. A survey conducted by the General Attorney's office in 2002<sup>20</sup> concluded that police applications for restrictions during pre-trial confinement met an acceptable standard of reasoning in only 17 % of the cases examined.

The use of pre-trial solitary confinement is quite high in Norway. The introduction of new rules in 2001-2002 was a step in the right direction, but since 2003 little has happened. The solitary confinement rate is still approximately 15 % of *all new remands* (the comparable percentage for Denmark is approximately 5 %).

The reported incidence of 15 % has been calculated as a percentage of all new remands. When interpreting the practice of courts and prosecutors, however, the relevant question is how often solitary confinement is used in those cases where solitary confinement could be in question at all. Under the Penal Procedure Act<sup>21</sup>, pre-trial solitary confinement is only allowed in cases where the

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<sup>17</sup> Letter of 26 April 2010 from Oslo Police District to the Norwegian Bar Association "Juristvaktordning i Sentralarresten i Oslo Politidistrikt".

<sup>18</sup> State Party report pars. 41-43.

<sup>19</sup> Bakke/Myhrer, "Begjæring om varetektsfengsling med restriksjoner – en undersøkelse av praksis", Polithøgskolen 2009.

<sup>20</sup> Riksadvokatens publikasjoner 1/2003, "Restriksjoner ved varetekt – en undersøkelse av praksis første halvår 2002".

<sup>21</sup> Section 186a.

detention itself is decided to prevent the suspect from interfering with evidence and not if the basis for pre-trial detention is fear of absconding, fear of reoffending, and fear of disturbing the public order. Under the assumption that solitary confinement is potentially applicable in approximately less than 30 % of all remand cases, the overall incidence of 15% could suggest that courts grants solitary confinement in more than half of the cases where such confinement comes into question. However, this assessment is based on a qualified assumption, as Norway has not provided statistics on the topic in this way.

Further, the percentage of 15 % in all remands in solitary confinement only reflects solitary confinement applied due to risk of collusion under the Act on Penal Procedure, para § 186a. However, remand prisoners are frequently put in solitary confinement under the Act on Execution of Sentences (elaborated below), which also apply to remand prisoners. In fact, according to the Norwegian Center for Human Rights, statistics from the Research department of the Norwegian Prison Authorities (KRUS) indicate that remand prisoners are more often exposed to solitary confinement on the basis of the Act on Execution of Sentences than on the basis of the Act on Penal Procedure. Additionally, as discussed under item 5, solitary confinement is automatically applied for nearly all persons kept in Police detention.

Overall, the reported 15 % solitary confinement is clearly not giving a correct impression of the pre-trial phase.

Another concerning aspect is that the statistics provided by that State Party shows that when imposing restrictions during pre-trial confinement, the prosecution and the courts almost always chose the most intrusive means – i.e. complete solitary confinement. In the period 2003-2009 complete solitary confinement was decided in 84 % of all solitary confinement cases, while various forms of partial solitary confinement was used in only 16 % of the cases. The Government should explain why partial solitary confinement is so rarely used, as partial solitary confinement is clearly a less intrusive mean compared to complete solitary confinement.

### *Solitary confinement according to the Act on Execution of Sentences<sup>22</sup>*

Even if the Norwegian authorities have been criticized for years for not supplying CAT and other international bodies with statistics on the use of solitary confinement as a preventive measure, no such statistics has still been supplied. There are currently no official statistics published by the Norwegian government about solitary confinement during the execution of sentences. The fact that the State Party does not collect such numbers could indicate that prison authorities are left with considerable discretion and limited control from the central level.

In a recent in-depth study from the Norwegian Center for Human Rights called “Solitary Confinement in the Prison System”<sup>23</sup> there are statistics provided by the Correctional Services for some individual prisons. As the Correctional Services was able to provide certain statistics to the Center for Human Rights for the above mentioned report, it seems clear that some statistics for solitary confinement do exist, which could have been the basis of reporting.

Some main points from the recent study referred to above, are worth highlighting:

- solitary confinement is predominantly based on the very vaguely defined notion of “calm, order and security” (the Act on Execution of Sentences § 37 litra e). This rule leaves prison authorities with considerable discretion, and in the report the question is raised if it is in line with the “rule of law”.
- the report reveals several cases where solitary confinement has been used for illegitimate reasons. I.a., the report indicates that solitary confinement according to the Act on Execution of Sentences

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<sup>22</sup> State Party report paras. 44-56.

<sup>23</sup> «Fengselsbesluttet Isolasjon – norsk lov og praksis i et menneskerettslig perspektiv» by Johannes F. Nilsen (2012)

may be used for imposing solitary confinement due to risk of collusion, even if the court has denied an application for solitary confinement on this basis.

- the report reveals a highly problematic lack of judicial control

- statistics indicate that the use of solitary confinement could be based on different local traditions in different prisons.

- statistics show a 25 % increased use of solitary confinement due to “calm, order and security” from 2009 to 2011, some prisons experiencing a 100 % increase.

- the use of preventive solitary confinement is much higher in Norway compared to Denmark.

- prisoners have claimed that during CAT’s visit at Ila prison in 2007, the solitary confinement section was temporarily “emptied”, and taken into use for more than its capacity just after the inspection.

- as punitive solitary confinement was prohibited in Norway in 2002, the report is questioning if the comparably high figures for the use of solitary confinement as a preventive measure in Norwegian prisons indicate that prison authorities could in fact still be using it as a disguised means of punishment.

- the report also describes that solitary confinement is used by prison authorities as a mean to cut costs, allowing planned reduction of prison staff in weekends etc. Citing that in one case, CPT discovered that a prisoner was held in solitary confinement for 77 days with no other reason than lack of capacity in ordinary prison cells<sup>24</sup>.

Norwegian NGOs have pointed out repeatedly the wide and discretionary nature of the authorisations of prison authorities to implement solitary confinement as a “preventive measure”, an “immediate reaction” and as a “disciplinary measure”. The flexible formulation of the law, e.g. as a preventive measure to “maintain calm”, gives a wide range of possibilities to exclude prisoners from company. Juss-Buss’ street lawyers have experienced situations where prison authorities have been unable to handle mentally disoriented inmates, and placed them in solitary confinement for safe keeping, instead of ensuring needed treatment. Prison authorities can place inmates in solitary confinement for long time periods, sometimes up to a year. By comparison, courts are limited to decide on isolation for up to two weeks at a time, with a maximum of either six or twelve weeks according to the nature of the offence the detainee is accused of.<sup>25</sup>

The process of imposing measures such as solitary confinement does not provide prisoners with sufficient possibilities to contradict the accusations behind the decision of placing them in solitary confinement. Prison authorities do not have to submit any evidence in support of their decisions in such matters.

As the government states in its report, decisions on solitary confinement can be appealed to the regional level of the prison authorities, and afterwards they can be reviewed by the courts. In reality the possibilities for a proper review are constrained. The time limits for appeals are often as short as 48 hours, making it hard for the prisoner in question to appeal himself and to contact a legal advisor for assistance in the administrative complaint procedure. It is further highly problematic that prisoner’s lawyers can be denied access to the reasons for imposing solitary confinement due to

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<sup>24</sup> CPT/Inf 2006/14.

<sup>25</sup> The Criminal procedure code § 186a.

security reasons<sup>26</sup>. Hence, not knowing which reasoning to challenge, there are no effective remedies available to challenge the prisons decisions in such cases<sup>27</sup>. The discretionary nature of the law also makes the administrative appeal ineffective, as the body of appeal is only to a very limited degree able to review the use of discretion. Reviews by the courts are not practicable at all, as free legal aid is not given in such cases. In addition, the courts will only have the authority to implement remedies of a retrospective character. Decisions are often only given in Norwegian, and are rarely translated into a language that non-Norwegian prisoners can understand. Consequently, some inmates suffer from not understanding the content of the prison's decisions.

Given the known health risks of solitary confinement, the Norwegian Government should supply documentation and statistics on the availability of medical and mental care of prisoners subject to solitary confinement, i.a. concerning the presence of health personnel, what sort of treatment is offered from which category of health personnel (medical doctor, psychiatrist, psychologist, nurse).

The government has not provided satisfactory information about the use of solitary confinement in cases concerning juvenile prisoners. This is worrying, as the placement of children in solitary confinement might represent a violation of the UN Convention of the Rights of the Child.

### ***b) Independent supervision***

We have taken note that according to the State Report the government acknowledged in 2008 that the current system of prison supervision is not satisfactory and that four years later, the issue is "still under consideration"<sup>28</sup>.

We are concerned that the situation in Norwegian prisons is not supervised sufficiently and reaffirm that the recommendation from the Working Group on Arbitrary Detention from 2007 to establish an external commission for challenging decisions taken by the correctional services authorities on restrictions or partial or total isolation imposed upon prison inmates serving their sentences, remains highly relevant.

Neither the prison authorities, the Parliamentary Ombudsman for Public Administration, or the Prison Supervisory Board are sufficient to monitor the situation for inmates in this field. Prison authorities are not independent units and consequently they cannot be expected to make neutral decisions regarding the inmates' complaints. The Parliamentary Ombudsman process for complaints takes a long time and lacks the capacity needed to process all cases.

According to the State Party report, inmates are satisfied with the prison's Supervisory Board. In the experience of Norwegian NGOs who monitor the situation in Norwegian prisons, the situation is quite contrary. They find that the system of the Supervisory Board in prisons is little known, and hard to get in contact with for both inmates and others. Foreign inmates often have a difficult time understanding the written content of the decisions written in Norwegian and the structure of the complaint system. We have never experienced that decisions are translated into English or another language that foreign inmates can understand.

There are no criteria to the competence or education of the members of the Supervisory Board, except that one member must be a judge or a former judge. Among the board members should be at least one person with medical experience. We have experienced that the members of Supervisory Boards are both confused and unsure of their mandate and role. Supervisory Boards are economically dependent on the prison authorities, as the Correctional Services are providing their budgets. Supervisory Boards have no authority to make decisions or give instructions regarding the

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<sup>26</sup> Cf. Supreme Court ruling, Rt. 2006 p. 1300.

<sup>27</sup> Cf. both article 13 of the Convention as well as article 13 of ECHR.

