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Norway's 7th Report to the Committee Against Torture

Submitted 13 July 2011

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Introduction

This report is submitted in pursuance of Article 19 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, which entered into force in Norway on 26 June 1987. The report is organized in conformity with the new optional reporting procedure adopted by the Committee against Torture at its thirty-eighth session (May 2007), which Norway accepted on 14 April 2010.

The report deals with changes in legislation and legal and administrative practice relating to the individual material provisions of the Convention that have been made since the Government of Norway submitted its fifth periodic report (CAT/C/81/Add.4), with reference to the list of issues adopted by the Committee against Torture (CAT) at its forty-third session (CAT/C/NOR/Q/7), in accordance with the new optional reporting procedures established by the Committee at its thirty-eight session. Reference is made to the general description of Norwegian society in the core document (HRI/CORE/NOR/2009).

II. Specific information on the implementation of Articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

Articles 1 and 4

1. ***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)***

Norway has a dualist legal system. This means that international human rights conventions must be incorporated or transformed into Norwegian law in order to be directly applicable.

Notwithstanding this dualist approach, it is a general principle of Norwegian law that it should be interpreted in accordance with Norway's obligations under public international law, regardless of whether or not the relevant international provisions have been incorporated.

According to the General Civil Penal Code, the Criminal Procedure Act and the Immigration Act, the provisions of the Act apply with the limitations that follow from public international law.

The Convention against Torture (the Convention) is partly incorporated into Norwegian law through section 117 of the General Civil Penal Code a (see below).

Five core human rights Conventions have been incorporated into Norwegian law under the Human Rights Act (the UN Covenant on Civil and Political Rights, the UN Covenant on Economic, Social and Cultural Rights, the UN Convention on the Rights of the Child, the UN Convention on the Elimination of All Forms of Discrimination against Women and the European Convention on Human Rights.) The Government has no current plans to extend this list.

2. ***With reference to the Committee's previous concluding observations, please provide information on any steps taken to bring the wording of the definition of***

torture in the Penal code fully into line with the definition of the convention, to ensure that it comprises all elements, including all types of discrimination, as possible motives (CATC/NOR/CO/5, para.5)

Section 117 a of the Norwegian General Civil Penal Code reads as follows:

> Any person who commits torture shall be liable to imprisonment for a term not exceeding 15 years. In the case of aggravated and severe torture resulting in death, a sentence of imprisonment for a term not exceeding 21 years may be imposed. Any person who aids and abets such an offence shall be liable to the same penalty.
>
> Torture here means that a public official inflicts on another person harm or severe physical or mental pain,
> a) with the intention of obtaining information or a confession,
> b) with the intention of punishing, threatening or compelling someone, or
> c) because of the person's creed, race, skin colour, sex, homosexual inclination, lifestyle or orientation or national or ethnic origin.
>
> In this provision public official means anyone who
> a) exercises public authority on behalf of a state or municipality, or
> b) performs a service or work that a state or municipality shall pursuant to a statute or regulation appoint someone to perform or wholly or partly pay for.
>
> Torture also includes any acts referred to in the second paragraph committed by a person who acts at the instigation of or with the express or implied consent of a public official.

The wording of section 117 a is largely in line with the definition of torture as set out in Article 1 of the Convention. However, the wording employed to describe the types of discrimination which may constitute a motive for an act of torture differs from the wording of Article 1. While the Convention refers to acts of torture committed for "any reason based on discrimination", section 117 a specifies the types of discrimination that constitute a reason for an act of torture. <<These are creed, race, skincolour, gender, homosexual inclination, lifestyle or orientation or national or ethnic origin>>. The Proposition to the Storting stated that the infliction of harm or severe physical pain on another person because of, for example, the person's political views, would be covered by section 117 a, second paragraph, litra a, cf. Ot.prp. nr. 59 (2003–2004), om endringer i straffeloven, straffeprosessloven og sjøloven mv., p. 157.

Section 174 of the new General Civil Penal Code of 2005 draws largely on section 117 a. The list of discriminatory grounds was, however, amended to include persons with disabilities. Section 117 a now lists the same discriminatory grounds as the provisions on hate crime and discrimination, cf. sections 185 and 186. The new Penal Code has not yet entered into force.

While acknowledging that there may be other relevant types of discrimination not listed in section 117 a, Norway still maintains that acts of torture committed on any grounds not listed in this provision may be covered by other parts of the provision. Norway therefore takes the view that the crime of torture as defined in section 117 a comprises all acts of

torture encompassed by Article 1 of the Convention. Section 117 a therefore fully complies with Article 4 (1), which states that "[e]ach party shall ensure that all acts of torture are offences under its criminal law".

Nevertheless, Norway will consider enumerating other relevant types of discrimination such as discrimination based on political views or sexual orientation in the finalisation of the new Penal Code of 2005. Norway does not rule out the possibility of replicating the wording of the Convention. We consider, however, that it is preferable to enumerate the relevant types of discrimination rather than replicating the exact wording of the Convention on this point. Specifying the constitutive elements of the crime of torture more precisely identifies the constitutive elements of the criminal offence. While a non-exclusive list may be appropriate for describing the obligations of State parties to the Convention, the translation of such obligations into penal law provisions that regulate individual criminal responsibility may warrant some adjustment of the wording used in the treaty text. Such adjustment may, for example, be warranted by the need to ensure due respect for the principle that the constitutive elements of a crime should be clearly defined in law (*lex scripta*).

Article 2

3. ***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.***

Reference is made to Norway's follow-up of 3 July 2009 to CAT, regarding recommendation no 9 in the Committee's General Observations to Norway. In response to the Committee's criticism, priority was given to establishing clear and precise rules concerning the rights of foreign nationals while in Norway. The Immigration Act of 15 May 2008 deals with detention (holding) centres for foreign nationals, including the rights of the foreign nationals placed in a detention centre. Furthermore, regulations providing a comprehensive set of rules dealing with the rights of persons staying at a detention centre were laid down by Royal Decree of 11 April 2008 and entered into force immediately. According to these regulations, the foreign nationals have the right to receive visitors, spend an hour outside every day, practice their religion, etc. These regulations also deal with conditions for temporary limitation of the rights and freedoms of persons kept at the detention centre.

In order to ensure that foreign nationals are treated in accordance with applicable legislation, so that their rights pursuant to statutes and regulations are safeguarded at the centre and that the authority to limit these rights is not exercised to an undue degree or in an unduly stringent manner, a supervisory board for the Police Immigration Detention Centre at Trandum (the Trandum Holding Centre) was established in May 2008 and began its activities in September 2008. The first annual report from the supervisory board (2008) was forwarded to the Committee as Appendix 3 to the letter dated 3 July 2009. The annual reports for 2008, 2009 and 2010 are provided in appendices 1, 2 and 3 to this report.

The report for 2010 provides statistical information regarding the number of residents at the detention centre during the different months. During the visits of the board, the foreign

nationals were given the opportunity to talk to the board members as described in section 4 of the report.

The use of arrest and detention is often necessary in order for the police to establish identity and prepare returns of foreign nationals who do not have legal residence in Norway. In 2010, 543 foreign nationals were arrested, many of whom had committed crimes while in Norway.

The statistics for 2009 and 2010 were as follows:

Reason for detention	**2009**	**2010**
Unclear identity	115	54
Forcible return	437	489
Total	552	543

Year	**2009**	**2010**
Total number of residents	2795	2123
Total number in custody	642	529
Number of overnight stays	10210	7431

Section 14 of the Royal Decree of 11 April 2008 gives detailed rules concerning the kinds of information that should be registered. Trandum Detention Centre keeps electronic registers in accordance with Section 14. A new electronic system is being developed that will make it easier to provide more detailed statistics in the future. This new system should initially be operational by 2012. However, some delays are expected.

4. ***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.***

The Working Group on Arbitrary Detention raised concerns regarding the current rules on preventive detention (‘forvaring’) which entered into force on 1 January 2002 to replace the previous system of preventive detention (‘sikring’). Firstly the working group pointed to the indefinite nature of preventive detention under Norwegian law. According to section 39 e of the Norwegian Penal Code of 1902, a sentence on preventive detention shall be fixed to a period of time which may not exceed 21 years. A sentence on preventive detention may, however, be extended for a period of five years at a time. In extreme cases, therefore, a sentence on preventive detention may last for an indefinite period and in theory for life.

Norway maintains that on balance the indefinite nature of preventive detention is justified by the need to protect society from offenders who have committed serious crimes against life, liberty or health in cases where there is deemed to be an imminent risk that the offender will again commit another serious felony and where the ordinary term of imprisonment is insufficient to protect other members of society. The indeterminate nature of preventive detention is warranted because at the time of conviction it is not possible to estimate how long there is a danger that the offender will commit a further offence, cf.

Ot.prp.nr. 87 (1993-1994). om lov om endringer i straffeloven m.v (strafferettslige utilregnelighetsregler og særreaksjoner, section 8.7.3). The level of repression in Norway is low in comparison with many other states, even for serious crimes such as murder, rape and grievous bodily harm. The ordinary fixed term of imprisonment imposed by the court in cases involving serious crimes is therefore not always sufficient to protect society.

It should be emphasised that the threshold for imposing preventive detention, and for extending a sentence on preventive detention, is high. The procedural guarantees enjoyed by the offender, in particular the right to apply for provisional release once every year, further compensate for the indefinite nature of the preventive detention system, cf. sections 39 c and f of the Penal Code.

Norway would also like to draw the Committee's attention to a recent comprehensive evaluation of the new system of preventive detention. The report was submitted on 30 April 2008 by a working group (the Mæland Working Group) appointed by the Ministry of Justice and the Police (cf. Etterkontroll av reglene om strafferettslig utilregnelighet, strafferettslige særreaksjoner og forvaring). The evaluation included an analysis of all judgments on preventive detention issued between 2002 and 2006, in total 125 judgments. This includes 48 judgments based on law applicable prior to entry into force of the new provisions on preventive detention that had been converted to judgments on preventive detention in accordance with the present legislation. The term of preventive detention set out in 15 of these judgments had expired as of 31 December 2007. Preventive detention was extended in only six of these cases, while eight persons were released at the end of the term of preventive detention set initially. Fifty-six persons had been released on probation. This indicates that the practice of extending the initial term of detention is restrictive.

It should be emphasised that the indefinite nature of the system of preventive detention calls for adequate follow-up so that the offender can be gradually prepared for provisional release. The basis for this practice is that the offender is able to adjust gradually to a life without deprivation of liberty. This approach is considered to be a more adequate response to the concerns of society at large than direct release from a restrictive sentencing regime. The aim is that in this way the sentence will end without the necessity for an extension. However, the Mæland Working Group concluded that the system of gradually preparing offenders for provisional release is not satisfactory. Norway is aware of the concerns raised by the working group and will consider this issue carefully as part of its follow-up to the group's report. It should be noted, however, that on several occasions the judiciary has decided on provisional release in cases where this has not been recommended by the correctional services on the grounds that sufficient progress had not been made.

