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COMMITTEE AGAINST TORTURE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION

Fifth periodic reports of States parties due in 2004

Addendum*

NORWAY

[26 January 2005]

* For the initial report of Norway, see CAT/C/5/Add.3; for its consideration, see CAT/C/SR.12 and 13 and Official Records of the General Assembly, Forty-fourth Session, Supplement No. 46 (A/44/46), paras. 76-93.

For the second periodic report, see CAT/C/17/Add.1; for its consideration, see CAT/C/SR.122 and 123 and Official Records of the General Assembly, Forty-eighth Session, Supplement No. 44 (A/48/44), paras. 63-87.

For the third periodic report, see CAT/C/34/Add.8; for its consideration, see CAT/C/SR.322 and 323 and Official Records of the General Assembly, Fifty-third Session, Supplement No. 53 (A/53/44), paras. 149-156.

For the fourth periodic report, see CAT/C/55/Add.4; for its consideration, see CAT/C/SR.511, 514 and 519 and Official Records of the General Assembly, Fifty-seventh Session, Supplement No. 44 (A/57/44), paras. 81-86.

The annexes submitted by the Government of Norway are available for consultation with the secretariat of the Committee.

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Introduction

1. Reference is made to the initial report submitted by Norway (CAT/C/5/Add.3), to the second periodic report (CAT/C/17/Add.1), to the third periodic report (CAT/C/34/Add.8), to the fourth periodic report (CAT/C/55/Add.4), and to Norway's core document (HRI/CORE/1/Add.6).

2. This report contains information on new measures taken to implement the Convention and new developments that have occurred during the period extending from the date of submission of Norway's previous report to the date of submission of the present report.

3. Information provided under articles 1-15 includes to some extent also other acts of cruel, inhuman or degrading treatment or punishment in accordance with article 16. Some additional facts are furthermore reported under article 16 to follow up information provided under this article in Norway's previous reports.

4. In accordance with the reporting procedure described in paragraphs 17 and 18 of Norway's core document, a draft of the present report has been submitted for comment to the Government's Advisory Committee on the Human Rights Working Group on United Nations-related issues. This opportunity to comment on the report does not of course prevent this group or any other non-State actor from presenting their views directly to the Committee.

I. INFORMATION ON NEW MEASURES AND NEW DEVELOPMENTS RELATING TO THE IMPLEMENTATION OF THE CONVENTION

Article 2

5. Several new measures have been taken during the reporting period in order to prevent acts of torture and other acts of cruel, inhuman or degrading treatment or punishment. Since the last periodic report, Norway has, inter alia, adopted a new penal provision concerning torture and new restrictions on the use of solitary confinement. As these measures were recommended by the Committee in its concluding observations, information on these issues will be provided in section II of this report, in accordance with the Committee's general guidelines regarding the form and contents of periodic reports.

6. Information about the reform of the special investigative bodies as reported in Norway's fourth periodic report (paras. 5-8) will be provided under article 12.

7. Other measures initiated to prevent acts of torture or other acts of cruel, inhuman or degrading punishment or treatment will be reported under the relevant articles in this section of this report, particularly under articles 10 and 11.

8. The Norwegian Supreme Court handled one case in the reporting period with reference to the prohibition against torture and other cruel, inhuman or degrading treatment in the European Convention on Human Rights (art. 3) (published in the Supreme Court Journal - Rt - for year 2003, page 375). The situation in this case was that the Norwegian authorities in 1994 had decided to expel a person after he had been sentenced for a grave drug related-offence. He was transported to Uganda in 1995, due to information he had given about his background. The

authorities in Uganda, however, did not accept that he was a national of Uganda and he was hence returned to Norway. On the basis of new information, the same person was expelled to Ghana in 1997, but returned once again to Norway, as the Ghanaian authorities did not accept him as a national of Ghana. This happened again the next year.

9. Against this background, the person in question claimed that he had the right to reside in Norway as a stateless person, and that further attempts to expel him would constitute a violation of article 3 of the European Convention on Human Rights. He also argued that his living conditions in Norway could be viewed as inhuman and degrading treatment as he was only granted a minimum of financial support, was unable to marry and lived in constant uncertainty about his future.

10. The Supreme Court found that the person most likely came from Ghana, and that the confusion around his background was caused by his own lack of cooperation and also false information about his origin. He could have changed his living conditions by giving full information about his origin to the Norwegian authorities. Article 3 of the European Convention was thus not considered violated by the Supreme Court.

Article 3

Expulsion

11. Reference is made to the information provided in Norway's previous reports, which still applies.

12. The general legislation regarding return, expulsion and extradition has not been amended significantly during the reporting period, with the exception of the amendments resulting from the implementation of Security Council resolution 1373 (2001). These amendments, to the Alien Act, are described in section II of this report, as the Committee recommended that information about them be included in this year's report.