<sup>28</sup> State Party report para. 56.

routines in prisons. The Norwegian Helsinki Committee has visited prisons and found that the frequency of visits from Supervisory Boards may vary a great deal over time and between prisons.

*Recommended questions:*

- *Does the State Party consider the present level of statistical information on solitary confinement within the prison system as satisfactory? What is the deadline for a better system to be established and what sort of data does that state plan to compile and publish?*
- *In the absence of statistics, how does the government keep an overview of the use of solitary confinement within the prison system?*
- *What explains the high incidence of solitary confinement in Norway as compared to other countries?*
- *Why does complete solitary confinement appear from the statistics as far more prevalent than partial solitary confinement, and what steps are planned to ensure that the least intrusive measures possible are applied?*
- *How does the review of decisions regarding solitary confinement during execution of sentences, work in practice, and how does it comply with basic standards for legal review?*
- *Can Norway provide detailed statistics on the use of solitary confinement for children.*
- *Can Norway explain the Correctional Services' routines when a child is put in solitary confinement?*
- *Can Norway explain whether the current system for imposing solitary confinement on children ensures compliance with the State party's obligation to ensure that the best interests of the child is a primary consideration in decisions regarding children, and that the children's right to be heard are respected in practice.*

*Recommendations to Norway:*

- *Strengthen the legal requirements for reasoning of court decisions imposing solitary pre-trial confinement.*
- *Supply statistics on the rate of solitary confinement as percentage of remand cases based on fear of collusion (straffeprosessloven § 171 nr 2).*
- *Reconsider the legal framework on solitary confinement on the basis of the Execution of Sentences Act. The legal requisites and guidelines should be framed in a more precise manner, in order to limit the amount of discretion on behalf of the prison authorities, and make the means of judicial control more effective.*
- *Without undue delay establish a functioning system for production of statistics on the use of solitary confinement during execution of sentences. In the meantime the government should compile and publish those statistics which are after all available. Statistics should, inter alia, include information on reasons for the placing in solitary confinement, length of confinement, the state of health of the prisoner, access to and visits by health personnel, and the administrative level at which the decision of solitary confinement was taken.*
- *Consider to end the use of solitary confinement for children.*
- *Establish an external commission for challenging decisions taken by the correctional services authorities on restrictions or partial or total isolation imposed upon prison inmates serving their sentences. Such a body should be economically independent of the Correctional Services.*

**Issue 7: Infoflyt access by judiciary**

**With regard to the "infoflyt" database that contains classified information on certain persons in detention, please provide information on measures taken to ensure that the judiciary is granted access to the information as and when the information contained therein is relevant to decisions on the early release of a prisoner or the release of a preventive detainee.**

The INFOFLYT<sup>29</sup> system is a system established to enable exchange of information between the police and the Correctional Services. The system was established by a circular from the Correctional Services Central Administration (KSF) in 2005. The State party concedes that the INFOFLYT system is flawed,<sup>30</sup> and the system is under review.

We are, however, still concerned about the legality of the system, the quality of information and how the information is used and a lack of possibilities to review and contradict the information.

Whether the INFOFLYT system has a sufficient legal basis today is contested. The proposed changes are still insufficient to alleviate this problem. As stated in the report proposing changes, the law committee deems it unnecessary to give an “unambiguous definition”<sup>31</sup> of the ambit of the legal basis for the system, as it is “practical to give a substantial room for flexibility”.<sup>32</sup>

INFOFLYT largely contains unverified information. This may for instance be information based on rumors in criminal communities, which the police have received from informants. The registration of data concerning prisoners is made continuously by, amongst others, prison officers and other employees of the penal institution. Many of these are in close daily contact with the inmates, which can greatly affect their basis for registrations. It is not clear if there is a guideline provided to the employees as to how to use the system.

Data for INFOFLYT, including unverified information, now provide the factual basis for the prison authorities’ decisions on parole, early release, leave of absence, and transfer to lower security wards, and which activities in prison the inmates can attend. These are fundamental issues in the execution of sentences, and are important both to the prisoners themselves and for their reintegration into society.

Inmates registered in INFOFLYT find that their requests for access to the information about them, and to the explanations of decisions regarding the execution of their sentences, are almost consistently rejected with reference to safety considerations. It has been proposed to retain this element in a reviewed system.<sup>33</sup> In practice, this could lead to prisoners being denied parole, leave of absence, and spend long periods of time on isolation or high-security detention centers on the basis of defective information they are being denied access to. Such situations have occurred in correctional services under this system. In one instance, a prisoner was kept in solitary confinement for two months because of information the police had received from informants, which later was proved to be false as soon as the prisoner received information enough to contradict it<sup>34</sup>. With no access to the registered information, the prisoners are precluded from contradicting the decisions that are based on this information. We believe that the system has serious deficiencies in the absence of adequate legal authority, and that it violates fundamental guarantees of due process of law, such as the right of access, correction and deletion of personal data, and the adversarial principle.

The use of INFOFLYT might constitute a breach on article 8 of the ECHR and the prisoner’s right to private life. Since data from the INFOFLYT system is being used as the basis for refusal of e.g. decisions on early release of a prisoner or the release of a preventive detainee, it could potentially

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<sup>29</sup> This section contains findings from Jørgen Løvdaal: «Informasjonsflyt i kriminalomsorgen – en studie i kontradiktorisk underskudd» (2011)

<sup>30</sup> Cf The INFOFLYT report page 23.

<sup>31</sup> Cf. The INFOFLYT report page 88.

<sup>32</sup> Cf. The INFOFLYT report page 88.

<sup>33</sup> Cf The INFOFLYT report page 94 and 107 and the suggested § 10, cf “politiregisterloven” § 49 first and second subsection, cf third subsection, making exception to the right to review if necessary for fighting crime or public security.

<sup>34</sup> Jørgen Løvdaal *Informasjonsflyt i kriminalomsorgen - en studie i kontradiktorisk underskudd*, pp. 108 - 113

constitute a breach of the prohibition against arbitrary detention in ICCPR article 9 and multiple due process standards in the ECHR, including the presumption of innocence.

We regret the lack of concrete progress in resolving the weaknesses in the INFOFLYT system.

*Recommended questions:*

- *Norway could be asked to provide information about the legal framework of INFOFLYT; which steps are being taken to ensure that information contained therein is correct, and open to review and contradiction; and if the government will replace or amend INFOFLYT to ensure that the information system is in clear accordance with Norwegian law and international obligations.*

*Recommendation to Norway:*

- *Any information system used as the basis for decisions under the Execution of Sentences Act should be based on reliable and available information.*

## Article 3

### LoI 8: Non-refoulement

**Please provide information on steps taken by the State party to: (a) Ensure that it fulfils all its non-refoulement obligations under article 3 of the Convention, in particular to consider all elements of an individual case, and provides, in practice, all procedural guarantees to the person expelled, returned or extradited. Please indicate any requests for extradition received and provide detailed information on all cases of extradition, return or expulsion that have taken place since the previous report. (b) Address the concern that has been expressed that Norway persists in transferring asylum-seekers without children to Greece under the Dublin II Regulation, despite the fact that the Office of the High Commissioner for Refugees has criticized the procedural safeguards, access and quality of the asylum procedure and the conditions of reception in the country and has advised Governments to refrain from returning asylum-seekers to Greece (15 April 2008).**

### *Procedural guarantees*

It appears from the State Report<sup>35</sup> that all foreigners are eligible to receive free legal aid in the case of expulsion. However, it is only people who are expelled due to a breach of the immigration act who have the right to free legal aid.<sup>36</sup> If the ground for expulsion is a breach of the penal code, there is not such a right. The foreigners who fall under this category do not receive legal aid from the public legal aid scheme. Some NGOs provide basic legal advice on the pre-trial stage in such cases, but not nearly enough to fulfil the foreigners' basic right to legal assistance.

For those who are entitled to free legal aid, the legal aid given is limited to only a certain amount of time in each case, regardless of the complexity of the case. Due to the limited legal aid, the standard of the legal work provided by lawyers has in some cases proved to be inadequate. The right to free legal aid is also limited to the administrative decision and the administrative appeals process. The government does not provide free legal aid for review of the administrative decisions by a court. Which is highly concerning, especially as statistics show that administrative decisions in asylum cases

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<sup>35</sup> State report paras. 66 a and 67.

<sup>36</sup> Free legal aid act, section 11 subsection 1 nr 1, cf immigration act section 92 subsection 1, cf immigration act section 66 litra b.

are often overturned by courts. In an NGO-funded project sponsoring legal aid in selected cases, two thirds of cases have been reversed in favour of asylum applicants.<sup>37</sup>

The system of free legal aid as it is today has been criticized both by the European Court of Human Rights (ECHR)<sup>38</sup> and the Human Rights Committee<sup>39</sup>.

It does not appear from the State Report, but the government has published a consultation paper on the possibility to restrict further which cases will give a right to free legal aid, by excluding from free legal aid persons who are expelled because they have overstayed the date on which they were due to leave Norway<sup>40</sup>. If this proposal is accepted, a large group who currently is entitled to free legal aid will no longer be so. Such a limitation on free legal aid would severely limit the possibility to ensure legal rights and could therefore endanger legal safeguards.

#### *A single case: Abudlkarim Hossain<sup>41</sup>*

Adbulkarim Hossain, a human rights activist from Syria had been arrested four times in Syria before arriving in Norway to apply for asylum. Each arrest lasted for a period of one to two months. He was allegedly subjected to torture during these arrests. His application for asylum was rejected in Norway. He was returned to Syria in August 2010. Several organisations protested against his deportation, but the protests were ignored. When Hossain was returned from Norway as a failed asylum seeker, he was detained upon arrival in Damascus, and transferred to isolation in the political security prison Al Faiha. The treatment he was subjected to was later described in a medical statement made by a Turkish human rights organisation to include among other methods; death threats, beating under the soles of his feet, hanging upside down, constant punches against a single point of his body, deprivation of sleep and sexual harassment.