The Working Group on Arbitrary Detention has further expressed concern as regard the application of preventive detention in cases concerning young offenders. Reference is made to the case of a 17-year-old boy, charged with arson, for whom the prosecution authority successfully requested preventive detention from the District Court. The decision was later reversed on appeal. As emphasised above, the aim of preventive detention is to protect other members of society. Society may be in need of protection regardless of the age of the offender. Therefore, under extraordinary circumstances and as a last resort, this measure may be deemed to be necessary even in the case of young offenders. So far the judiciary has had a restrictive practice with regard to imposing preventive detention in cases concerning young offenders, cf. Rt. 2002 p. 1677 and Borgarting Court of Appeal, judgment of 30 November 2006. Reference is made also to the report of the Mæland

Working Group, which states that the judiciary has been restrictive in imposing a sentence of preventive detention in cases where the offender is of a young age. The Mæland Working Group therefore found no reason to propose a prohibition against imposing sentences on preventive detention in cases concerning young offenders.

The issue of preventive detention in cases concerning young offenders was also discussed in a recent report on children and punishment, cf. NOU 2008: 15 Barn og straff – utviklingsstøtte og kontroll. This report, however, includes a proposal to abolish the possibility of imposing preventive detention on offenders below the age of 18 years. This report has been followed up by a proposal from the Government for legislative amendments. The Norwegian government proposes that preventive detention may still be used in cases concerning young offenders. However, the conditions are strict and according to the proposal, preventive detention cannot be used unless extraordinary circumstances exist.

The Working Group on Arbitrary Detention has also questioned the use of short sentences of preventive detention. Reference is made to a case in which the court had imposed a sentence with a minimum term of six months and a maximum of one year. When passing a sentence of preventive detention the term fixed by the court should normally not exceed 15 years and may not exceed 21 years. Release before expiry of the period of preventive detention can only be effected on probation. Such release may be subject to condition set out by the judiciary, cf. section 39 f and g of the Penal Code. The sentence is terminated at the end of this term unless the prosecution authority has asked for an extension no later than three months before the period of preventive detention expires. Assessing the risk of reoffending is difficult. Although the court may have sufficient basis for assessing the risk in the near future, the basis for assessing whether there is a risk that the offender may commit a new serious offence in the more distant future is uncertain in many cases. With a short sentence of preventive detention, therefore, the offender may be released unconditionally rather than on probation if the requirements for preventive detention are no longer met after a few years.

The Mæland Working Group noted that the correctional services have expressed some concerns regarding the use of short sentences of preventive detention on the grounds that they do not allow adequate time for preparing the offender for release. However, the working group did not find any basis for suggesting amendments to the rules currently in force on this point.

The Working Group on Arbitrary Detention finally raised the concern that the judiciary has to rely on the assessment and information provided by the correctional services when deciding on release, and that it appeared difficult for prisoners to have decisions to their detriment reversed on appeal.

The information provided by the correctional services is important in order to provide the judiciary with a basis for assessing whether or not the requirements for prolonging the detention are met. Free legal aid is provided in these cases. The correctional services follow the defendant closely on a regular basis while they are in detention, and may therefore have a reliable basis for assessing whether there is a risk that the defendant will commit another serious crime. The defendant may, however, challenge the information provided by the correctional services by submitting additional evidence. The judge may further ask for supplementary evidence to be produced. As previously mentioned, the

judiciary has on several occasions decided on provisional release in cases where this was not recommended by the correctional services. This suggests that the judiciary does not rely unreservedly on the information provided by the services.

As mentioned above, the new system of preventive detention was comprehensively evaluated by the Mæland Working Group. The working group did not raise any fundamental objections to the current system nor did it propose amendments of any significance to the present legislation. A few concerns were raised, however.

Firstly, as previously noted, the working group expressed some concern regarding the use of short sentences of preventive detention on the grounds that such sentences did not allow sufficient time for the correctional services to prepare the offender for release. In addition the working group was not satisfied with the functioning of the system for preparing the offenders for provisional release. The concerns raised by the working group will be duly considered in the follow-up to the group's report.

5. ***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.***

Section 183 of the Criminal Procedure Act provides that if the prosecution authority wishes to have a person placed in detention, the person must be brought before the district court no later than three days following the arrest. Norway has responded to this issue in CCPR/C/NOR/2009/6, cf. paras 122–126.

Reference is also made to the follow-up information in connection with Article 2 in the letter from the Norwegian Ministry of Foreign Affairs to the Committee dated 28 February 2011, containing updated statistics for the period 2004–2010 regarding pre-trial detention (remand in custody). However, these figures do not specifically show the length of pre-trial detention in police cells.

According to section 3-1 of the Police Cell Regulations, a prisoner must be transferred from a police cell to a prison cell within two days of their arrest unless this is impossible for practical reasons. If a transfer occurs later, the reason must be noted in the custody log. Although the regulations impose no absolute prohibition against holding prisoners in police cells for more than two days, the conditions for exemption from the rule are strict.

Together with the local prosecution authority, the National Police Directorate is required (Police Cell Regulations of 30 June 2006) to supervise police custody cells. The Supervisory Unit carried out 10 inspections during 2010, and noted that in some police districts some prisoners had spent more than two days in police custody. The difference between police districts was considerable. In view of the hardship of being held in custody, the Supervisory Unit concluded that too many people remain too long in police custody. It has regularly urged the police districts to continue to focus on measures to prevent prolonged detention, and follows developments closely.

The Supervisory Unit has further pointed out that the police log does not always provide sufficient information in specific cases about the reason for prolonged detention, or the measures taken to prevent it. However, on the basis of interviews, the Unit found that

prolonged detention is almost invariably due to lack of prison places. It was also the Unit's impression that the police districts make active efforts together with the correctional services to find good solutions.

The Supervisory Unit estimated, with due reservations, that the highest proportion of detainees in prolonged detention in police cells recorded during the inspections in 2010 was 13.9%. In the police district with the lowest rate of detainees in prolonged detention, the figure was 1.3%. The figures used for comparison with other police districts – including those not inspected in 2010 – are based on the Police Directorate's records for the first half of the year and at the year-end. For all police districts the average percentage for prolonged detentions was 5.6% in the first half of the year. In the police district with the highest proportion of prolonged detentions, the figure was 16.4%, and in the police district with the lowest proportion, the figure was 1.4%. At year-end, the average percentage of prolonged detentions had increased to 7.3%. The figure for the district with the highest percentage was 13.3%, and for the lowest 0.8%. The total number of prolonged detentions in 2010 was 4062. This is an increase of 14.8% compared with 2009, when 3539 prolonged detentions were recorded.

Regarding pre-trial detention in police cells, we enclose statistical information for the years 2008, 2009 and 2010, showing the number of persons held in police custody, including persons held for more than 48 hours, in Appendix 7. Furthermore, a copy of the Supervisory Unit's report for 2010 is enclosed as Appendix 10.

The Norwegian Government has recently presented a legislative proposal concerning juveniles in conflict with the law, cf. Prop. 135 L (2010-2011) Proposisjon til Stortinget (forslag til lovvedtak) Endringer i straffeloven, straffeprosessloven, straffegjennomføringsloven, konfliktrådloven m.fl. (barn og straff). One of the issues in the proposal is to introduce shorter time limits for transfer of minors from police cells to regular prisons. Reference is also made to question 14 in this matter.

6. 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 on 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)).

Reference is made to Norway's sixth periodic report to the International Covenant on Civil and Political Rights (CCPR), CCPR/C/NOR/2009/6 paras 131–136 regarding the provisions for solitary *pretrial* confinement. This document contains statistical information concerning the incidence of solitary confinement for 2008.

Statistical information concerning solitary confinement during pretrial detention imposed by a court ruling for the years 2009 and 2010 are shown in the tables below:

Duration of solitary confinement in days, 2010 (total number of new remands: 3934)

	>7	7–13	14–29	30–41	42–59	60–89	90–182	Total
No access to letters, visits, media	1	4	27	2		3		37
No access to letters, visits	6	35	304	1	11			357
Control of letters, visits, media	1	4	6					11
Control of letters, visits	2	5	53		2			62
Exclusion from others only	4	6	65		1			76
TOTAL	14	54	455	3	14	3		563
Percentage of all in solitary confinement	2.6	9.9	83.8	0.6	0.6	2.6	0.6	
Accumulated percentage		13	96	96.9	99.4	100		
Percentage of all remands	0.4	1.4	11.6	0.1	0.4	0.1		
Accumulated percentage		1.7	13.3	13.4	13.7	13.8		

Duration of solitary confinement 2009 (total number of new remands: 3814)

TOTAL	20	51	404	7	9	2		493
Percentage of all in solitary confinement	4.1	10.3	81.9	1.4	1.8	0.4		
Accumulated percentage		14	96	98	99.6	100		
Percentage of all remands	0.5	1.3	10.6	0.2	0.2	0.1		
Accumulated percentage		1.9	12	12.6	12.9	12.9		

Reference is made to Norway's additional information to the Committee regarding solitary confinement during custody in the letter dated 28 February 2011.

According to section 37 of the Execution of Sentences Act (2001), the Correctional Services may decide that a prisoner shall be wholly or partly excluded from the company of other prisoners if this is necessary in order to:

> "a) prevent prisoners from continuing to influence the prison environment in a particularly negative manner in spite of a written warning,
>
> b) prevent prisoners from injuring themselves or acting violently or threatening others,
>
> c) prevent considerable material damage,

d) prevent criminal acts, or

e) maintain peace, order and security”

The legal framework includes several safeguards aimed at restricting the use of exclusion as a preventive measure. Exclusion must be used only as a measure of last resort. Before a decision on exclusion is made, the question of whether the effect of other, less radical measures would be sufficient must be considered. The correctional services may decide on partial exclusion if this is considered sufficient to achieve the purpose. Complete or partial exclusion may not be maintained longer than necessary and whether the grounds for the exclusion continue to exist must be under continuous consideration. Transfer to another prison and other forms of exclusion may be considered as an alternative to a lengthy exclusion.

The correctional services may decide that some or all prisoners are to be wholly or partly excluded if it is probable that an unspecified number of prisoners have committed or are in the process of committing acts such as those mentioned under a to e above, or if urgent or extraordinary building or staff conditions necessitate this. Such exclusion may be maintained for up to three 24-hour periods. The county administration may extend exclusion by up to three 24-hour periods if there are explicit reasons for doing so.

Further, a prisoner may be wholly or partly excluded if the prisoner himself or herself so wishes and there are essential grounds for such exclusion . The case must be given thorough consideration and possible alternatives, such as transfer to another prison, examined.

If complete exclusion exceeds 14 days, the regional director is obliged to consider whether there are sufficient grounds for maintaining the exclusion. If the total period of exclusion exceeds 42 days, the measure must be reported to the central administration of the correctional services. The report must describe the facts and the reasons why exclusion is considered necessary. Information as to how the prisoner is being treated by prison staff, the date the prisoner was last examined by a medical practitioner and a medical report must also be provided. Following the initial report, updated reports must be made to the central administration every 14 days.