Amnesty International launched a campaign for the release of Hossain. The prison director allegedly stated that Hossain's family had to pay to end the torture. His son paid 5000 Euros in bribes to get his father out of prison. He was released in the beginning of September 2010. Hossain then fled to Turkey, where he was interviewed and later recognised as a refugee by UNHCR in November 2010. His Norwegian lawyer then petitioned for a renewed assessment of the asylum case. However, the immigration appeals board in Norway (UNE) rejected the petition, and claimed that there was no proof that Hossain had been subjected to torture while in prison. UNE referred to a medical statement that was not signed, and used this to indicate that the information about torture was solely based on Hossain's own statement, and that his claim was not supported by other evidence. The statement from the immigration appeals board, however, failed to mention that two medical statements were presented to them in the case; one made by a Syrian doctor that was not signed in order to maintain the doctor's safety, and one five-page statement made by the Turkish human rights organisation, which was signed by a doctor on every page.

In May 2011, in a response to a letter from the Norwegian Organisation for Asylum Seekers, the appeals board again claimed that there was no evidence that Hossain had been exposed to torture or any other ill-treatment. The five page certification from the Human Rights Foundation of Turkey, an organization recognized internationally for its professional work on documentation of torture, was ignored.

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<sup>37</sup> Humlen og Myhre: Advokatforeningens aksjons- og prosedyregruppe i utlendingsrett – status etter 4 års drift. I Juss-Buss (red.) Med loven mot makta, Juss-Buss førti år (2011) page 125.

<sup>38</sup> See for example: AGLAR vs NORWAY.

<sup>39</sup> CCPR/C/NOR/CO/6.

<sup>40</sup> Høring – forslag til endringer i utlendingsloven (07.10.2011) section 4.

<sup>41</sup> The information on this case has been researched by the Norwegian Organisation for Asylum Seekers (NOAS).

Hossain later managed to return to Norway by himself and filed another application for asylum. The result of this application is not known to date.

### ***b) Dublin II and taking independent human rights reporting into account***

Under the *Dublin II regulation* Norway has in the past returned asylum applicants to the first country of entry to the Schengen area, including to Greece. After having knowledge of the report of Mr T. Hammarberg of 2009, Norway kept on returning in “Dublin II”-cases, basing itself on its own fact finding. As the case *MSS v Belgium* at the European Court of Human Rights showed, such assessment did not meet the level of scrutiny demanded under the principle of non-refoulement. Whereas Norway subsequently suspended return to Greece, there has been no change in the approach to how Country of Origin information is assessed. This may be of particular relevance to any new countries appearing as having a sub-standard practice regarding detention, safety or asylum procedure, such as Malta or Italy.

In a *Grand Board* decision of the Immigration Appeals Board on 1 February 2010, concerning transfers to *Greece*, all members but one accepted that *Greece* had a satisfactory asylum procedure. Only an edited version of the decision is made public by the *Immigration Appeal Board* but other sources inform that the *Grand Board* bases heavily its factual assessment on a report of a government official working at the *Norwegian Consulate*. The said report has obvious shortcomings and misrepresentations, as both previous and subsequent reports from NGOs, UNHCR and the Council of Europe<sup>42</sup> demonstrate<sup>43</sup>.

In October 2010, Norwegian authorities decided to suspend all returns to Greece while awaiting the judgement in *MSS vs Belgium* from the European Court of Human Rights<sup>44</sup>. Applicants who are still in the asylum process, and who previously would have been returned to Greece, will have their asylum claims assessed by Norwegian authorities. It is still not decided what will happen to applicants who have received a final negative decision, but still reside in Norway.

#### *Recommended questions:*

- *How does the Norwegian government maintain the rights of those who are expelled due to breaches of the penal code?*
- *How will the government maintain the rights of those who are expelled, if the government implements further limitations on their free legal aid?*
- *How does the Norwegian government justify possible further limitations on the free legal aid for those who are still in the country when their leaving date has passed?*
- *How does the government ensure that the quality of the legal aid given in these cases is sufficient to safeguard the rights of the foreigner?*

#### *Recommendations to Norway:*

- *There should be free legal aid available for foreigners in all expulsion cases where legal aid is necessary to safeguard the rights of the foreigner.*
- *The hours of free legal aid allocated to each case relating to expulsion should be individually decided, based on the complexity of the case.*
- *The Norwegian government has to ensure that the academic quality of the legal work given in immigration cases is of a sufficient standard.*

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<sup>42</sup> Council of Europe Commissioner for Human Rights, report of 4 February 2010:  
<https://wcd.coe.int/wcd/ViewDoc.jsp?id=1401927&Site=CM>

<sup>43</sup> Reports from the Norwegian Helsinki Committee: “Out the back door: The Dublin II regulation and illegal deportations from Greece” [http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2009/44836\\_Rapport\\_out\\_the\\_backdoor.pdf](http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2009/44836_Rapport_out_the_backdoor.pdf) and “A Gamble with the right to Asylum in Europe: Greek Asylum Policy and the Dublin II Regulation” [http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2008/Greece\\_DublinII\\_report.pdf](http://www.nhc.no/php/files/documents/Publikasjoner/Rapporter/Landogtema/2008/Greece_DublinII_report.pdf)

<sup>44</sup> *M.S.S. vs. Belgium and Greece*, application no. 30696/09.

- *To place greater weight on reports and findings of international organizations and NGOs and not favor its own fact finding missions on broad and overarching issues.*

## Article 10

### Issue 11: Training law enforcement and justice sector officers

**In light of the Committee’s previous concluding observations, please provide information on educational programmes further developed and implemented by the State party to ensure that law enforcement personnel and justice officials are fully aware of the provisions of the Convention, applicable limitations on the use of force and the need to avoid any discriminatory treatment (CAT/C/NOR/CO/5, para. 11). Furthermore, please indicate whether the State party has developed and implemented a methodology to assess the effectiveness and impact of relevant training programmes on the incidences of cases of torture, violence and ill-treatment. If so, please provide information on the content and implementation of such methodology, as well as on the results of the implemented measures.**

It is worth noting that the State Party<sup>45</sup> describes a lack of overview “of the extent to which key personnel in key professions have sufficient operational competence to identify possible human rights violations” as of 2009, without providing an update on whether an overview has been established, and if it were, what the situation looks like at present. In this regard the Committee might be interested to note that the State Party refrains from the “complex and difficult task”<sup>46</sup> of responding to the question raised by CAT about the effectiveness and impact of relevant training programmes in Norway. Underlying this view is the methodological point that a person’s knowledge about human rights standards may stem from many sources. So that if someone who went through a particular training was found to have acquired a particular level of knowledge in human rights, that may be due to the training or other factors. Isolating the effect of the training from other influences is difficult<sup>47</sup>. Norwegian NGOs are not convinced that such arguments are sufficient reasons for not responding to the Committee’s question. We have further maintained that what is most important to determine is whether the totality of training is resulting in a sufficiently aware and educated stock of employees in the most critical professions.

The Norwegian government wants to strengthen the human rights education in the police and the Correctional Services. We would like to point out that the education to become a prison officer today only includes quite basic knowledge about human rights. The education is theoretical and the prison officers often have little knowledge of the practical use of human rights provisions. There is generally a lack of knowledge and education when it comes to international guidelines such as the “UN Standard Minimum Rules for the Treatment of Prisoners”. These rules are not legally binding for Norway, but they provide good guidance on the implementation of international obligations.

Several organizations, including representatives of employees’ organization in the prison sector, have expressed concerns about an alleged increased use of temporary employments within the prison sector. For temporary employees there are very limited requirements for training, and no specific requirements for training in human rights standards and in the use of – and limits to the use of – force.

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<sup>45</sup> State Report, para 88.

<sup>46</sup> State Report, para 89.

<sup>47</sup> This argument was presented by the representative of the Ministry of Justice at the 2008 follow up meeting to CAT Concluding observations of 2007.

*Recommended questions:*

- *Does Norway have an overview of the extent to which key personnel in key professions have sufficient operational competence to identify possible human rights violations? Are any shortcomings identified; and what will be done to rectify them?*
- *What will Norway do to strengthen Human Rights education, especially for prison officers when it comes to practical training and application of the UN Standard Minimum Rules for the Treatment of Prisoners?*
- *To what extent is temporary employed personnel used as employees in Norwegian prisons and what is the ratio between permanent personnel and temporary untrained personnel in Norwegian prisons on an average basis; and does the State Party consider the education and training of temporary personnel as sufficient for being able to use force against prisoners?*

*Recommendations to Norway:*

- *Monitor and report the level of human rights knowledge and awareness in critical professions.*
- *Ensure that the education of prison officers include more practical information and training about human right standards, including the application of the UN Standard Minimum Rules for the Treatment of Prisoners.*
- *To minimize the use of prison personnel who have not been trained in human rights or the application of force and limits thereto.*

## **Issue 12: Training of all relevant personnel and the Istanbul Protocol**

**Please indicate the measures taken by the State party to: (a) Provide adequate training for all relevant personnel to detect signs of physical and psychological torture and ill-treatment of persons deprived of their liberty. (b) Integrate the Istanbul Protocol of 1999 into the training programmes provided to physicians and all other professionals involved in the investigation and documentation of torture, and in particular in cases where asylum-seekers allege being subjected to torture in their country of origin.**

The state informs that principles and recommendations from the Istanbul protocol are integrated into training programmes for caseworkers at the Directorate of Immigration and into procedures for interviewing asylum-seekers<sup>48</sup>. But our main concern is that the Norwegian authorities has not implemented systematic use of the Istanbul protocol in the sense that forensic evidence is gathered and required or commissioned in any systematic way, nor are medico-legal reports required or commissioned in cases where there are claims or indications of torture and/or ill-treatment. The lack of systematic documentation of physical and psychological sequelae of torture has three important implications:

1. Without systematic documentation of the sequelae of torture the Norwegian government runs the risk of violating the principle of non-refoulement.
2. It makes it more difficult to identify the full medical and psychological rehabilitation needs in the absence of systematic assessment and documentation.
3. Finally, lack of documenting signs of torture may also prove problematic in the lives of the torture victims who at a later stage may want to seek redress from those accountable for the torture experienced.

In order to fulfil the purpose of investigating and documenting torture, there must be a political will to do this by the Norwegian authorities, and a system must be developed where expertise in this field, that is forensic doctors and psychologists, are available and paid to do this important work.