If partial exclusion exceeds a period of 30 days, this must be reported to the regional administration of the Correctional Services, and after that updated reports are sent to the central administration every fortnight. The reports must describe the facts and the reasons why exclusion is considered necessary. Exclusion may only be extended beyond one year if the prisoner himself or herself so wishes. Prisoners who have been excluded without their consent for more than a year must be given a trial period in the company of other prisoners. If this is unsuccessful in one prison, the same must be tried in another prison before extended exclusion can be considered.

Pursuant to section 39 of the Execution of Sentences Act, a prisoner may be wholly or partly excluded from company for up to 24 hours as a consequence of breaches of the execution of prison sentences.

According to section 40, second paragraph, item d, a prisoner who wilfully or negligently breaches the rules for peace, order and discipline or preconditions and conditions in or

pursuant to the Act may be excluded from leisure company or other leisure activities for a period of up to 20 days. In these cases the prisoner will, however, still be able to participate in daily activities such as work or studies together with other prisoners.

The prison staff must see to prisoners who are completely excluded from company more than once a day. A medical practitioner must be notified of the exclusion without undue delay. In cases where the prisoner's health or other circumstances indicate that the exclusion could have detrimental effects or cause mental suffering, close monitoring is required. Detrimental effects of the exclusion must be avoided as far as possible or remedied. Statements from medical staff are taken into consideration.

When notifying a medical practitioner of exclusion, information must be provided that might be crucial for the assessment of the prisoner's health condition, including any detrimental effects that the exclusion may cause. A medical practitioner must see to the prisoner without undue delay if available information indicates that the prisoner is ill or needs medical care. The medical practitioner has the power to decide what kind of assistance the prisoner is to receive from medical staff during the exclusion. The medical staff must notify the prison governor if the prisoner's physical or mental condition indicates that the measure should be subject to limitation or ceased.

Unfortunately, the IT system used by the correctional services does not yet provide detailed statistics concerning use of exclusion during execution of sentences. However, this is considered an issue of concern and is currently being followed up.

b)
A decision on exclusion may be appealed to the regional level according to the Public Administration Act. The decision can also be reviewed by the courts with regard to the application of the law.

Further, each region has a prison supervisory board. The board's terms of reference are to monitor prisons and probation offices and the treatment of prisoners in their respective regions. The members are appointed by the Ministry of Justice and the Police from a list of nominees designated by the county governor. At least one of the board members has to be a judge or former judge, but the others may represent different professions. The boards report to the Ministry of Justice and the Police. The Parliamentary Ombudsman for the Public Administration has acknowledged the importance of the function of the supervisory boards on several occasions. Prisoners also appear to take a favourable view of the boards, but have complained that they do not have the capacity to visit the prisons often enough. The matter was discussed in a white paper on the correctional services published in September 2008 (Report No.37 (2007–2008) to the Storting), where the Government acknowledged that the current system is not satisfactory. Both the fundamental and the practical aspects of today's system need to be reviewed in order to assess whether the supervisory system serves as an active control mechanism, with the competence and resources to secure effective monitoring of the correctional services. The issue is still under consideration.

7. ***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 system enables the correctional services and the police to share information on crime prevention and security of life and health for both prisoners and others. This may include information that has emerged in the course of police investigations and intelligence about specific prisoners and other persons. The purpose of INFOFLYT is to enhance the quality of information on prisoners so as to safeguard prison security, prevent escapes and enhance the protection of society. Most of the information is very sensitive and care is taken to safeguard the rights of the prisoners in question. The personnel of the correctional services are under statutory duty not to enclose the information from INFOFLYT.

The right and duty to present evidence in a case before the court is governed by Act of 17 June 2005 no. 90 relating to mediation and procedure in civil disputes (The Dispute Act) Section 21-3. Pursuant to the first paragraph of the provision, the parties are entitled to present such evidence as they wish. However, certain limitations on the right to present evidence are contained in sections 21-7 and 21-8, Chapter 22 and the other evidence provisions in the said Act.

According to section 22-3 evidence cannot be presented if such presentation would breach a statutory duty of confidentiality for the person in possession of the evidence that is imposed on him as a consequence of his service or work for the State. Most of the information from INFOFLYT fall in this category. According to the second paragraph the Ministry of Justice and the Police may, however, consent to the presentation of such evidence. Consent may only be refused if the presentation of evidence may be damaging to the State or public interests or be unreasonable to the person who is entitled to confidentiality. After giving due consideration to the duty of confidentiality and the need for clarification of the case, the court may by interlocutory order decide that the evidence shall be presented even though consent is refused, or that evidence shall not be presented even though the Ministry has consented. The Ministry shall have the opportunity to present its views before the court makes its decision. The Ministry's views shall be communicated to the parties, cf. third paragraph. It is therefore ultimately up to the court itself whether or not it will admit information from INFOFLYT as evidence in a case relating to early release of a prisoner or release of a preventive detainee. The Ministry of Justice has not received any requests for consent to presentation of evidence since the new Dispute Act entered into force. There has been at least one request relating to the former Dispute Act, which had a similar section.

There is reason to note, that as of today, there has not been any cases regarding release of preventive detainees before the courts where striking the balance between exempting classified (INFOFLYT) information and the prisoner's right to review of same; to avoid abuse of power, has been an issue of dispute. To the Ministry of Justice and the Police's knowledge, the same goes for cases regarding early release.

In 2008 the correctional services initiated a revision of the legal framework and practice for the processing of personal data on prisoners registered in the INFOFLYT database. As part of this work, the Ministry of Justice and the Police appointed a committee to review

the legal aspects of the INFOFLYT system, including the importance of the different considerations, and to propose new legislation. One of the committee's main tasks is to ensure the implementation of rules in conformity with international human rights, e.g. securing necessary access to information for the prisoners and/or reviewing courts. The committee began work in early 2010 and will deliver its report on the INFOFLYT database and its legislative proposals in mid-2011.

Article 3

8. Please provide information on the 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).

a)
Expulsion and return
The Norwegian Immigration Act and the Immigration Regulations have been revised during the reporting period. However, the general legislation regarding return and expulsion has not been amended significantly.

Section 73 of the Immigration Act of 15 May 2008 provides absolute protection against refoulement, which also applies to persons not falling within the scope of the Refugee Convention but who nevertheless face a real risk of being subjected to a death penalty, torture or other inhuman or degrading treatment or punishment upon return to their country of origin.

The concept of refugee has been extended in the Immigration Act. According to section 28, first paragraph (b), of the Act, the extended concept not only includes asylum-seekers who meet the criteria set out in the Refugee Convention, but all applicants covered by the non-refoulement provisions of e.g. the Convention against Torture and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

According to Chapter 8 of the Immigration Act, a foreign national may be expelled inter alia because of criminal offences or violations of the Act, including cases where the foreign national has not complied with the obligation to leave the country.

Foreign nationals are entitled to receive advance notice of a pending decision on expulsion, and to express their opinion, before the expulsion may be ordered. Reference is made to Norway's written replies (CAT/C/81/Add.4), paras 6–8 and 12. Approximately 9000 decisions on expulsion were made in the first instance from 2007 to 2010. Norway cannot

provide detailed information on all these cases, but statistical data on expulsion are enclosed in Appendices 9 and 10.The foreign national who has received a decision on expulsion may appeal the decision to the independent appeals board and later to the courts. The person is entitled to free legal aid.

The Norwegian immigration authorities have made a large number of decisions regarding return. More than 26 000 asylum claims were rejected in the first instance from 2007 to 2010. Norway cannot provide detailed information on each case, but statistical information is enclosed in Appendices 11, 12 and 13. A decision on return can be appealed to the independent appeals board and to the courts. All asylum-seekers are entitled to free legal aid when appealing a decision on return to the appeals board. Unaccompanied minor asylum-seekers are in addition entitled to free legal aid when their application is dealt with in the first instance. They are also entitled to a legal guardian. The high qualifications of the personnel, both in the first and the second instance, provide a safeguard for the protection of asylum seekers' rights under the Refugee Convention. The independent appeals board processes all requests for reversal of a final decision, a procedure that is designed particularly to avoid refoulement. Rejected asylum-seekers may appeal to the courts, and are entitled to free legal aid in accordance with the ordinary rules on free legal aid applicable to all the inhabitants of Norway.

The Norwegian media have recently given a great deal of attention to the return of a particular asylum-seeker who has allegedly been imprisoned after being returned to Iran. The appeals board is looking closely into this matter to clarify whether the return of the asylum-seeker was a violation of Norwegian legislation.

Extradition

Reference is made to Norway´s previous reports. The legal basis for extradition from Norway is Act No. 39 of 13 June 1975 relating to the extradition of offenders (The Extradition Act). Only a minor technical amendment has been made to the Extradition Act during the reporting period, which consisted in rectifying an erroneous reference in section 18. The amendment is not specifically relevant to the prevention of torture.

Please note that the Government has recently made a proposal for a new act on surrender between Norway and the EU states and between the Nordic states. This legislation implements the Agreement between Norway, Iceland and the EU on surrender procedures and a Nordic convention on surrender procedures. Both agreements are based on the principles of the EU Council framework decision 13. June 2002 on the European arrest warrant and the surrender procedures between Member States.

The Extradition Act sets out several conditions that must be fulfilled for a person to be extradited from Norway. Section 6 of the Act establishes inter alia that extradition may not take place if it can be assumed that there is a grave danger that the person concerned, for reasons of race, religion, nationality, political views or other political circumstances, will be exposed to persecution directed against his life or liberty, or that the said persecution is otherwise of a serious nature. This is in line with the 1957 European Convention on Extradition, and in conformity with international non-refoulement obligations.

Furthermore, pursuant to section 7, extradition may not take place if it would conflict with fundamental humanitarian considerations, especially on account of the person's age, condition of health or other circumstances of a personal nature.

Requests for extradition from Norway are subject to a thorough process and examination that ensures that all formal procedures are followed. When a request for extradition is submitted to the Ministry of Justice and the Police, the Ministry makes a preliminary examination of the request. The Ministry may deny a request for extradition at this stage if, on the basis of the request and the accompanying documents, it is obvious that the request for extradition cannot be granted. If the request is not immediately denied by the Ministry, it is forwarded to the prosecution authority, which initiates the necessary investigations. A defence counsel is appointed for the person wanted for extradition. The prosecution authority brings the request for extradition before the court, which decides whether the legal requirements for extradition under the Extradition Act have been fulfilled. The decision may be appealed to a court of appeal, and further appealed to the Supreme Court.

Following a final court decision establishing that the criteria for extradition have been fulfilled, the Ministry of Justice makes an administrative decision as to whether the request for extradition is to be complied with. Before the decision is taken, the defence counsel is given an opportunity to comment on the case. The decision of the Ministry of Justice may be appealed to the King in Council. An appeal will have suspending effect. However, if the court has found that the criteria for extradition have not been fulfilled, extradition is excluded and the Ministry of Justice will deny the request.

There are no official statistics regarding extradition cases. However, according to the unofficial statistics of the Ministry of Justice, the Ministry handled 356 extradition cases in the period 2007–2010. Of these cases, 218 concerned the extradition of a wanted person from Norway to a foreign country, while 138 cases concerned the extradition of a wanted person to Norway from a foreign country. The number of extradition cases has been increasing. In 2007 the Ministry of Justice received 22 requests for extradition of a wanted person from Norway and 24 requests concerning extradition of a wanted person to Norway. In comparison, in 2010 the Ministry of Justice received 79 requests for extradition of a wanted person from Norway and 50 requests for extradition of a wanted person to Norway.