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<sup>48</sup> State report para 97.

It is worth noting the contrast from para. 92, where the State Party describes the training of prison wardens, it concludes by stating “However, detecting signs of physical and psychological torture and ill-treatment of prisoners would primarily be a task for the health services.” When it comes to the asylum-field, there is no mention or reflection of how the competence of case workers stops short of the medical and psychological professions in the detection and determination of torture.

We are not aware of any systematic training of health personnel in the Istanbul protocol.

In 2004 the psychosocial teams for refugees in each health region, were integrated into the Resource centres for violence and traumatic stress (NKVTS/RVTS). While one of the main activities of the psychosocial teams was to provide psychosocial rehabilitation to traumatized refugees and torture survivors, the Resource centres are not intended to do any clinical work. This is also clearly underlined in the Norwegian report. Their main task is to teach and supervise the ordinary health system how to handle and treat refugees and torture survivors. However, we believe that the mental health services provided to torture survivors in the ordinary health system is too generic and not sufficient, and that the present conditions under which the out-door clinics are working, do not permit the kind of therapeutic and multi-professional approach that rehabilitation of torture survivors need. Norwegian authorities should re-establish specific and specialized rehabilitation centres for torture survivors in each health region.

*Recommended questions:*

- *How many forensic reports on torture are being commissioned each year by immigration authorities following allegations of torture or detection of other signs of torture by case workers in the Directorate of Immigration?*
- *What will the State Party do to ensure that there are follow-up procedures when torture has been detected, with regards both to the asylum procedure and health care/rehabilitation?*

*Recommendations to Norway:*

- *All asylum seekers should have a health check upon arrival and health personnel carrying out these health checks should be trained in the Istanbul Protocol.*
- *Signs of torture should be examined and be subject to forensic reports in accordance with the Istanbul protocol.*
- *Provide systematic, thorough and practical training in the application of the Istanbul Protocol to all relevant health personnel.*
- *Re-establish specific and specialized rehabilitation centres for torture survivors in each health region.*

## Article 11

### Issue 13: Rules of interrogation and custody

**Please provide information on any new interrogation rules, instructions, methods and practices and arrangements for custody that may have been introduced since the consideration of the last periodic report. Please also indicate the frequency with which these are reviewed.**

Norway has still not introduced any new rules, instructions, methods and practices since the last report.

The rules on interrogation (The Prosecution Instructions § 8-2) should be changed. It should appear from the instruction that the police cannot inform the person charged that the need for use of custody or custody restrictions (including solitary confinement) could depend on the person charged giving a statement or depending on the content of the statement. Giving such information to the person charged should be a designated task for the defense lawyer

Receiving such information from the police will easily be perceived as a threat of being detained on remand, and even in solitary confinement, unless the person charged makes a statement acceptable to the police. Hence, solely by giving such information to a charged person the police can misuse detention on remand and solitary confinement as a strong and compelling pressure forcing the charged person to make statements to the police.

Importantly, there is no need for the police to give such information to the person charged. Norwegian authorities has claimed that such information is necessary in order to serve the interest of the charged person, but it should be left to the defense lawyer to consider if and when such information should be given to the person charged. This is the only way to reduce the immanent risk of detention on remand and solitary confinement being misused by the police to influence on the statement of the person charged.

We believe there should be rules to record information and make publicly available statistics on the number of police interrogations carried out while the person is kept in police arrest; the number of interrogations carried out without a defense lawyer being present; the time of the day and week of interrogations; the age of the arrested person; whether or not the person asked for medical assistance and if so whether such requests were granted or not. For such information to be compiled and reported systematically, the Ministry of Justice needs to give a new instruction to this effect.

*Recommendations to Norway:*

- *Interrogations while in police arrest should only be carried out in presence of a defense lawyer unless the person clearly states that this is not according to his wish in a signed statement. The defense lawyer must advise his client whether giving a statement is advisable.*
- *The Prosecution Instructions § 8-2 (3) should be changed, and it should appear from the instruction that the police cannot give information to the person charged that the need for use of custody or custody restrictions could depend on the statement of the person charged. This should be a designated task for the defense lawyer.*
- *Record information and make publicly available statistics on the number of police interrogations carried out while the person is kept in police arrest; the number of interrogations carried out without a defense lawyer being present; the time of the day and week of interrogations; the age of the arrested person; whether or not the person asked for medical assistance and if so whether such requests were granted or not.*

#### **Issue 14: Juvenile prisoners**

**Please provide information on the measures taken by the State party to improve the treatment of juvenile prisoners, including above the age of 15, in particular to ensure detention separately from adults while in remand or serving sentences, as well as regular contact with their family.**

There has been a slight decrease in the number of children in police arrest, children in custody and in prison. The figures for the number of times police cells were used for children show a decrease from 2056 times in 2009 to 1490 times in 2011. Unfortunately, the 48 hour rule (maximum time spent in police arrest before transfer or release) was exceeded in more than 90 cases in 2011, which means that the 90 children spent more than two days in police custody last year. There has also been a slight decline in the number of incarcerations of children from 82 a year in 2009 to 73 in 2011. Despite the fact that there has been a decline in the number of children in prison, there is still a great concern about the fact that children almost always serve their sentence with adults. There is only one prison in Norway that is adapted to suit children, and this has only 2 cells inside the prison and 2 on the outside. There is also a problem that there may not be a prison unit near the home of a particular child, so that the distance to the family makes it difficult for children to be visited by their parents. It is not clear what is being done to separate children from adults in prisons and what

measures the government is taking to ensure children's rights, both in terms of being with family and being together with other prisoners of their own age.

*Recommended questions:*

- *Request information on what practical steps Norway is taking to systematically ensure the separation of children and adults in prisons.*

*Recommendations to Norway:*

- *Redraw the reservations to ICCPR, article 2, paras 2b) and 3, regarding the separation of children from adults in prisons.*

## Articles 12 and 13

### **Issue 15: Crimes committed by law enforcement, particularly discriminatory treatment**

**Please address the following: (a) In its previous concluding observations, the Committee urged the State party to closely monitor the effectiveness of the procedures for the investigation of alleged crimes committed by law enforcement officials, in particular those in which discriminatory treatment based on ethnicity is alleged (CAT/C/NOR/CO/5, para. 12). Please provide detailed information on the results of the review process. In this respect, please elaborate on the functioning and work of the central unit for the investigation of alleged crimes by members of the police, as referred to in the Committee's previous concluding observations. Are all law enforcement officials suspected in prima facie cases of torture and ill-treatment as a rule suspended or reassigned during the process of investigation? (b) Please provide statistical data on the number of complaints, investigations, prosecutions, convictions and compensation provided to victims, or their families, in cases of discriminatory treatment by law enforcement officials.**

In its report, the State Party provides statistics for complaints received by the Bureau for the Investigation of Police Affairs disaggregated into 12 main categories. However, there is no information on the handling of the complaints, or on how many in each category leads to reactions against specific law enforcement officials. As admitted by the State Party, nor do the statistics contain any information on the number of complaints related to discriminatory treatment, information the Committee had specifically requested.

The State Report specifically says that "there are no statistical data on complaints in the non-criminal track", referring to administrative complaints handled within the police administrative system. We consider that in addition to such information, the report should have contained comprehensive information about the legal regulation of the administrative complaint's system; the criteria for a complaint to be successful; and about possible compensation to victims within that system.

*Recommendations to Norway:*

- *Norway should enhance the statistics on the handling of complaints by the Bureau for the Investigation of Police Affairs. Statistics should contain information on the results of the investigations carried out. Information on cases of discriminatory treatment by law enforcement officials should also be included.*
- *The legal and administrative framework for the Police Complaints system should be established in a more transparent manner and statistics should be provided on the types and incidence of complaints as well as outcomes of the complaint procedures.*

## Article 16

### Issue 18: Trandum supervision

**Please elaborate on the implementation of the tripartite supervisory regime of the Trandum Holding Centre, as referred to in the follow-up information to the previous concluding observations. Information should also be provided on the results of this regime.**

The establishing of a Supervisory Board for the Trandum Detention Centre in 2008 represents a positive step in the efforts to establish an effective supervision of the rights of detainees at the Centre. The board consists of part-time members who fulfil their supervisory function in addition to their primary professions. The Royal Decree which regulates the supervision of the detention centre requires the Supervisory Board to make a minimum of 2 visits per year. In 2011 the Supervisory Board conducted 9 visits, both announced and unannounced.

The Supervisory Board shall keep records of the supervision with information about, inter alia, "the concerns to which the Supervisory Board has remarks"<sup>49</sup> and publish annual reports. In our view, the annual reports are relevant. Due to massive criticism of the premises of the Centre and comprehensive plans for renovation of the Centre's buildings, much of the focus of the reports, have however so far been on the quality of the premises. Other basic rights of detainees have received less attention and reports have been lacking in substantive analytical depth. In order to fully meet its role as a monitoring body, the Supervisory Board should expand the scope of its analysis in the annual reports. The 2011 report is in total 11 pages long, out of which two pages merely describe the mandate of the Supervisory Board. The statistical information provided in the reports has not been systematic nor sufficient.

There is a need for the Supervisory Board to focus more on issues such as the system for health checks before deportation and during detention. The decision making process of determining whether detainees are "fit for flight" is not sufficiently transparent, and there have been reports of medically questionable transfers. The National Immigration Police has stated that such decisions are made in consultation between the detainee's regular doctor and the doctor on call at the centre. However, there have been examples of forced returns where the regular doctor has indicated in the medical file that flight is not advisable due to e.g. acute mental problems and suicide attempts or complicated pregnancy.

Volunteers from the Norwegian Red Cross have since 2010 visited the Trandum Holding Centre regularly. In 2011, 36 visits were conducted, each lasting two hours. Although the organization does not monitor the Holding Centre, the volunteers gain considerable insight into the conditions at Trandum through their conversations with detainees. The Red Cross regularly meets with the Immigration Police Service to convey generic concerns raised by detainees during visits.