Further statistical information concerning extradition is shown in the table below.

Year	Extradition from Norway	Extradition to Norway	Total
2007	22	24	46
2008	50	30	80
2009	67	34	101
2010	79	50	129

In the period 2007–2010 there were several cases where a request for extradition was granted and where the person concerned argued that extradition would violate Article 3 of the European Convention on Human Rights and section 7 of the Norwegian Extradition Act. A short summary of the most relevant cases is enclosed this report as Appendix 12.

b)
In October 2010 Norway decided to halt all returns to Greece under the Dublin Regulation until further notice in response to a request from the European Court of Human Rights to cease all such returns until the court had ruled in a case against Greece and Belgium.

Judgment in the case was handed down on 21 January 2011. The Norwegian decision to halt all returns still applies.

Before the halt of returns to Greece in October 2010, applications were evaluated specifically and individually. Among the relevant factors was the applicant's vulnerability and individual capability to safeguard his/her rights as an asylum-seeker in Greece.

When assessing asylum cases, there is strong emphasis on UNHCR's recommendations regarding protection. However, both the individual assessment of the specific asylum case and the general assessment of conditions in the relevant country of return are based on a number of different sources. Norway may reach a conclusion that differs from a UNHCR recommendation.

> ***9. Please provide information on any steps taken by the State party to ensure that it complies fully with article 3 of the Convention with regard to the transfer of detainees by Norwegian military personnel to the Afghan authorities. In this respect, please provide detailed information on the mechanisms used by the State party to closely follow compliance by the Afghan authorities with their relevant obligations in relation to the continued detention of these persons. Furthermore, updated information should be provided on the agreements in place to ensure that these persons' rights are fully respected.***

Reference is made to Norway's letter to the Committee dated 19 November 2010 in response to the Committee's request for clarification of Norway's response to the fifth periodic report, attached as Appendix 5. Norway maintains a strong focus on this issue, among other things by making use of the established mechanisms to closely follow the practice of the Afghan authorities, in order to ensure that the human rights of all persons whom the Norwegian ISAF personnel have helped to apprehend are respected. We maintain close cooperation with the Afghan authorities on this, and continue to monitor the development of agreements and established arrangements in order to ensure that these persons' rights are respected in full.

We have also made efforts to ensure that allegations of misconduct are thoroughly investigated. As also previously reported, we have received one such complaint from an Afghan civilian who was apprehended by Norwegian forces and then handed over to the Afghan authorities. Several steps have been taken in this case, including interviews conducted both by Norwegian personnel and by the Afghan International Human Rights Committee (AIHRC), to clarify what actually happened and whether he has been ill-treated by either Norwegian forces or by others. However, the circumstances in this case remain unclear and the person concerned has provided several different and contradictory versions of what happened. He is now being represented by a Norwegian lawyer.

In addition, we are continuing our efforts to ensure that our civilian and military engagement in Afghanistan contributes effectively to the promotion of security and human rights.

Articles 5 and 7

> ***10. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by a third***

State for an individual suspected of having committed an offence of torture, thus engaging its own prosecution as a result. If so, please provide information on the status and outcome of such proceedings.

Since the previous report, the Norwegian authorities have not, to our knowledge, rejected any requests for extradition by a third State for an individual suspected of having committed a crime of torture, and thus engaged its own prosecution.

For more general information regarding extradition and statistics, reference is made to the reply to question 8.

Article 10

11. 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.

Reference is made to information supplied in Norway's fifth periodic report, CAT/C/81/Add.4 para. 29, and to written replies by the Government of Norway to the list of issues to be taken up in consideration of the fifth report, question 11, paras 30–35 (CAT/C/NOR/Q/5/Add.1), where the various training courses and in-service training are described. Training programmes are also mentioned in the reply to question 19 below.

Reference is also made to the conclusions and recommendations of the Committee in document CAT/C/NOR/Q/5 para. 11, where the Committee regrets that there is no available information on the impact of the training on reducing incidents of violence and ill-treatment, including incidents that may be racially motivated. The Committee underlines the importance of full awareness of the provisions of the Convention, applicable limitations on the use of force and the need to avoid any discriminatory treatment among law enforcement personnel and justice officials.

Correct procedures for law enforcement are considered to be an important part of police training in Norway. Further development of educational programmes for law enforcement personnel is given high priority. Norway's Universal Periodic Review (UPR) of September 2009 stated that a study was being planned in collaboration with civil society actors to provide an overall picture of human rights education in Norway since there was no overview of courses, teacher qualifications and implementation of such education, or of the extent to which key personnel in key professions have sufficient operational competence to identify possible human rights violations. According to the summary of recommendations and responses, Norway has decided to further strengthen human rights education for police officers and to follow up the integration of human rights education in school programmes and other sectors such as the administration of justice and the police. Reference is made to the reply to question 19, where information concerning training programmes is further elaborated.

The development and implementation of a methodology to assess the effectiveness and impact of relevant education programmes in this field is a complex and difficult task. At present there is no statistical information measuring the effectiveness and impact of the education programmes, nor has Norway developed or implemented a methodology to assess the effectiveness and impact of such programmes on the incidences of cases of torture, violence and ill-treatment, and there are no immediate plans to develop such a methodology.

The education programmes at the Norwegian Police University College are approved by the Norwegian Agency for Quality Assurance in Education (NOKUT), which is the supervisory authority for education at all Norwegian universities, university colleges and institutions with accredited higher education programmes. However, approval of the education programmes is general and does not specifically concern human rights education.

The Norwegian Police University College has funded a research project on arrest procedures, including health risks associated with various procedures for arrest.

12. Please indicate the measures taken by the State party to:
Provide adequate training for all relevant personnel to detect signs of physical and psychological torture and ill-treatment of persons deprived of their liberty.
Integrate the Istanbul Protocol of 1999 into the training programs 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.

Adequate training

Psychology, psychiatry and human rights are important parts of the training of prison wardens at the Norwegian Correctional Services Staff Academy. However, detecting signs of physical and psychological torture and ill-treatment of prisoners would primarily be a task for the health services.

The Directorate of Health has published national guidelines (2010) on Health Services for Refugees and Asylum-seekers and a report on Adapted Dental Health Services for Persons Who Have Suffered Torture and Harassment or with Odontophobia. The documents are intended to help personnel who encounter persons who have suffered abuse and torture in the course of their work.

The Norwegian Centre for Violence and Traumatic Stress Studies was established in 2004 to develop and disseminate knowledge and competence in this field. The Centre's aim is to help prevent and reduce the health-related and social consequences that may follow from exposure to violence and traumatic stress, and its main tasks are research and development and education in the form of teaching, guidance and counselling. The Centre has an interdisciplinary perspective, which includes the medical, psychological, social, cultural and legal aspects. The main research topics are violence, sexual abuse, the after-effects of disasters and refugees/asylum-seekers.

The Centre cooperates with regional expert communities in the field of violence and trauma, and national and international clinical communities, research institutions and

professional agencies. The Centre does not undertake clinical activities, although the knowledge produced there is intended to benefit practitioners in all these fields.

The Centre also arranges postgraduate studies for clinicians and researchers on psychosocial work in connection with suicide, substance abuse, aggression and trauma.

The Istanbul Protocol

The principles and recommendations of the Istanbul Protocol are integrated into the training programme for caseworkers at the Directorate of Immigration and into procedures for interviewing asylum-seekers.

The Directorate's quality standard for asylum interviews focuses on how to obtain reliable information during the interview, and is based on existing national and international rules and guidelines, and research in the field of investigative interviewing. All interviewers are trained to be aware that torture can affect the asylum-seeker's ability to present his or her case. The interviewers are trained to pose non-leading questions, provide a safe setting where the purpose of the interview is clarified, and approach the applicant in a culturally sensitive manner.

It is recognised that victims of torture may have difficulty in presenting their case for reasons of shame, or due to physical or psychological health problems. It is also recognised that torture can affect the applicant's memory. The caseworkers are introduced to interview methods that can help the applicant remember, and are given tools to identify vulnerable applicants and adapt the interview setting to the needs of the individual applicant. In addition, the Directorate invites lecturers to give in-depth information on special topics. For example the Directorate has arranged a lecture on torture and a lecture on the symptoms of trauma and stress, and on how best to deal with these in the interview setting.

Regarding information from the Immigration Appeals Board, reference is made to Norway's written replies to the list of issues (CAT/C/81/Add.4), issue 13, paras 37–40.

Article 11

13. 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 not introduced any new rules, instructions, methods, practices or arrangements since the consideration of the last periodic report.

14. Please provide information on 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.

Reference is made to Norway's sixth periodic report to the Human Rights Committee CCPR (CCPR/C/NOR/6) paras 150–55. As explained in the report, Norway has made a reservation regarding ICCPR Article 10 paras 2 (b) and 3 regarding the obligation to keep young criminal offenders and convicted persons separated from adult prisoners, cf.

paragraph 151. Due to the reasons given in the report, Norway will not withdraw the said reservation.

Notwithstanding, on 24 June 2011, the Norwegian Government approved several proposals for law amendments regarding juveniles in conflict with the law. The aim is to improve the position of this group of offenders by strengthening their rights and by using other measures than prison, also when serious and/or repeated crime has been committed. The proposals also represent a step towards better fulfilment of the obligations incumbent on the State Members to several of the international as well as regional conventions and soft-law instruments. The proposals are based on the fact that prisoners under the age of 18 years are particularly vulnerable with special needs and, additionally, that the threshold for considering the right to be protected against torture and other cruel, inhuman or degrading treatment or punishment is violated, is lower for this group than for adult prisoners.

In accordance with CRC Article 37 (b), it is the Norwegian Government's opinion that prisons should only be a measure of last resort and alternative sanctions should be used to the extent possible. As a device to pursue this ambition, a new sanction called "Juvenile Sentence" has been proposed. The said sanction is based on Restorative Justice Principles and includes a Conferencing Meeting and a strict follow-up plan. The offender's private network as well as different public institutions such as school, The Child Welfare Authorities, Health Care services etc. will be involved, and the follow-up plan will be individually tailored for each offender according to his or her needs. The offender will be obliged to work actively to abstain from committing crime as well as from using alcohol and drugs. The aspiration is that the said sanction will contribute to decrease the number of minors in prison.

However, exceptionally even juveniles will have to be placed in prison. As explained in the ICCPR-report, Norway is currently in the process of establishing two separate prison units for young offenders, to avoid minors in pre-trial detention or serving their sentences in prisons together with adults or in total isolation. Only one of the juvenile units has become operational so far (Bergen). The establishment of a juvenile unit in the eastern part of the country has proved to be challenging. Strong efforts are, however, being made to reach an adequate solution within a reasonable time perspective. The above mentioned law proposals include amendments to ensure contact between prisoners under the age of 18 and their families.

Articles 12 and 13

15. 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 official, in particular those in which discriminatory treatment based on ethnicity is alleged.

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.

a)
Reference is made to paras 18–21 of Norway's sixth periodic report to CCPR (CCPR/C/NOR/6) regarding the functioning and work of the Norwegian Bureau for the Investigation of Police Affairs which investigates alleged crimes by members of the police.

The system for controlling the police is two-track: the criminal complaints track (the Norwegian Bureau for the Investigation of Police Affairs) and the non-criminal complaints track (the Police Complaints System). The Bureau was founded 1 January 2005 and the Police Complaints System entered into force on 16 January 2006.

A review of these mechanisms was conducted in 2008–2009 and the official Norwegian report *NOU 2009:12 Et ansvarlig politi. Åpenhet, kontroll og læring* (A Responsible Police. Transparency, Control and Learning) was published in 2009. The terms of reference were to review and assess the Bureau for the Investigation of Police Affairs and the administrative police complaints system, individually and together, to examine the extent to which the objectives set by the Storting have been successfully achieved, and to conduct a detailed review and evaluation of police routines and practice.

The main findings in the report are:

- The Bureau for the Investigation of Police Affairs is described as competent in its field, committed and professional, but its capacity is inadequate and the way it is organised makes it vulnerable. The review also found that although the case processing time at the Bureau has become steadily shorter, the problem of long processing times has not been permanently solved.
- The police do not have satisfactory procedures or systems for learning from mistakes.
- The current two-track system involves a risk that possible criminal offences do not reach the Bureau.
- The way complaints of misconduct by members of the police force are processed under the non-criminal track varies between the police districts. There is a need for a national, more uniform case processing practice.
- The non-criminal complaints system is little known to the public and not well enough known internally in the police services.
- There are weaknesses in procedures and the organisation of custody cells.
- Cases of alleged discrimination for ethnic or other reasons are rare in both the criminal and non-criminal complaints track. However, some discrimination cases, like the Obiora case, have been widely covered by the media, which has adversely affected the public's confidence in police control mechanisms.

The review found that the current two-track system has both strong and weak sides. However, as the system is relatively new, the Ministry of Justice and the Police has

decided that it will be continued for the time being, but with several improvements to both tracks.

The Ministry is currently following up the report and several measures have been, or will be implemented. These include:

- In order to improve the capacity of the Bureau for the Investigation of Police Affairs five new investigators were appointed in the period 2010–2011. The Bureau has also undergone some internal reorganisation to improve its effectiveness. The case processing time has been reduced from 214 days on average in 2009 to 177 days in 2010. This is still in excess of the target of 150 days on average, but the Bureau is continuing its efforts to reach the target. It is believed that a short case processing time will increase the public's confidence.
- As from 2011 the Bureau will publish all decisions made by the Investigation Division for West Norway. The goal is to publish decisions from all investigation divisions. The measure is intended to increase the transparency of the Bureau's work and case processing.
- The guidelines for processing complaints of misconduct under the non-criminal complaints track will be revised in order to make case processing more uniform in the police districts. The revised guidelines will also include procedures on how to work with indirect discrimination cases.
- The Police Directorate will also establish procedures and filing systems for cases in the non-criminal complaints track.
- The Police Directorate will collaborate with the Bureau for the Investigation of Police Affairs on an information brochure about police control mechanisms. The brochure will be distributed to all police stations and will be available to the public.
- National lesson-learning by the police will be strengthened in order to learn from mistakes and prevent future incidents involving police officers.
- The Police Directorate and the Police Academy will establish cooperation with medical experts to avoid conditions in custody cells and detention that constitute a health risk.
- The Police Directorate and the Bureau for the Investigation of Police Affairs will have regular meetings to exchange experience.

In cases where a member of the police is suspected of committing a crime of torture or ill-treatment, the head of the local police force will determine, after an assessment of the individual case, whether the person should be suspended during the investigation. An alternative to suspension is reassignment to other duties such as administrative duties.

b)
The Bureau for the Investigation of Police Affairs has no specific statistical data on the number of complaints, investigations, prosecutions and convictions in cases of discriminatory treatment by law enforcement officials. There are only a small number of such cases, and these types of offences are included in the statistical data for complaints of for example illegal abuse of power, improper behaviour and illegal search.

The table below is based on the opinion of the member of the public reporting the complaint as to the type of criminal act that has taken place. When cases are finally investigated, the code for the type of case may be changed on the basis of the prosecution decision.

Type of case	*No. 2010*	*No. 2009*	*Notes*
Unlawful use of force	88	75	
Unlawful deprivation of liberty	22	24	
Unlawful search	14	19	
Breach of confidentiality	50	57	
Falsifying information	24	32	e.g. submitting a false report, false statement, false report of criminal act
Drug violations	0	6	
Sexual offences	14	19	
Theft, etc.	25	18	
Gross lack of judgment in the course of duty	329	310	Several cases here will also apply to unlawful use of force.
Improper conduct	44	10	
Dereliction of duty	71	56	
Traffic violations	30	25	

There are no statistical data on complaints in the non-criminal track or on compensation provided to victims or their families in cases of discriminatory treatment by law enforcement officials.

16. Please provide detailed information on the case concerning Eugene Obiora who died in 2006 after police officers arrested him, including on the allegations of racial discrimination by the police officers. Please provide information on the outcome of the investigation into this case by the parliamentary ombudsman and the status of the case before the European Court of Human Rights.

Introduction

The death of Mr. Obiora was investigated by the Special Unit for Police Affairs, which decided not to prosecute the police officers who arrested Mr. Obiora. This decision was appealed to the Director General of Public Prosecutions by the deceased's survivors, represented by attorney lawyer. The Director General ordered further investigations in order to clarify certain matters that could have had a bearing on whether or not any criminal offences had been committed by the police in the situation that ended so tragically with the death of Mr. Obiora.

The apprehension and death of Mr. Obiora

Mr. Eugene Ejike Obiora, born on 25 February 1958, had a conference with two caseworkers of the social services in Østbyen, Trondheim, on 7 September 2006 at the social services office. During the meeting, the caseworkers felt threatened and called the police for assistance.

The police officers who arrived did not make any contact with Mr. Obiora upon arrival, but he asked them if they had come because of him. Mr. Obiora was asked to leave the social services office, but refused to do so. The police officers tried to treat Mr. Obiora using a minimum of measures, but when he did not comply with their repeated instructions, the two officers took him by the arms to escort him outside. Mr. Obiora responded with extraordinarily violent resistance. The police officers felt that the situation had got out of control and that they would have to restrain him in order to protect themselves and the

other persons in the office. Mr. Obiora was held in a stranglehold (holding an arm around a person's neck from behind) until he was cuffed. He was then placed on the ground on his stomach with his hands cuffed behind his back.

Mr. Obiora continued to resist physically after he had been placed on his stomach, and the investigation did not completely clarify whether his conduct at this stage was due to his fighting for breath or continuing to resist and attempting to free himself. Mr. Obiora lost consciousness after a few minutes.

The police called an ambulance, but since it was delayed, Mr. Obiora was taken to hospital in the police vehicle. Mr. Obiora died shortly after arriving at the hospital.

The request for assistance was received by the operations centre of the Sør-Trøndelag Police District at around 13.30. A police patrol with two police officers responded. The police had no information on Mr. Obiora, nor were his name or identity known at this point.

On arrival at the social services office the police officers contacted the personnel and were told whom they wished to have removed from the office. Mr. Obiora was at that point talking to a caseworker in the public area. The officers did not make any contact with him, but sat down at a table in the public area hoping that Mr. Obiora would see them and voluntarily leave the office, without any further intervention from the police being necessary. However, Mr. Obiora took contact with the officers himself and asked them if it was because of him that they were present. He also stated that he had not finished his conversation with the caseworker. The caseworker explained to Mr. Obiora that the social services office maintained their decision and informed him of his right to appeal.

The police officers told Mr. Obiora that he would be arrested if he did not leave the social services office. Mr. Obiora asked then what would happen if he did not leave voluntarily. The officers then said that they would have to escort him. Mr. Obiora replied "Then you will have to do it." When warned that the officers might be forced to fetch a dog Mr. Obiora replied "Yes, you will have to do that then."

The police officers did not hurry and tried to deal with Mr. Obiora using a minimum of measures, before the situation became violent. A witness stated that the officers remained very calm, and the witness assumed that the problem had been solved after this conversation had taken place.

When Mr. Obiora did not comply with the officers' repeated instructions to leave the social services office, the two officers took hold of his arms to escort him outside. This resulted in immediate and violent resistance on the part of Mr. Obiora. As one of the officers was about to take Mr. Obiora's left hand, Mr. Obiora hit him backwards with his elbow and hit the other officer in the chest. After one of the officers had tried in vain to get hold of Mr. Obiora's left hand, he jumped on Mr. Obiora's back to avoid further blows from Mr. Obiora's elbow. He then placed his right arm around Mr. Obiora's throat and kept it there. The officers felt that the situation was out of control and that they needed to restrain Mr. Obiora so that they themselves and others in the office did not become victims of violence on the part of Mr. Obiora.

After Mr. Obiora had continued struggling, with one of the officers on his back and the other using both hands to hold onto Mr. Obiora's right arm, all three fell to the floor after a short time. When they fell to the floor the officer kept his hold on Mr. Obiora's throat. Even after they were on the floor great force was needed to gain control of and place handcuffs on Mr. Obiora.

There can be no doubt that Mr. Obiora resisted strenuously when the police officers tried to escort him outside. His resistance was of such a nature and so extreme that the officers had reason to be concerned for their own safety and the safety of the employees and other persons present in the public area of the social services office.

It has been established that Mr. Obiora was exposed to a fairly violent use of force on the part of the police officers. This may have resulted in considerable fear and/or panic reactions on the part of Mr. Obiora, especially because of the stranglehold administered by one of the officers, which lasted until he was cuffed. Mr. Obiora's continued struggling and shouting after he was brought to the floor supports this. Based on witness testimony it is assumed that while in the stranglehold and afterwards, Mr. Obiora exhibited behaviour and made sounds that could have been perceived as gasping for air or having difficulty breathing. It also seems very likely that this was the case, since the stranglehold could temporarily have impaired his breathing and since at the same time his need for oxygen was probably greater than normal due to his struggling with the officers, his shouting and possibly also his mental condition at this point. At the same time it must be pointed out that there are no evidential grounds for setting aside the police officers' testimony that they had not perceived that Mr. Obiora had serious breathing difficulties or that there was any serious risk to his health.

Like the Special Unit, the Director General of Public Prosecutions found that Mr. Obiora was conscious during the whole course of the arrest inside the social services office and that he uttered meaningful statements. He was also conscious when he was removed (dragged out) from the public area and placed in a prone position just outside the entrance pending transport to the police station.

After Mr. Obiora had been removed from the public area he was placed on the landing outside the entrance, one or two metres beyond the outer entrance door. He lay on his stomach with his hands cuffed behind his back and his feet facing the building. A third police officer arrived on the scene at around 14.05 after one of the officers dealing with Mr. Obiora had reported that they had the situation under control and needed immediate assistance for transport.