One recurring concern that has been conveyed orally from detainees to the Red Cross volunteers relates to healthcare. Detainees have inter alia expressed concern that they have very limited time with the doctor and many have an insufficient understanding of the extent of healthcare services available to them. This seems to be a result of communication problems and insufficient translation services. Volunteers also have concerns relating to the handling of inmates with psychiatric illness. On the other hand, it should be noted that there has been a slight increase in the number of healthcare professionals working at Trandum Holding Centre. There are no doctors permanently present at the detention centre, but doctors from a medical centre located nearby visit the centre routinely, and the centre now employs a nurse full time.

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<sup>49</sup> Our unofficial translation of Royal Decree of 11 April 2008, number 355, Utlendingsinternatforskriften § 17 (6).

We recommend that future reports from the Supervisory Board include more thorough analysis of also the non-material wellbeing of detainees, with a particular focus on healthcare and psychosocial issues.

It is a matter of concern that the Supervisory Board reports do not reflect the concerns of the detainees or the experiences of civil society organizations or other bodies working with detainees at Trandum in a satisfactory manner. For instance; as described above, concerns relating to the health services have been a recurring theme communicated from many detainees to visiting volunteers, while the Supervisory Board briefly states in its annual report for 2011 that it has considered the health care services and has not found any issues necessary to remark on.<sup>50</sup> The Supervisory Board provides no further details, nor any description of these concerns in any depth. Such a statement is disconcerting considering the fact that the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) a few months earlier had expressed a clear “concern by the almost total lack of medical screening of newly arrived foreign nationals”, as well as concern relating to a reduction of psychological services at the Centre. In conducting such an analysis and collecting relevant information, the Supervisory Board is encouraged to draw more heavily on experiences from civil society organizations that regularly visit and meet with detainees.

Furthermore, there should more focus on any use of force against detainees, and the effectiveness of the appeals system for decisions regarding the use of force and restrictions. The Supervisory Board’s report from 2011 indicates that there is a general practice that detainees are routinely held in security cells before they are transported, as a precaution to prevent problems, which the centre allegedly knows from experience, arises during forced returns. A general practice of this sort could amount to arbitrary detention in security cells, and should be avoided.

The Parliamentary Ombudsman visited the centre in 2008 and 2010. He made several critical remarks regarding the implementation of the Immigration act para. 107 and the Royal Decree regulating the centre.<sup>51</sup> In his opinion the internal rules and routines at the centre did not comply with the laws and regulations, and control and security considerations had been given too much priority at the expense of the detainees’ right to privacy. The situation has since improved, but the Ombudsman’s criticism shows that there is a continuing need to address, and monitor the operation of the centre.

Many foreigners held under the same provisions of the Immigration Act as are the foreigners at Trandum, are detained in prisons elsewhere in the country, and are therefore not subjected to supervision of the Supervisory Board<sup>52</sup>.

#### *Recommendations to Norway:*

- *We recommend that the scope and content of the Supervisory Board, including its annual report, is extended to include more detailed and analytical information. In particular, the Annual Report should contain a description of the concerns from the detainees that have been transmitted to the Supervisory Board, the Supervisory Board’s assessment of these concerns and the steps taken to address them.*
- *The work of the Supervisory Board, including its annual report, should provide more thorough analysis of the non-material wellbeing of detainees, with a particular focus on healthcare and*

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<sup>50</sup> Supervisory Board Annual Report 2011, p. 7.

<sup>51</sup> The parliamentary Ombudsman’s Annual Report 2010 (In Norwegian) pages.16-17:  
<http://www.sivilombudsmannen.no/getfile.php/Filer/%C3%85smelding/Dokument4-2010-2011.pdf>, see also the Ombudsman’s public statement on the topic (in Norwegian): <http://www.sivilombudsmannen.no/uttalelser/besok-til-politiets-utlendingsinternat-hoesten-2008-article1502-114.html> .

<sup>51</sup> <http://www.sivilombudsmannen.no/getfile.php/Filer/S%C3%A6rskilte%20meldinger/Trandum.pdf> .

<sup>52</sup> The Royal decree which created the Supervisory Board limits the mandate of the Supervisory Board to the physical premises at Trandum, according to paras. 1 and 2.

*psychosocial issues; More analytical content on the use of force and restrictions against detainees including the effectiveness of appeals against such reactions; The extent to which health checks before deportation are independent and effective.*

- *We recommend that the Supervisory Board in its work to a larger extent draws on experiences and feedback from relevant civil society organizations.*

## **Issue 20: Violence against women**

**Please provide: (a) Information on efforts undertaken by the State party to combat violence against women. In particular, please elaborate on the Government-appointed task force on rape and its findings and recommendations, and the implementation thereof. (b) Information on the implementations and impact of these measures in reducing cases of violence against women. (c) Statistical data on the number of complaints relating to violence against women and the related investigations, prosecutions and convictions, as well as on compensation provided to victims.**

In January 2008, the government-appointed committee on rape presented its White Paper *Fra ord til handling*, and estimated that between 8,000 and 16,000 women are exposed to rape or attempted rape in Norway annually<sup>53</sup>. The actual annual figure is not known as there never has been conducted any national study on neither the incidence nor the prevalence of rape and sexual violence.

Four years later, few of the recommendations the committee presented to prevent, investigate and punish rape, and to provide the victims of rape and sexual violence with due reparation, have been followed up and implemented.<sup>54</sup> This lack of implementation was implicitly acknowledged by the launching of the first governmental plan of action against rape and sexual violence in June 2012. Regrettably, the plan of action contains few concrete and binding measures.

The State Party report acknowledges an increase in reported rape cases by 34 % over the last 5 years; and informs that an estimated 90% of all rapes and attempted rapes are never reported to the police. At the present level, an average of almost three rapes, are reported daily.

It is concerning that the number of indictments and convictions in rape cases remain low. Around 84 percent of rape cases reported to the police are dismissed by the public prosecutor, and never reach court, according to the most recent analysis from 2007.<sup>55</sup>

In 2009, 853 rapes were investigated by the police, 157 rape cases were prosecuted<sup>56</sup>, and 78 rape cases resulted in conviction in court.<sup>57</sup>

The State Report informs that between 2003 and 2005, the percentage of acquittals in rape cases was around 36 per cent. It is relevant to note that during the same period, the percentage of acquittals for all reported crimes was between 7 and 8 per cent. Clearly, compared to other crimes, few rape cases end with conviction in the courts.

The lack of research and updated statistical analysis on rape and sexual violence is concerning. The most recent numbers and analysis on this issue stems from a report published by the Director of Public Prosecutions 5 years ago.

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<sup>53</sup> NOU 2008:4 Fra ord til handling.

<sup>54</sup> <http://www.nytid.no/meninger/artikler/20111111/en-varslet-krise/>

<sup>55</sup> Director of Public Prosecutions 1/2007 page 4.

<sup>56</sup> National Criminal Statistics 2010 <http://www.ssb.no/a/krim/tab/tab-2011-05-03-07.html>. Cases prosecuted in 2009 may have been reported earlier.

<sup>57</sup> National Criminal Statistics 2010 <http://www.ssb.no/aarbok/tab/tab-156.html>. Cases adjudicated in 2009 certainly include cases reported before 2009.

Although the authorities and justice system in Norway claim to give high priority to combating gender-based violence, including rape, the victims' right to justice is often hampered in practice, as suggested by the numbers quoted above.

Although both the Minister of Justice and the Director of Public Prosecutions have instructed the police to prioritize the investigation of rape cases<sup>58</sup>, the police still do not seem to be giving rape cases the priority required. The government-appointed committee on rape has pointed out that the lack of clear strategies and regulations within the police force seems to lead to a lack of prioritization of rape and sexual offences by the police.

International human rights law requires that criminal law recognizes the absence of genuine consent, rather than the use of physical force, as the essential element of rape. However, the Norwegian penal code still links the question of guilt to the ability to prove that the sexual act was enforced through the use of violence or threats of violence.

*Until gender-based sexual violence against women is effectively prevented, investigated and punished in accordance with international obligations, women in Norway will be unable to exercise and enjoy their human rights on the basis of full equality with men. In order to obtain this goal, Norwegian authorities are recommended to take the following steps to increase women's protection against rape and other sexual violence, and to ensure justice for all victims and survivors of sexual crimes:*

- *adopt a legal definition of rape which defines rape and other forms of sexual violence as sexual conduct in any instance in which the agreement of the person involved is not truly and freely given, that is, given without coercion of any kind, in accordance with international human right standards;*
- *conduct national surveys on sexual violence and rape and the incidence of violence against women, including sexual violence and rape, on a regular basis;*
- *reinforce and develop preventive work against rape and sexual violence in society at large. Preventive measures should include the education of children and young people about mutual respect in relationships, as well as the promotion of gender equality in public education;*
- *ensure that all legal procedures in cases involving crimes of rape and other sexual violence are impartial and fair, and not affected by prejudices or stereotypical notions about female and male sexuality. To achieve this, a wide range of concrete measures targeted at the legal system to improve the quality of rape investigations and the judicial handling of rape cases, as well as training and education to change discriminatory attitudes towards women, are needed;*
- *establish by law the provision of at least one sexual assault centre in each county, in order to ensure that all victims of rape and sexual violence have access to necessary special competence in safeguarding their short- and long-term medical and psychological needs, and to securing of forensic evidence. The particular needs of girls under 18, should be taken into account when planning and providing services.*

## **Issue 21: Human trafficking**

**Please provide: (a) Updated information on measures taken to adequately prevent, combat and punish human trafficking. Please provide information on the impact and effectiveness of these measures in reducing cases of human trafficking. (b) Statistical data on the number of complaints relating to human trafficking and on the related investigations, prosecutions and convictions, as well as on compensation provided to victims.**

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<sup>58</sup> Director of Public Prosecutions, Instruction 1/2012 and 2/2012.

Norwegian authorities have still not implemented sufficient measures to effectively help victims of trafficking. Little has been done in order to raise awareness of the problems of trafficking through information campaigns or education campaigns nationally in Norway. In particular increased knowledge among police, prosecutors and judges is crucial.

There must also be an increased focus on helping the victims of trafficking through an extended reflection period and a legal possibility to have an asylum case processed in the reflection period. Norway also needs to take more seriously measures to reduce children's vulnerability to trafficking.

Save the Children Norway has recently published a report<sup>59</sup> to examine child protection officers' competence concerning children exploited in trafficking and to increase the knowledge of the issue among decision makers who influence the external conditions and guidelines for the activities of the child protection service, central actors in the fields of trafficking in persons and child protection, as well as the individual child protection officer. One of the main recommendations from the organization's report is to establish a national centre of competence on trafficking in persons and in problems related to migration to deal with cases involving children without connection with Norway and vulnerable migrant children.

The police generally seem to be more focused on illegal immigration than identifying possible victims of human trafficking. This needs to be changed partly through more training on human trafficking mechanisms and resources to prioritize the identification process of possible victims.

There is furthermore a need for widening the focus on trafficking related problems beyond prostitution related cases. There has been a lack of actions towards identifying other forms of exploitation, such as; forced labour or services related to au-pair, begging, drug related crime by force or domestic servitude.

*Recommendations to Norway:*

- *Raise general awareness and knowledge of the problems of trafficking, in particular among police, prosecutors and judges.*
- *Help the victims of trafficking through an extended reflection period and a legal possibility to have an asylum case processed during the reflection period.*
- *Take measures to identify and help victims of other forms of exploitation than prostitution, such as; forced labour or services related to au-pair, begging or drug related crime.*

## **Issue 22: Children disappeared from asylum centres**

**Please provide information on measures taken to address the concern about the disappearance of children from asylum centres. Please provide updated statistics on the number of children who have disappeared from asylum centres since the consideration of the previous report. Information should also be provided on the reasons for these disappearances.**

There has been a considerable increase in the number of unaccompanied minors who have disappeared from asylum centres in Norway. Recent numbers indicate that the problem remains at a high level<sup>60</sup>. Often, the children disappear after being denied asylum in Norway. Children leaving the asylum centers on their own may be victims of human trafficking and are anyway at risk of similar forms of exploitation. Their care situation is a cause of serious concern. Unaccompanied minors between 15-18 years of age do not fall within the area of responsibility of the Child Welfare system, which would have improved their care situation as compared to the situation today.

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<sup>59</sup> Trafficking in children – is it my responsibility? A mapping of the knowledge, competence, and understanding of responsibility among child protection employees.

<sup>60</sup> Save the Children Norway has been informed by the Directorate of Immigration that in the period 1 January – 31 August 2012, 68 unaccompanied asylum seeking children have disappeared.

We regret that The Child Welfare Act chapter 5A, has only been put into force for asylum seeking children below the age of 15. Had this part of the law been applicable also for asylum seeking children in the age interval 15-18, that group would have had a better care situation, which could help prevent disappearances, trafficking and other forms of exploitation.

According to the periodic report the state party assume *“that the majority of children who leave a reception centre do so voluntarily...”* and that: *“ many of these persons, including children registered as “disappeared” leave reception centers to avoid being obliged to leave Norway”*. These assumptions are not justified or explained.

The Government’s Plan of Action against Human Trafficking 2011-2014 contains specific measures to prevent trafficking of children<sup>61</sup>. One specific measure is to prevent and investigate the disappearance of minors from asylum centers. In a recently published status report this measure is reportedly *“being carried out”*. Specific information on which concrete steps the government have taken to this effect so far is not easily available.

A provision in the Immigration Regulations which entered into force on 1 May 2009, states that an unaccompanied asylum-seeking child between the ages of 16 and 18 years may be granted a temporary permit that expires when the child reaches 18 years of age. The provision reflects a more restrictive policy than previously. Several of the unaccompanied children to which the provision has applied have disappeared when they turned 18 years of age and are living underground in Norway or are on the move in Europe, according to Save the Children Norway.

*Recommended questions:*

- *Norway could be asked to explain the justification for its assumption that most children leave asylum centers voluntarily or to avoid leaving Norway;*
- *Norway could be asked to provide more facts about the routines and guidelines used when a child disappear from an asylum center; and to inform which concrete measures are being taken to prevent and investigate the disappearance of minors from asylum centers.*
- *Norway could be asked why the Law on Child welfare services discriminates between asylum seeking children and other children between 15-18 years of age, as the services apply to Norwegian children in this age bracket, but not to asylum seekers, and especially why there is no progress plan to include these children in the child welfare system in the future (at least no such plan is known of at the time of writing).*

*Recommendations to Norway:*

- *It is recommended that the State party allocate sufficient competence and resources to the immigration authorities and to the police for preventing and investigating possible cases of trafficking when children disappear from asylum centers.*
- *The State Party should amend the law so as to give legal competence and provide adequate resources for the Child Welfare Services to have the same responsibilities for all children in the realm, up to 18 years of age.*

#### **Issue 24: Mentally ill prisoners**

**Please provide information on steps taken by the State party to ensure that prisoners suffering from a mental illness are given access to appropriate health care and transferred to a specialized hospital when their condition so requires. In this respect, please describe steps taken to establish an independent commission with the authority to decide on the admission of mentally ill prison inmates to psychiatric hospitals.**

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<sup>61</sup> These measures are also presented in the Government’s Whitepaper “Children on the move”.

Despite cooperation-efforts between prison and health authorities on improving the situation of mentally ill prison inmates, the situation for this group does not seem to have significantly improved.

In spite of the fact that all prisoners are entitled to the same health care as other citizens, the prisoners' mental health care system has serious deficiencies. This is especially problematic as we see that the occurrence of mental health problems is much higher within the prison population than in the rest of the population.

The general experience of both doctors and psychologists working in Norwegian prisons suggests that prison inmates in need of specialized psychiatric health care are too often "shunted" backwards and forwards between the prison where they are serving their sentence, and local psychiatric inpatient wards. This is especially so for patients suffering from personality disorders incorporating significant behavioural problems, and for patients suffering from conditions with a clear psychotic content but who are not motivated for treatment. Because these inmates are moved back and forth between two independent health authorities, they do not receive the treatment their condition deserves, neither from prison health authorities nor from psychiatric inpatient wards. Improved formalized cooperation between the prison authorities of each prison, the health authorities of each prison and the regional hospital authorities could improve chances of securing adequate treatment at an adequate level.

The general development in Norwegian psychiatric health care recent years has been towards treatment in smaller outpatient clinics, resulting in a nationwide reduction of psychiatric 24-hour treatment facilities, and a reduction of treatment facilities with adequate security measures appropriate to accommodate patients from prisons.

Additionally, the report following the visit of the European Committee for the Prevention of Torture (CPT) in May 2011 declared:

"...., in particular at Bergen, Ila and Oslo Prisons, the delegation was informed of difficulties in transferring severely mentally-ill prisoners to psychiatric hospitals (especially for longer-term treatment). In a number of cases, when the persons concerned were discharged after a few days' stay in an acute psychiatric ward and referred back to the prison, they were not yet able to cope with life in prison. The CPT wishes to stress once again that prisoners suffering from a severe mental illness should be cared for and treated in an adequately equipped and staffed hospital setting. The Committee reiterates its recommendation that the Norwegian authorities take the necessary steps to ensure that such prisoners are transferred to an appropriate psychiatric unit/hospital.<sup>62</sup>"

The capacity of the mental health care system within prisons is constricted. Most prisons do not have a psychologist. In those prisons which do have one, the psychologist is often so overworked that prisoners must wait a very long time before the psychologist is able to see them.

Juss-Buss has reported that prisons use personnel without proper medical training to assess the mental health of prisoners. Such assessments are used as basis for decisions regarding prioritising prisoners' need for psychiatric treatment and whether the prisoner needs psychiatric care from psychologists outside the prison. If the prisoner claims to be in need of mental health care, but there is no such service inside the prison, the non-medical personnel of the prison decide whether the prisoner should get such examinations. Juss-Buss has further reported that non-medical considerations take precedence over medical considerations also in other cases. As an example, a prisoner which the prison concedes is in need of psychiatric treatment will not receive such help if the prison does not have a psychologist available in prison, and the prison considers the security risk

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<sup>62</sup> Page 30, paragraph 70.

is too high to allow the prisoner to be escorted by police to a psychologist outside the prison. If there is a disagreement between the prison health services, for instance a general practicing doctor and the prison authorities on a prisoner's need for health care, the matter will be resolved by the prison authorities, and the medical advice of the general practising doctor might be overridden.

Individuals suffering from acute mental illnesses while in custody, are still the responsibility of the police even if they are kept in prisons. If they need to be transported to any kind of specialist health care, including to a psychiatric hospital, the police is responsible for the transportation. However, the police cannot and will not always prioritise these kinds of assignments over other obligations and as a result the person remanded must often wait a long time to see the specialist. Norway should establish a system for transporting persons remanded so they can receive specialist health care outside the prison within reasonable time.

The nationwide survey of the mental health of prison inmates will, when it is finished in a few years, say something about the prevalence and distribution of mental illness among Norwegian prison inmates. This is in itself important, but will not give advice as to how to ensure mentally ill prison inmates adequate treatment when they need it. Political will and a clear strategy are required to solve the problems that the statistics can illustrate and document.

Resource sections – smaller units to provide better adapted conditions for prison inmates who show various types of dysfunctional behaviour have been recommended by all major consulted parties, as reflected in the State Party report<sup>63</sup>. Such resource units could be important for some of the prison inmates with dysfunctional behaviour, personality disorders (with or without episodic psychotic symptoms), minor mental illnesses, drug problems (with or without episodic psychotic symptoms), sexual offenders, elderly inmates, and some inmates with minor intellectual disabilities. However, the resource units are not meant for, or planned for, prison inmates with severe mental illness, and therefore this part of the State Party's reply is irrelevant to the content of the question raised by the CAT.

The State Party has reportedly considered the recommendation to establish an independent commission with the authority to decide on the admission of mentally ill prison inmates to psychiatric hospitals, but appear to deem that the efforts by the Supervisory Commission and the Parliamentary Ombudsman for Public Administration are adequate<sup>64</sup>. In our experience these bodies do not function adequately in this regard. In fact, what role these bodies have, and what mandates they are operating under, in securing the treatment needs of mentally ill prison inmates, is not clear. Should the Supervisory Commission and the Parliamentary Ombudsman for Public Administration perform such a function, they have to be staffed with sufficient qualified personnel, and roles and mandates has to be amended and clarified to this effect.