Like the Special Unit, the Director General of Public Prosecutions also found that Mr. Obiora was still periodically struggling after he had been placed in a prone position on the landing and that he also continued to shout loudly. The investigation did not completely clarify whether Mr. Obiora's conduct at this stage was due to his fighting for breath, as certain witnesses perceived it, or whether he was still resisting arrest and attempting to free himself from the officers' hold on him. It could also very well have been a combination of these two circumstances. The three police officers who were in physical contact with Mr. Obiora have testified that they perceived that he continued, strenuously at times, to resist arrest and that they had no idea that the use of force or other factors could have resulted in respiration or circulatory problems for Mr. Obiora until he lost consciousness a few minutes later (around 14.12).

The Director General of Public Prosecutions stated that the strength and intensity of Mr. Obiora's struggles on the landing varied, and that the same must be assumed to have been the case for the force used by the police officers to keep him down. At times the officers appeared to have used considerable force, especially when pressing Mr. Obiora against the ground, to maintain control over him.

When Mr. Obiora lost consciousness the officers called for an ambulance. While they were waiting for the ambulance, they checked the pulse on Mr. Obiora's throat several times. Mr. Obiora continued to lie in the same position, and he had free respiratory passages. The officer found a pulse, but with difficulty. The officers inquired about the ambulance on several occasions, but it was delayed for longer than they expected. Mr. Obiora's condition was perceived to be so worrying that after some time it was decided to transport him to the hospital in the police vehicle, since they felt that this would at least not take any more time than having to wait for the ambulance.

In subsequent examinations the witnesses have not been able to shed any light on the question of how Mr. Obiora was lying during the actual transport, before the doors of the police vehicle were opened after arrival at the hospital. The only evidence that exists for this are the testimonies of the three police officers who sat in the back of the vehicle with Mr. Obiora. They have testified that Mr. Obiora was laid on his side as much as possible, and his head was tilted backwards. This was done to establish free respiratory passages. Mr. Obiora's legs were bent upwards at the knees so that he would fit into the vehicle. The handcuffs were not removed due to the fact that the police officers did not dare to do so in case Mr. Obiora should regain consciousness and start to resist strenuously again.

It is assumed that the transport of Mr. Obiora started at around 14.16, with arrival at St. Olav's Hospital in Trondheim somewhere between 14.23 and 14.25 p.m. The time of death was recorded as 15.34 on 7 September 2006.

The forensic investigation

The autopsy report of 9 November 2006 states the following with regard to the cause of death:

"The cause of death cannot be ascertained for certain, but by comparing the information provided by the Special Unit for Police Affairs, the examination of suspects and witnesses, and the results of the reconstruction together with the autopsy findings and the chemical analyses, it is nevertheless probable that his death was caused by suffocation (oxygen deprivation).

The course of events indicates that the deceased, who was probably in an extreme state of agitation, had entered a very critical respiratory situation by first being put in a 'stranglehold' and then being placed in a prone (stomach) position and handcuffed. At one point in time, pressure was also placed on his chest, so that his breathing movements were further restricted, while he was still cuffed and lay in a prone (stomach) position.

It is not possible to ascertain the exact time of death, but it must nevertheless be deemed as probable that the circulatory failure occurred upon arrival at the hospital at 14.25, possibly even before transport to the hospital took place. The time of death was recorded as 7 September 2006, 15.34, after … intensive cardiopulmonary resuscitation measures that had no effect."

Additional statements have supported the conclusions in the autopsy report, and experts have stated that studies support that a prone position makes breathing so much more difficult that it can result in a serious lack of oxygen, with subsequent unconsciousness and circulatory/heart failure.

In its decision of 4 May 2007, the Special Unit summarised its evaluation of the cause of death as follows:
"The lack of oxygen or oxygen deficiency is presumed to have occurred as a result of breathing difficulties due to pressure on his throat, his own efforts to resist apprehension, placement in a prone (stomach) position over a period of time and the fact that the police's use of force to hold him down and keep him still resulted in his being pressed against a hard surface."

The conclusions of the Director General of Public Prosecutions
The Director General of Public Prosecutions found that Mr. Obiora died due to oxygen deprivation (suffocation) and the physiological reactions triggered by such oxygen deprivation.

Like the Special Unit, the Director General found it necessary to point out that this does not mean that he died as a result of strangulation or that any isolated action resulted in death by suffocation. Death apparently occurred as a result of a combination of circumstances, where factors related to what the experts have described as "positional suffocation" have very probably played a very key role.

The Director General found that the conditions for legal apprehension of Mr. Obiora had undoubtedly been met. The point that must be settled when evaluating the question of criminal liability is therefore whether the police officers' overall use of force can be considered legal under the provisions of section 48, third paragraph, cf. second paragraph of the Penal Code, cf. section 6 of the Police Act. For the use of force by a police officer in the course of an arrest to be legal, it must be necessary and not implicitly unwarranted in the specific situation.

The Director General found that there are no grounds for criminal liability with regard to the stranglehold administered to Mr. Obiora. Special emphasis has been placed on the fact that Mr. Obiora's resistance to arrest during the course of events was extreme, and that there was probably no real alternative course of action that could have given the police officers control over Mr. Obiora as rapidly and with less risk of injury to both parties.

The Director General concluded that there is no adequate evidential basis for maintaining that the use of force, either in isolation or combined, during the arrest was illegal under the Penal Code. Thus there are no grounds for criminal liability with regard to any of the police officers.

Furthermore the Director General found no grounds for imposing a corporate penalty on the Police University College for not obtaining knowledge of the risk of positional suffocation associated with placing a person in a prone position. Nor did the Director General find grounds for imposing such a penalty on the Sør-Trøndelag Police District.

In its decision, the Director General of Public Prosecutions stated that the experience and knowledge acquired from this case will have a significant influence on the future training of police cadets in arrest techniques and the practice of using the prone position during arrests, and that such information should be disseminated throughout the police force.

Compensation to the surviving relatives

The surviving relatives of Mr. Obiora are Mr. Nzimirro Adam Obiora (born 1994), who is a Norwegian national living with his mother, Mrs. E. S. Obiora, in Oslo, Norway, and Mr. Prince Wallace Obiora (born 1988), resident in Lagos, Nigeria.

On 7 September 2009 Mr. Obiora's relatives instituted a civil action for compensation against the Norwegian State in the Oslo District Court. They claimed compensation for the loss of a family provider and for non-pecuniary damage under sections 3-4 (1) and 3-5 (2) respectively of the Damage Compensation Act of 1969.

On 16 February 2010 the Norwegian State concluded a friendly settlement agreement with the sons of Mr. Eugene Ejike Obiora. By virtue of this agreement Mr. Nzimirro Adam Obiora was paid NOK 400 000 and Mr. Prince Wallace Obiora was paid NOK 100 000 in respect of their above-mentioned compensation claims. The payment of these amounts was to constitute full and final settlement for any claim against the Norwegian State in connection with the death of Mr. Eugene Ejike Obiora.

The investigation into the case by the Parliamentary Ombudsman for the Public Administration (Civil Matters)

On 16 February 2010, the same date as the settlement agreement was concluded with the sons of Mr. Eugene Ejike Obiora, the Parliamentary Ombudsman for the Public Administration (Civil Matters) delivered an opinion on Mr. Obiora's death and the issue of responsibility for police procedures in respect of techniques involving the use of force in connection with arrests, in particular restraining a person lying on their stomach.

The Parliamentary Ombudsman endorsed the conclusions of the Director General of Public Prosecutions. After a review of the case-law of the European Court of Human Rights in relation to the Article 2 of the European Convention of Human Rights, he observed that the question of whether at the time of Mr. Obiora's death the Norwegian authorities ought to have been aware of the risk of death involved in the use of restraint on a person in a prone position had to be assessed in the individual case. Among the factors to be considered were whether all that could reasonably be expected had been done to reduce the risk of injury to Mr. Obiora's health, bearing in mind the seriousness of the risk and the likelihood of the event occurring, and whether assessing the risk and the vulnerability of the victim was a matter for the Norwegian State.

Considering the matter as a whole, the Parliamentary Ombudsman found that Norway had not sufficiently complied with its obligations under the Convention in respect of the use of restraint exercised on a person in the prone position in connection with an arrest. In the opinion of the Parliamentary Ombudsman, the State ought to have been aware of the health hazards involved in the use of this technique. Such knowledge would have provided the requisite basis for regulating its use, and to ensure adequate training of the police with a view to avoiding loss of life or serious injury. Given the availability of information regarding the dangers of restraining a person in a prone position, it would not have entailed an excessive burden on the Norwegian authorities to have acquired by the time of Mr.

Obiora's death the necessary knowledge about the health hazards of this form of restraint. The necessary knowledge could have been acquired without the use of great resources.

The Norwegian authorities' lack of knowledge appeared to have been caused by inadequate procedures for updating medical and police knowledge about arrest techniques. The health risk inherent in restraint in a prone position would clearly have been reduced if the State had possessed this knowledge, and the death resulting from the use of this technique could have been avoided.

The Parliamentary Ombudsman stated that the responsibility for violation of the obligation to protect human rights lay with the State. This follows directly from public international law and is explicitly stated in Article 1 of the European Convention of Human Rights. In this connection it was unnecessary to further consider where to place the responsibility under Article 2 of the Convention.

The status of the case before the European Court of Human Rights

The younger son of Mr. Eugene Ejike Obiora, Mr. Nzimirro Adam Obiora, filed an application against the Norwegian State on 18 June 2008. Since the applicant is under age with respect to both national proceedings and filing an application under the European Convention of Human Rights, his mother, Mrs. E. S. Obiora, has acted on his behalf. The applicant and his mother live in Oslo.

The applicant claims, firstly, that by having failed to ensure that the police received proper training, the Norwegian authorities had not complied with their obligations under Article 2 of the European Convention of Human Rights.

Secondly, the applicant has alleged that there had been a violation of Article 14 taken in conjunction with Article 2 on account the Norwegian State's failure to protect Mr. Obiora against racism in the police.

The European Court of Human rights decided on 21 June 20011 that the application was inadmissible.

Article 14

17. Please provide information on redress and compensation measures, including means for rehabilitation, ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2007. This information should include the number of requests made, the number granted, and the amounts ordered and those actually provided in each case.

To our best knowledge, after having examined accessible sources, there are no cases whereby the courts have ordered redress and compensation measures, including means for rehabilitation, to victims of torture.

Article 16

18. 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.

Reference is made to Norway's answer to Question 3 (Article 2)in this report and the enclosed annual reports from the supervisory board of the Police Immigration Detention Centre at Trandum (the Trandum Holding Centre). Reference is also made to letters from Norway to the Committee dated 3 July 2009 and 28 February 2011, and the responses to the Committee's request for clarification after its examination of the fifth periodic report.

19. In its previous concluding observations, the Committee expressed its concern about reports on the use of unnecessary force by the police in some instances, and about reports of discriminatory treatment based on ethnicity.

Please provide information on steps taken to address these concerns. Information should also be provided on the impact and effectiveness of these measures. Furthermore, please provide statistical data on the prevalence of ethnic discrimination.

The use of unnecessary force by the police is not considered to be a widespread problem in Norway. Reference is made to the answer to question 15 regarding this issue.