*Recommended questions:*

- *What concrete measures will the state party take to ensure that 24-hour treatment facilities with adequate security measures to accommodate mentally ill prison inmates are available to all mentally ill prison inmates in Norway when they need it?*
- *Will the Norwegian state party ensure that the needs of inmates without major mental illness, but with severe and/or episodic behavioral, cognitive, mental or intellectual dysfunction are met through assessment and planning of relevant health-care? And will this*

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<sup>63</sup> Para. 208.

<sup>64</sup> Para. 207.

*be given the sufficient funding for it to happen in the best possible way? And will this include establishing resource units in various prisons?*

- *How will the Norwegian state party ensure that the Supervisory Commission and the Parliamentary Ombudsman for Public Administration will be able to fulfil a mandate of supervising if the treatment needs of mentally ill prison inmates are met?*

*Recommendations to Norway:*

- *Ensure that all prisoners in practice have access to adequate mental health care.*
- *Make detailed guidelines on how the mental health care in prison should be organised.*
- *Establish a system for transporting persons remanded so they can receive specialist health care outside the prison within reasonable time.*

## **Issue 25: Restraints while transporting patients to psychiatric establishments**

**Please indicate if measures, including legislation, have been taken to regulate and minimize the use of police and restraints, such as handcuffs and ankle cuffs, for the transportation of patients to psychiatric establishments and to ensure that adequately trained health personnel are used for this purpose.**

Patients with psychiatric problems who have been diagnosed by the health services (health authorities; doctor, first Aid Service, psychiatrist or psychologist) as needing treatment in a psychiatric institution, but who do not wish this and therefore need to be forced, have often been fetched by a police transportation van and police personnel. The Police personnel are allowed to use belts, hand cuffs, ankle cuffs or other means if the patient is aggressive or too agitated, so that to calm the patient seems necessary. Many patients have expressed that this feels like a violation and say that they are not given the same respect as patients with somatic illnesses. Patients as well as their families have expressed as very disgraceful experiences when neighbours observe the patient being forced into a police vehicle, as being treated like criminals.

In later years there has been more awareness within psychiatric professions that patients in the difficult situation of involuntary admission and transportation to a psychiatric institution are to be treated with more respect. Patients' organisations have demanded transport by ordinary ambulances with health personnel with relevant experience. Police officers should only be used in cases where special skill and rights are needed; for instance if the patient has locked himself up and refuses to open the door to his apartment, as only the police are allowed to force the door open. Or if the patient is so aggressive that the police need to be in the car to prevent him (or her) from injuring himself or other people. In such cases the least coercive and intrusive methods should be used.

In 2005 Bergen was the first city in Norway which established a special "psambulance" («psykebil»), looking like an ordinary ambulance from the outside, but with special equipment inside needed for a patient with psychiatric problems rather than somatic ones. For instance comfortable seats, room for a family member, or a friend or a health worker the patient knows and trusts. Means to keep the patient quiet, like belts or other instruments are available but must be used as carefully and securely as possible. "Psambulances" are now used by almost all psychiatric patients within the Western Health Region. In the Central region attempts at establishing such a service is also underway, at least in the city of Trondheim. In the Northern region attempts have stalled, while in the South-East region they have not started.

Even in the areas where a "psambulance" system is in place, services are most often not running at night or during weekends. Another problem is the lack of competent personnel, as the general idea is that two professionals are needed in addition to the ambulance driver. All of them will need education and experience for this type of assignment. Professional organisations in this field are complaining about a lack of training and courses on how to treat patients in such crisis situations.

The Standing Committee on Health and Care at the “Storting” (Parliament) underlines that the provision of ambulance services to “acute” psychiatric patients is the responsibility of the Health Authorities. In their comment to the National Budget 2012, the Committee makes a clear recommendation to establish a national ambulance service for psychiatric patients.

The Directorate of Health and the Directorate of Police has newly issued revised guidelines for cooperation between health personnel and police for transportation of mentally ill patients. We welcome the fact that the guidelines encourage local health and police authorities to establish routines for transportation of psychiatric patients in order to reduce the use of force<sup>65</sup>.

*Recommended questions:*

- *A 24 hour ambulance service is available to somatic patients all year around. Why is a similar service not already in place for psychiatric patients?*
- *Which measures are being taken to reduce the use of uniformed police cars for transportation of mentally ill persons?*
- *When will the use of transportation of mentally ill persons in uniformed police cars be completely terminated?*

*Recommendation to Norway:*

- *To provide an appropriate ambulance service for all patients with acute psychic disease.*

### **Issue 26: Use of force in psychiatric institutions**

**Please provide information on measures taken to minimize the use of force in psychiatric institutions. In this respect, please provide statistical data on the use of coercive means in psychiatric institutions, including the use of restraints, seclusion and electroconvulsive treatment (ECT).**

In an alternative report to the UN Human Rights Committee regarding Norway’s sixth Periodic report as of December 2010 from the Norwegian NGO-forum for Human Rights<sup>66</sup>, it is made clear that the widespread use of force in Norwegian psychiatric institutions is of great concern and should be reduced through different means. This report points out a number of reasons for the partially unnecessary use of force and presents different proposals for an improvement in this situation.

According to the 2011 CAT State Party report, the Norwegian Government is aware of this situation and has taken certain measures aiming at reducing the use of force in Norwegian psychiatry. In 2006 the Norwegian Directorate of Health launched an action plan to reduce and ensure quality in the use of coercive interventions in the Norwegian mental health services. In 2012 the Directorate of Health has also given 7 million NOK to different projects that aim to reduce the use of coercive measures in 2012. NGO’s and mental health services have been able to apply for support from these funds.

However, by 2012 no substantial reduction of the use of force has been noticed. The Government should make a focused effort to reduce this problem and provide clear instructions to the health regions and individual psychiatric institutions where substantial reductions are needed.

It is of great importance to ensure that reliable and valid statistical data are being produced in order to provide an overview sufficient for effective management and control so that action can be taken on any indications of any possibly systematic excessive or arbitrary use of force. Sharing such statistical data with the public is essential to counter the possible effects of the closed nature of psychiatric institutions.

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<sup>65</sup> <http://www.helsedirektoratet.no/publikasjoner/helsetjenestens-og-politiets-ansvar-for-psykisk-syke/Publikasjoner/helsetjenestens-og-politiets-ansvar-for-psykisk-syke.pdf>

<sup>66</sup> <http://www.nhc.no/no/nyheter/Report+on+Civil+and+Political+Rights+in+Norway.9UFRnQ4P.jpg>

The State Party acknowledges that “the quality of statistical data is unsatisfactory”<sup>67</sup>, and suggests that there appears to have been very small changes in the overall level of use of force. We believe this could have been elaborated further.

The huge geographic variation in all coercive interventions, indicate that one should be cautious when using and analyzing mean-numbers in health statistics, and also look at the geographic variation and numbers per ward or area. The huge variations further suggest that the use of coercion may be beyond what is strictly necessary in some institutions, raising concerns over possible arbitrary deprivation of liberty and use of coercion at some wards and in some areas. This has been known for some years and urgent action should be taken to assist and monitor those units with the highest incidences of the use of coercion.

The regular health statistics on **restraints and seclusion** are of insufficient quality, and numbers are uncertain. To improve the quality should be a priority. Seclusion in Norway is also called “shielding” and resembles what they in the UK is call “open ward seclusion” or “segregated nursing”. Patients are held in a special area or room while being observed by staff. Patients are not to be left alone under seclusion. It is the same with patients in restraints, which in addition shall be seen to by a medical doctor. National health statistics gave the following numbers on seclusion and restraints in 2009<sup>68</sup> (all wards):

- Mechanical restraint was used 4426 times towards 1065 persons. Median time in restraints was 3 hours and 15 minutes.
- Seclusion was used 2689 times towards 1406 persons. Mean time in seclusion was 139.5 hours (5.8 days each time).

A high quality study from 2006 on coercive interventions in Norwegian acute psychiatric wards investigated the amount of seclusion and restraints in that year. The percentage of involuntary admitted patients exposed to seclusion, restraints or involuntary depot medication was in the range of 0–88% across wards. The total number of involuntarily admitted patients in the sample was 1214 (35% of the admitted patients). Of the involuntarily admitted patients, 424 (35%) had been shielded (subject to seclusion), 117 (10%) had been restrained, and 113 (9%) had received involuntary depot medication at discharge<sup>69</sup>. Bjørkly et al (2011) showed that 75 percent of the times coercive interventions were used, were in acute psychiatric wards or forensic wards.

Regarding the administration of **electroconvulsive (ETC) treatment**, no information exists in Norwegian mental health statistics. According to the law, Electroconvulsive treatment (ETC) requires informed consent from the patient. However, ECT is in fact administered involuntarily with reference to the “principle of necessity”, subject to the approval of the medical offices of County Governors. The principle of necessity is used even though ECT is never administered without being scheduled beforehand. As the patients in question may suffer from severe depressions, dementia or psychosis, legitimate questions can be raised whether they have the capacity to consent to ECT. Statistics should inform not just about the overall use of the ECT in Norwegian hospitals but also on the application of ECT where the consent of the patient is questionable or not present. This information should be reported separately.

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<sup>67</sup> State Party Report, para 214.

<sup>68</sup> Bjørkly, Knutzen, Furre & Sandvik (2011). *Innsamling og analyse av data om bruk av tvangsmidler og vedtak om skjerming*. Kompetansesenteret for sikkerhets- fengsels- og rettspsykiatri helseregion Sør-Øst.

<sup>69</sup> Husum, Bjørngaard, Finset & Ruud (2010). Use of coercion in acute psychiatric wards –patients, staff and ward characteristics. BMC Health Services Research. 10:89: doi:10.1186/1472-6963-10-89. Open Access.