Concerning steps taken to address concerns related to discriminatory treatment based on ethnicity, the Police Directorate has drawn up a plan to promote diversity (Mangfoldsplan 2008–2013) as a substantial step in combating discrimination. Two of the measures are: 1, to *increase the recruitment of ethnic minorities to the police* and 2, to *include ethnic minorities as a topic in the training programme*.

It is the goal of the police service to increase the recruitment of ethnic minorities. The target is that by 2013, 5% of the students at the National Police Academy should have an ethnic minority background. The percentages have varied somewhat over the past years, from 7% to the current 3%. However, this may be due to the new method of self-registration.

In 2009, 30 students reported that they had an ethnic minority background, six of whom were women. In 2010, 22 students reported having this background, three of whom were women.

In 2008 the Police Directorate launched a project called Security and Trust, which deals with the topics of dialogue, diversity, ethics, racism and discrimination. It emphasises that dialogue is an element of professional police work. The project is being implemented in seven police districts. The aim of this and other training programmes is to focus on professional police behaviour and on building a relationship based on trust between minority communities and the police. The intention is to extend the project to the entire police force. The curriculum of the Police University College also includes topics such as social inequalities, cultural values, prejudices and stereotypes, ethics, racism, the multi-ethnic society, and communication and conflict.

Awareness Gives Security is a programme designed for police officers at the local and national level. It is a continuation of the Security and Trust project. Awareness Gives Security consists of seminars that address issues such as discrimination, prejudice, stereotypes and reliance on first impressions. The aim is to increase the participant's awareness and knowledge about how their behaviour can affect others and be affected by others. Meetings are arranged with cultural minorities, people with disabilities, people of different sexual orientations, etc. Like the project Security and Trust, this also focuses on cultivating professional behaviour that will cause the public to experience the police as being secure, just and trustworthy. The seminars also focus on awareness and reflection on personal attitudes, reactions and behaviour.

The police services of Oslo, South Buskerud, Hordaland, Haugaland and Sunnhordland, and Rogaland, and the Immigration Service participate in the project. Sixteen employees from these services are selected as supervisors and given the responsibility for planning and implementing the seminar in their own service. The supervisors' skills and ability to manage processes and generate interest in the seminar are important factors for the success of the event. Group work, video clips and role-play are used. The feedback from the participants has been very positive.

Concerning the request for further statistical data on the prevalence of ethnic discrimination, reference is made to the reply to question 15.

Regarding the question on the use of unnecessary force by the police, it should be mentioned that the Aust Agder District Court has recently ruled in a case with resemblance to the Obiora case. A 23 years old drugged man broke in to a private home. When the police came, the intruder was hand cuffed and put in a prone position by the police officer. The intruder suffered a brain damage. The District Court found that the police officers pressure against the body of the intruder while in a prone position caused respiratory problems and heart failure. The police officer was sentenced to 30 days conditional prison. The judgement has been appealed.

20. Please provide:

a) Information on efforts undertaken by the State party to combat violence against women. In particular, please elaborate on the Government- appointed 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.

a)
Reference is made to Norway's sixth report to CCPR, paras 88–100 (CCPR/C/NOR/6), where the extent of violence in intimate relations and the efforts undertaken to combat the violence are described.

Rape is a special challenge for the legal system and health services. Both the frequency of reported rape and the number of reported rapes that culminate in a conviction are low. An estimated 90% of all rapes and attempted rapes are never brought to the attention of the police.

The number of *formal reports* of rape has increased by 34% over the last five years. There is no reason to believe that this is due to an increase in the actual frequency; it is more likely that it indicates that more victims contact the police, and that there is greater openness about rape today than there was a few years ago. Efforts are being made to further increase the proportion of reports of committed and attempted rapes.

In 2006 the Government appointed a committee to study the situation of rape victims with a view to improvements (the Rape Committee). The Committee delivered its report in January 2008. It suggested a number of preventive measures and measures to help ensure that treatment of the victims by the public services is better and more coordinated. The Committee's proposals for measures are being followed up by the responsible ministries.

A number of measures aimed at increasing levels of competence among police officers, the prosecution authority and judges have been implemented. In order to improve the way rape cases are handled and ensure coherent and uniform procedures, an electronic manual for the police has been developed.

In addition the Director General of Public Prosecutions has decided that before dismissing a case public prosecutors//the prosecution authority?** must request a second opinion in cases posing difficult evidential problems. Several meetings and conferences have been held to improve investigations and the way cases are handled in court.

A special unit has been established at the National Bureau of Crime Investigation (Kripos), which will receive information about rape cases from the police districts and perform analyses and provide help and advice.

It is essential that victims receive the necessary help, but it would be even better to prevent the abuse from happening in the first place. Effective prevention includes both preventing abuse from taking place and stopping abuse that is already taking place. The police are strengthening their efforts to prevent rape and sexual assault and are seeking examples of best practices.

In May 2009, the Ministry of Justice proposed a legal amendment authorising the use of electronic monitoring of a ban on contact or visiting. At that point the Ministry only proposed allowing the use of electronic monitoring of offenders as part of a sentence. The measure is based on the principle that the abuser must take responsibility for his/her acts and that it is the abuser – and not the victim – who must suffer the consequences, in that his/her freedom of movement is restricted. The intention is to start a pilot project using electronic monitoring in 2011. The aggressor will be fitted with an electronic tagging device, which in the event of breach of a restraining order will trigger an alarm at the police station. The system uses three-way cellular, landline and RF communication and GPS tracking to monitor the aggressor and alert the victim and monitoring centre. The system creates user-defined restricted zones, where upon an aggressor's entry a breach of terms alert is distributed. There are also warning zones for the victims, for the purpose of notifying them of the aggressor's presence in the area. All alerts are communicated in real time to the police.

b)
In spite of greater efforts by the police, there has been a *sharp rise in* the number of reported cases of *domestic violence* from 2007 to 2010. In 2007, 948 cases, in 2008, 1457 cases, in 2009, 2144 cases and in 2010, 2474 cases were reported, an increase of 500% from 2006 to 2010. This increase in the number of cases reported could be explained by the increased efforts of the police to combat domestic violence in recent years. There is no further information available.

Through amendments to the Criminal Procedure Act, which entered into force on 1 July 2008, the rights of victims in criminal proceedings have been strengthened, in particular for victims of sexual abuse. A greater number of victims are given free legal counsel to assist them during the police investigation and the trial. The imposition on the police and prosecution authority of a duty to report regularly to the victims about the progress of the case also strengthens victims' right to information. During trial, victims are granted certain procedural rights equal to those of the defendant, such as the right to examine witnesses in court and to comment on evidence presented in court.

The Government is drawing up a fourth plan of action to combat domestic violence for the period 2012–2015. In addition, the Minister of Justice and the Police will submit a white paper on violence against women and domestic violence.

c)
Statistics based on reported rape cases (Report no. 1/2007 from the Director of Public Prosecutions) between 2003 and 2005 show that 84% of rape cases reported to the police never reached the courts, mostly due to lack of evidence. Compared with other crimes, few court cases of rape end with a conviction. Between 2003 and 2005, the percentage of acquittals in rape cases was about 36%.

There are no statistical data available at present on the number of complaints relating to violence against women and subsequent investigations, prosecutions and convictions. Nor are there statistical data on compensation provided to victims. Crime victims are granted compensation under general government-funded compensation schemes, such as sick pay, national insurance benefits, and public and private insurance schemes.

The Act on Compensation from the State for Personal Injury Caused by a Criminal Act (Criminal Injuries Compensation Act) gives persons who have suffered personal injury caused by intentional bodily harm or other criminal act marked by violence or force, or their surviving relatives, have the right to criminal injuries compensation from the state. The criminal injuries compensation scheme is funded over the budget of the Ministry of Justice and the Police.

The 14 counselling offices for crime victims throughout the country are a supplement to the public services. Their operation is financed by the Ministry of Justice and the Police. These offices provide advice, practical help and information to the victim and assist him or her to contact other public services. They also provide information on the criminal case from the time the case is brought before the court to the time of judgement and on victims' rights, and assist victims with applications for criminal injuries compensation and ex-gratia payments.

21. 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.

a)
Reference is made to Norway's sixth report to CCPR (CCPR/C/NOR/6), paras 117–121. One of the measures in the new Plan of Action against Human Trafficking launched by the Government in December 2010 (United against Human Trafficking) states that the National Coordinating Unit for victims of trafficking (KOM), which was established as a project in 2006, will be continued as a permanent instrument for improving coordination between authorities and organisations. The decision was based on an evaluation of KOM conducted in spring 2010. Clearer terms of reference have been drawn up for the Unit on the basis of the evaluation. It will continue to be administered by the Police Directorate.

KOM will submit an annual status report containing an overview of human trafficking in Norway and suggest appropriate topics for research. KOM will also be tasked to develop proposals for information campaigns and competence-building measures that will raise awareness and prevent the establishment of new forms of trafficking.

Under the Act of 2009 relating to crisis centres, municipalities are obliged to ensure human trafficking victims a place at a crisis centre. The Government continues to support the ROSA project, which offers safe housing and provides information and advice on following up trafficking victims. ROSA offered housing to 51 women in 2009 and to 42 women in 2010. The project was evaluated in 2008.

Since January 2009 there has been a ban on the purchase of sexual services in Norway. This new legislation is intended to reduce the demand for services from victims of human trafficking. The effects of the ban have not been evaluated.

Legal protection of victims of trafficking in Norway has been strengthened in the new Immigration Act and Immigration Regulations, which entered into force on 1 January 2010. According to the Regulations, a victim of trafficking who is testifying in a court case against the perpetrators, or who has made a statement to the police in such cases, is granted a residence permit for Norway.

According to section 8-3 of the Immigration Regulations, a presumed victim of human trafficking may be granted a temporary residence permit for six months, known as a period for reflection, if he or she is willing to participate in measures offered by the authorities and to consider reporting the human traffickers. Further, a victim may be granted a temporary residence permit for up to one year at a time if the perpetrators have been reported, if the police have started investigation and if the victim has cooperated with the police. In 2010 a total of 95 persons applied for such temporary permits, 30 were granted a reflection period, and 34 were granted further temporary stay.

The action plan also has a special chapter dealing with the protection of children. The Government's overarching goal is to combat all forms of human trafficking, nationally and internationally, through measures that will:

- limit recruitment and demand
- ensure appropriate assistance and protection for victims
- ensure that child victims of human trafficking receive appropriate follow-up services
- ensure a greater degree of exposure and prosecution of human traffickers
- ensure that more knowledge is available and that there is closer inter-disciplinary cooperation
- strengthen the international framework and international cooperation.

b)
By the end of 2009, 18 persons had been convicted of human trafficking in Norway. Figures compiled by KOM show that a total of 319 persons identified in 2010 or in previous years as victims of trafficking have accepted assistance and protection. The total number of victims is of course assumed to be higher.

22. 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.

The Directorate of Immigration offers accommodation in reception centres to all asylum-seekers in Norway. Asylum-seekers may choose to live outside the centres, but in that case they do not receive an allowance for housing and clothes or other benefits. On leaving the centre they must provide an address where they can be reached, and if they do not do so they are registered as having "disappeared" from the reception centre.

The table below shows the total number of asylum-seekers registered as "disappeared" from asylum reception centres and the number of asylum-seeking children classified as either children accompanied by adult caretakers or unaccompanied asylum-seeking children (UASC). The last column shows the average number of asylum-seekers resident in reception centres.

Numbers of children reported as "disappeared" from reception centres

	Children accompanied by caretakers	Unaccompanied asylum-seeking children	Total number of persons reported as "disappeared"	Average number of residents in reception centres
2010	249	97	5 795	17 924
2009	146	59	4 252	17 000
2008	75	27	2 749	9 925

The Norwegian authorities assume that the majority of children who leave a reception centre do so voluntarily, either together with their families or, if they are UASC, alone. Under the Immigration Act, persons whose application for asylum or for any other permit in Norway is rejected are obliged to leave Norway by a specific date. We assume that many of these persons, including children, registered as "disappeared" leave reception centres to avoid being obliged to leave Norway.

However, to ensure that minors do not fall victim to criminal elements, the staff of reception centres have guidelines to alert them to signs of abuse or trafficking. Norway is concerned about children who disappear, particularly UASC, and we have developed procedures to make sure that UASC are living in reception centres and to detect possible victims of trafficking. The Directorate of Immigration is responsible for ensuring that the relevant agencies are informed of the procedures. All UASC who disappear from a reception centre are reported to the police, even in cases where the authorities believe that the disappearance is voluntary.

The Plan of Action against Human Trafficking mentioned above under question 21 contains 35 measures, several of which are aimed at continuing and strengthening work that is already being carried out. Among the measures targeted at children are measures to ensure better follow-up of minors who are found to be connected with substance abuse and criminal communities and to continue to prevent and investigate the disappearance of minors from reception centres.

According to the Directorate of Immigration, the most common reasons for families with children to leave reception centres are that they have either had their application for asylum rejected or been informed of the decision not to consider their application in Norway under the Dublin II Regulation. Some return to their country of origin or travel to another country, others go into hiding in Norway to avoid being forcibly returned.

The reasons why unaccompanied minors disappear are often similar to those mentioned above. Recently, there has been a tendency for most unaccompanied minors to disappear early in the asylum process, while staying in a transit reception centre in the greater Oslo area. At present many of the unaccompanied minors who disappear are persons of North African origin (Algeria, Morocco and Tunisia), who are later found by the police as members of organised criminal groups and drug dealers. Recently unaccompanied minors detected or arrested by the police for criminal offences have begun to apply for asylum in Norway after detection, whereas previously they would apply for asylum before disappearing and being arrested for criminal offences. There is no reason to believe that the majority of this group are in need of international protection, but some may be victims of trafficking. In such cases they may be granted a permit to stay in Norway, a temporary permit for a reflection period, in the same way as other foreign nationals identified as possible victims of trafficking who wish to be helped by the authorities. The immigration authorities suspect that 10 of the 97 unaccompanied minors who disappeared in 2010 may be victims of trafficking.

Many unaccompanied minors who disappear are believed to be older than 18 years, but their ages have not been established since they left the reception centres before a medical age assessment had been made.

23. Please provide updated information on measures taken to adequately prevent and combat inter-prisoner violence. Please indicate if, whenever injuries are recorded by a doctor which are consistent with allegations of inter-prisoner violence, the matter is immediately brought to the attention of the relevant prosecutor and a preliminary investigation is initiated by that prosecutor. Data should also be provided on the impact and effectiveness of these measures in reducing cases of inter-prisoner violence.

Avoiding overcrowding is crucial to preventing inter-prisoner violence. Overcrowding in prisons does not occur in Norway, since persons convicted of less serious crimes have to wait for a prison place to become available. This results in a "prison queue", which is undesirable but is considered to be more humane and less damaging than overcrowding.

There is normally no doubling up in Norwegian prisons. Each prisoner normally has his/her own cell.

Joint activities in high-security prisons are under constant supervision and control, and as a rule at least one employee must be present. Technical monitoring equipment is also used. The extent of joint activities is sometimes restricted in the interests of peace, order and security or if it is in the interests of the prisoners themselves or other prisoners, cf. section 37 of the Execution of Sentences Act.

There are no special legal provisions in Norway explicitly protecting especially vulnerable groups of prisoners. All prison administrations are, however, obliged to implement measures to ensure that vulnerable groups are not exposed to harm in any way. In some prisons sexual offenders are kept in separate departments. Pursuant to Section 37 of the Execution of Sentences Act, prisoners may apply to be excluded from the company of other prisoners. Prisoners belonging to vulnerable groups frequently take this opportunity to gain separation from other prisoners.

To ensure the safety of prisoners, acts of violence and threatening situations are monitored and reviewed afterwards. Since 2010 it has been obligatory for prison administrations to report these types of incidents to the regional level of the correctional services. Every four months, the regional level reports situations that have resulted in one or more written reports to the central administration. There is currently a trend towards more frequent inter-prisoner violence. Approximately 350 violence or threat incidents between prisoners were reported last year, and a similar number of violence or threat incidents against prison staff. The numbers were slightly higher than expected. The above-mentioned reporting system is to be evaluated.

24. 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.

Reference is made to Norway's sixth report to CCPR (CCPR/C/NOR/6) paras 168–171.

A proposal to establish an independent commission was made and considered by the Government. In 2008, the proposal was discussed with the Ministry of Health and Care Services, which is responsible for mental health care in Norway, but it was decided that at present there is no need to create a new system for dealing with such matters. The Government considers that the existing bodies, such as the Supervisory Commission and the Parliamentary Ombudsman for the Public Administration, are adequate//that instead more use should be made of existing bodies such as the Supervisory Commission and the Parliamentary Ombudsman for the Public Administration.?** The prison and the health

authorities cooperate on improving the situation of mentally ill prisoners. A nationwide survey of the mental health of prison inmates is about to be conducted.

In November 2008 the Ministry of Justice and the Police appointed a multi-disciplinary team to consider the need for resource sections – smaller units in various prisons for detainees with mental illnesses and major behavioural disorders. The purpose of these units is to provide better adapted serving conditions for prisoners who show various types of dysfunctional behaviour during deprivation of liberty. In November 2009, the team submitted their report, which concluded that there is a need for such resource sections.

The report has been subject to public consultation, and the response were in general positive to the proposed measures.

The proposals in the report are now being processed at the Ministry of Justice and the Police.

25. 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.

The Norwegian Government has focussed strongly on the use of detention and restraints. There is no new legislation concerning the use of police and restraints for the transportation of patients to psychiatric institutions, but the Government has appointed a committee to review the Mental Health Act provisions on detention and restraint with a view to reducing the use of force and ensuring that it is only used when necessary. This includes the use of force for the transportation of patients. The committee's report is to be delivered in May 2011. According to existing guidelines, qualified health personnel must always participate in involuntary admissions, including cases where police authority is needed. Cooperation agreements have been established between the health authorities and the police authorities.

26. 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 restraint, reclusion and electroconvulsive treatment.

The Ministry of Health and Care Services has ordered the regional health authorities to draw up regional and local plans in 2010–11 for reducing and ensuring the correct use of force and detention in the mental health services. The reason is that in previous years the health authorities had not succeeded in reducing the use of force in the mental health services despite clear signals to the regional health authorities. The Directorate of Health has also been requested to identify measures at the national level to assist the regional health authorities to reach the goal of reduced use of force. The national, regional and local plans are part of the New National Strategy on Reduced and Correct Use of Force. The quality of national reporting is also not satisfactory and the strategy contains measures to improve data quality and reporting procedures.

Some important steps have already been taken. During the last five years approximately 150 outreach teams have been established in order to reach those needing help at an early stage and to ensure closer follow-up when necessary. Although there is little available outcome research, there are local reports that the incidence of involuntary admissions and involuntary treatment has declined as a consequence of the outreach activity. The concept of patient-governed admission to local psychiatric institutions seems to reduce the use of detention among seriously ill persons. Patient-governed admission is based on the principle that patients should be able to decide for themselves when they need institutional support, and will be admitted when this is the case.

All cases of restraints/force/detention is required to be registered in patients' records. However, the quality of the statistical data is unsatisfactory. The available data seem to indicate that there have been very small changes in the use of force. There are no national statistics for the use of electroconvulsive treatment.

27. The urgent appeal sent on 6 March 2009 jointly by the Special Rapporteur on violence against women, its causes and consequences, the Chairperson-Rapporteur of the Working Group on Arbitrary Detention, the special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

Reference is made to the report from the Working Group on Arbitrary Detention (A/HCR/11/6/Add.1) paras 448–456. Norway responded to the urgent appeal on 8 March 2010.

III. Other issues

28. 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.

There have been no changes in Norway's position on this issue. Norway maintains that Article 22 of the Convention does not give rise to a legal obligation to comply with the Committee's request for interim measures. Such requests will, however, be duly considered and Norway is prepared to comply with such requests as far as possible, cf. also Rt. 2008 p.513, paragraph 58.

29. 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 the Protocol.

Work with a view to ratifying and implementing the Optional Protocol to the Convention is one of Norway's national human rights priorities, as set out in the 2009 UPR report. The Norwegian Government is currently considering practical and economic issues regarding the national preventive mechanism. All relevant ministries have considered which national measures are necessary in order to implement the Protocol. An inter-ministerial working

group has recently been set up to make proposals with regard to the national preventive mechanism. The working group will consult the National Institution for Human rights and relevant NGOs before submitting its report to the Ministry of Foreign Affairs.

30. Please state the measures taken towards the ratification of the Convention on the Rights of Persons with Disabilities.

Norway signed the Convention on the Rights of Persons with Disabilities in 2007.

Norway considers it necessary to make sure that national laws are in compliance with the convention, before ratifying the convention.

The Norwegian government has examined to what extent the convention will necessitate changes in Norwegian law and practices. The Norwegian legislation on legal capacity is considered not to be in compliance with art. 12 of the Convention. A new act on legal capacity has been passed, but has not yet entered into force.

Norwegian legislation and practices are otherwise considered to be in line with the convention.

31. 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.

Norway's responses to the threat of terrorism have been implemented with due regard to the obligation arising from international human rights law. A recent proposal to the Storting concerning the criminal law provisions on acts of terrorism in the new Norwegian General Civil Penal Code includes, for example, an extensive review of relevant human rights law, cf. Ot.prp. nr. 22 (2008-2009) Om lov om endringer i straffeloven 20. mai 2005 nr. 28 (siste delproposisjon – sluttføring av spesiell del og tilpasning av annen lovgivning).

A committee was appointed in 2000 to evaluate the use of coercive measures and methods and investigation methods during the investigation of certain serious crimes, such as acts of terrorism, in the light of the principles of fair trial, respect for privacy and the rule of law. The committee concluded its work in 2009 and proposed several amendments to the legislation currently in force that will further these principles. A public consultation was held on the committee's report.

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

32. 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.

Reference is made to section 2 of Norway's Common Core Document.

33. Please provide detailed relevant information on the new political, administrative and other measures taken to promote end 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.

Reference is made to section 2 of Norway's Common Core Document.

34. 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.

NIL