#### *Recommendations to Norway:*

- *Give clear and detailed regulations on the use of force in psychiatric institutions aiming to reduce the use of force substantially.*
- *Take appropriate urgent action to assist and monitor those psychiatric institutions known to have the highest incidences of the use of coercion.*
- *Establish a system for the collection and publication of uniform statistical information on the use of force, including the incidence of ECT, without further undue delay. Research on the use of coercive measures in psychiatric institutions should also be supported.*

## **Other issues**

### **Issue 28: Interim measures**

**Please provide updated information on any changes in the State party's position with regard to interim measures requested by the Committee in light of article 22 of the Convention and the principle of good faith.**

With reference to the decision of May 2007 by CAT that Norway violated Article 22 of the Convention in the case of Nadeem A. Dar regarding the lack of adherence to the special rapporteur's request for an interim measure under Rule 108, cf Article 22, Norway has not accepted the Committee's position. In a Supreme Court decision it was held that the decision to deport contrary to the request for interim measure was not in violation of international law<sup>70</sup>.

Norway considers itself to be bound to adhere to the requests for interim measure under Rule 39 of the European Court of Human Rights, and has in 2011 adhered to several Rule 39 decisions regarding Dublin II-returns to Italy. However, the authorities do not acknowledge that the supervisory body of CAT has the same competence when assessing the facts and law of an individual complaint.

The case of Nadeem A. Dar is still not solved. When Dar was taken back to Norway on 30<sup>th</sup> April 2006, he was given a 3 year permission to stay by the Immigration Appeals Board (UNE). This permission was revoked by the Directorate of Immigration (UDI) in a decision of 28<sup>th</sup> December 2010, as the 3 years permit was not in accordance to law. A complaint was lodged against UDI's decision of 28<sup>th</sup> December 2010. UNE informed that it would be handled before the summer of 2011. In the fall of 2011, UNE informed that the handling of the case would take longer.

#### *Recommendation to Norway:*

- *To adhere in all cases to request for interim measures issued by the Committee and the Special Rapporteur.*

### **Issue 29: Ratification of the optional protocol to the Convention**

**Please state what measures have been taken to ratify the Optional Protocol to the Convention, which the State party signed on 24 September 2003. Please elaborate on the reasons why the State party has not yet ratified this Protocol.**

In the Norwegian Government's report it is stated that the work with a view to ratifying and implementing the Optional Protocol of the Convention is one of Norway's national human rights priorities, and that the Norwegian Government is currently considering practical and economic issues regarding the national preventive mechanism. Many Norwegian NGOs have criticized the slow pace of progress and called for ratification.

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<sup>70</sup> Rettstidende 2008, page 513.

There has been some development over the past year though. The inter-ministerial working group referred to in the State Party report<sup>71</sup> was established by the government in June 2011, with the aim to elaborate proposals for the national preventive mechanism. The working group was also asked to report on the consequences of a possible ratification of the optional protocol. The working group's report was submitted in April 2012, and was then the subject of a public hearing. The deadline for participation in the hearing expired in September 2012.

Several NGOs that took part in the hearing criticized the fact that the mandate of the inter-ministerial working group focused on a given solution (or a given narrow set of solutions) for the preventive mechanism and that this solution had not been the subject to a hearing or other form of public process or consultation.

The inter-ministerial working group's recommendation was to appoint The Parliamentary Ombudsman as a NPM. Several NGOs held that other alternative would be more satisfactory and better serve the purposes of a NPM. They made reference to and expressed support to the recommendations of the report "Review of the Norwegian Center for Human Rights in its capacity as Norway's National Human Rights Institution" from March 2011. The Review Team behind the report recommended to ensure an effective National Institution by establishing a Norwegian Commission for Human Rights, as an autonomous and independent institution with its own secretariat and institutional identity. It was proposed that the Commission should be composed of a Chief Commissioner and two commissioners. The three Commissioners should have outstanding legal or other skills in human rights and experience from international and/or national work in the human rights field. Together, the Commissioners should reflect the pluralism of Norwegian society.<sup>72</sup> The NGOs expressed that the NPM should be placed with a Commission for Human Rights established as a National Institution for Human Rights according to this proposals.

*Recommendation to Norway:*

- *as a matter of urgency ratify the Optional Protocol and ensure that a National Preventive Mechanism is established as soon as possible, following the general guidelines for such a preventive body. The independence, integrity and credibility of the body to be established must be ensured. The process of its design, and its method of work, should be open to non-state actors, including Human Rights organizations and other stakeholders.*

### **Issue 31: Anti-terror measures**

**Please provide updated information on measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these measures have affected human rights safeguards in law and practice, and how it has ensured that those measures taken to combat terrorism comply with all its obligations under international law. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures and whether there are complaints of non-observance of international standards and the outcome of these complaints.**

On an overall positive note, the acts on 22<sup>nd</sup> July 2011 against the government and at Utøya have not led to any dramatic changes in Norwegian legislation on terrorism and related topics. The reactions to the acts have been kept within the already existing criminal procedures and respected the rule of law.

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<sup>71</sup> Para 217.

<sup>72</sup> The review team was appointed by the Norwegian Ministry of Foreign Affairs. Their final report is available at <http://www.jus.uio.no/smr/om/nasjonal-institusjon/om/docs/NINorwayFinalUD-14.03.11.pdf>

Even if Norway has amended its terrorist definition to accommodate past criticism for it being too vague and broad, the definition in section 147 b of the *General Civil Penal Code* remains excessively broad. The definition does not delineate the required seriousness of an act in order for it to be considered “terrorism.” It captures in litra a) individuals with malicious intent but who in effect may not be considered dangerous. Litra b) may be encompassing almost any act, leaves too much room for interpretation and does not provide foreseeability. Litra c) refers to the very nebulous concept of “any act of crucial importance for the country.” The revision has therefore not achieved the desired focus on how to describe the threshold of when a threat or act is sufficiently serious to be considered “terrorist.” It also lacks precision as to which situations it is applicable, as it does not stipulate types of armed conflict and nature of opposition groups that may fall outside its scope.

*Recommendation to Norway:*

- *To review the definition of terrorism in the General Civil Penal Code to ensure full compliance with the Covenant and congruence with International Humanitarian Law as stipulated in the Geneva Conventions and their protocols.*

## **General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

### **Issue 32: Legal and institutional framework.**

**Please provide detailed information on relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the previous periodic report, including any relevant jurisprudential decisions.**

At the moment the government is considering the future organization of Norway’s National Human Rights Institution. Norwegian NGOs have promoted that a strong and independent human rights Commission should be established by law or in the Constitution. It has been argued that the national preventive mechanism should be placed with such a Commission, cfr. issue 29, “Ratification of the optional protocol”.

### **Issue 33: Measures to promote human rights at the national level**

**Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since the previous periodic report, including on any national human rights plans or programmes, and the resources allocated to it and its means, objectives and results.**

### ***Follow-up to concluding observations from treaty-bodies***

Norwegian NGOs have pointed out that the follow-up procedures to the Concluding Observations from UN treaty bodies vary a great deal and are left to individual ministries to define. The procedures vary from mere distribution of the English language recommendation and a listing which ministry is responsible for which recommendations, as was recently the case of ICCPR outcomes, to a more elaborate process involving focused consultation meetings with civil society leading into publicly available, written elaboration of measures to be taken as follow-up to each recommendation, as has been the case of CRC outcomes. The government does not seem to perceive this variation as a problem, whereas NGOs have argued that a systematic approach is needed and that the work done on CRC concluding observations could be a starting point for designing a uniform follow-up model<sup>73</sup>.

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<sup>73</sup> Letter from the Norwegian NGO-forum of Human Rights and the government response is available in Norwegian at:

*Recommended questions:*

- *What type of follow-up measures is Norway planning regarding the outcomes of the hearing?; What sort of processes will be employed to analyse what action needs to be taken?; How does Norway plan to involve civil society in these processes?*

*Recommendations to Norway:*

- *Carefully analyse what measures needs to be taken in an open process involving civil society;*
- *Define in writing the measures, benchmarks, timelines and responsibilities and implement the recommendations through co-ordinated action of responsible ministries.*

***Treaty body outcomes and international protection***

When considering cases of asylum and humanitarian protection the Norwegian immigration authorities do generally not make use of *UN human rights bodies` concluding observations* among their sources of information. Among the many different sources quoted in such decisions we are not aware of references to concluding observations, which at least indicates that concluding observations are highly underutilised as sources.

Concluding observations contain relevant information regarding possible risks of human rights violations in nearly every country of the world. The observations are results of a dialogue between the human rights bodies and *State Parties*. There have been possibilities for State Parties to refute allegations by NGOs, *UN special procedures* or other *UN Member States*. The basis of the concluding observations may therefore be better than reports by Norwegian authorities which have not been through such a contradictive process. When a UN human rights body following a contradictive process concludes that there are concrete concerns regarding certain provisions of a human rights treaty, this should be an important information source also for the Norwegian authorities when considering a case where the individual alleges risks of violation of the same provision. Although lawyers have called attention to this, the concluding observations of *UN human rights treaty bodies* are still not at the list of sources used by the Norwegian immigration authorities. It may therefore be likely that possible risks of violation of human rights have not been thoroughly considered and that persons have under such risks have been deported by Norwegian authorities.

*Recommendation to Norway:*

- *Concluding observations and decisions of UN human rights treaty bodies, including CAT, should be taken systematically and fully into account by Norwegian Immigration authorities when assessing country situations and individual applications for international protection.*

***Issue 34: Additional information***

**Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2007, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.**

***The planned prison for foreigners at Kongsvinger***

For the first time in Norway, it has recently been decided to open a separate prison for foreign inmates with a deportation order, at Kongsvinger prison. The prison will have room for 97 prisoners,

and will be “specially adjusted” for the foreign prisoners, as they are “not returning to the Norwegian society”.<sup>74</sup> Other information about the prison is not known.

Based on public statements from government officials, we fear that the conditions in the prison will be of a substantially lower standard as compared to prisons for Norwegian citizens. This may concern the general standard of living in the prisons, as well as the health care and educational programs available.

*Recommended questions:*

- *Please provide elaborate reasons as to the need for a separate prison for foreign inmates with a deportation order, and inform about how the prison for foreigners at Kongsvinger will differ from regular Norwegian prisons.*

*Recommendation to Norway:*

- *Any separate unit for foreign prisoners must meet all basic standards for prison conditions and comply with relevant non-discrimination provisions in international human rights law.*

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<sup>74</sup> Prop. 1 S (2012–2013) Proposisjon til Stortinget (forslag til stortingsvedtak) page 20