13. Case law described in previous reports relating to return, expulsion and extradition is still relevant today. There has been no judgement or other ruling that has significantly affected the practice.

14. Reference is furthermore made to the observations submitted by the Norwegian Government to the Committee against Torture in communication No. 238/2003, *Z.T. v. Norway*, and No. 249/2004, *N.D. v. Norway*.

Extradition

15. Reference is made to Norway's fourth periodic report (para. 16).

16. The Norwegian Extradition Act of 13 June 1975, No. 39 has been amended three times during the reporting period, due partially to Norway's accession to the Schengen Convention, and partially to measures against terrorism. The amendments are of a general nature and not specifically relevant to the prevention of torture. An updated version of the Norwegian Extradition Act is nonetheless enclosed with this report as appendix No. 1 - as a translation of this act was provided in accordance with Norway's first supplementary report.

17. It might also be mentioned that Norway recently handled a request for extradition to Brazil. In this case, the person whom Brazil wanted extradited argued that extradition, because of the standards in Brazilian prisons, would violate article 3 of the European Convention and section 7 of the Norwegian Extradition Act. The Ministry of Justice decided, on the basis of reports from Amnesty International and information from the general consulate in Rio de Janeiro, that the prison conditions were not of such character that extradition would violate article 3 of the European Convention or section 7 of the Norwegian Extradition Act. The case was also tried before the courts, with the same result.

Article 4

18. On 2 July 2004 a special penal provision against torture was adopted as section 117 a of the Penal Code. More information about this provision will be provided in section II of this report as the adoption of such a provision was specifically recommended by the Committee after consideration of Norway's fourth periodic report.

Article 5

19. Reference is made to information provided in Norway's second periodic report (paras. 18-19), which still applies.

20. The Norwegian Penal Code is currently under total revision. A White Paper on a new Penal Code was submitted to the Norwegian parliament on 2 July 2004 and will presumably be heard by the parliament in the spring of 2005. The proposed provisions concerning Norway's jurisdiction over acts of torture are substantially the same as the existing one, although their wording differs. The White Paper also proposes a provision that explicitly states that Norway has universal jurisdiction over offences when this follows from treaties with other States or from international law.

Article 6

21. Reference is made to information contained in Norway's previous reports, which still applies.

22. The Rome Statute of the International Criminal Court has implemented as part of Norwegian domestic law on 15 June 2001 (Act on implementation of the Rome Statute of the International Criminal Court, 15 June 2001, No. 65). Reference should therefore also be made to the obligations arising under the Statute due to international cooperation and legal assistance, articles 89, 92 and 93 in particular.

Article 7

23. Reference is made to the information contained in Norway's third periodic report (paras. 26-28), which still applies.

24. Reference is also made to the obligations arising from the ratification of the Rome Statute of the International Criminal Court, as mentioned in paragraph 22 above.

Article 8

25. Reference is made to information supplied in Norway's first supplementary report (CAT/C/17/Add.1), paragraph 23. As mentioned in paragraph 16 of the present report, the Norwegian Extradition Act of 13 June 1975 has been amended and an updated version of the text is enclosed. None of the amendments is directly relevant for the implementation of the Convention against Torture.

Article 9

26. Reference is made to information supplied in Norway's initial report (CAT/C/5/Add.3), paragraph 25, and to information supplied in Norway's first supplementary report (CAT/C/17/Add.1), paragraph 24.

27. Section 24, subparagraphs 1 and 3, of the Norwegian Extradition Act of 13 June 1975 have been amended (see the updated version at appendix No. 1).

28. Reference is also made to the obligations arising from accession to the Rome Statute of the International Criminal Court, as mentioned in paragraph 22 above.

Article 10

The police

29. During the first year at the Police Academy the students attend a course in international law and human rights, including lectures on the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. On a general level the principle of always using the mildest form of physical intervention is emphasized throughout all education at the Police Academy. Special attention is furthermore given to the knowledge and understanding of foreign cultures and enforcement of the immigration legislation.

Prison staff

30. In order to guarantee the prisoners' rights and to prevent torture or other acts of cruel, inhuman or degrading treatment or punishment, the training of prison staff is of vital importance. Their professional competence is crucial for correct law enforcement. The Norwegian Correctional Service Staff Academy therefore offers a two-year course for the professional training of staff in the Correctional Service. Subjects such as ethics, criminology, psychology, psychiatry and human rights are important parts of the training programme. In recent years, the emphasis on these subjects has been intensified, with more focus on detrimental effects of solitary confinement and isolation. The training in these subjects covers issues related to human rights, including relevant international conventions such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Military personnel

31. Since Norway's fourth periodic report, the amount of information regarding human rights law given to different relevant categories of military personnel has been significantly increased. The Norwegian Military Police has appointed a lawyer to deal, inter alia, with the training of Military Police personnel in humanitarian law/human rights law.

Child welfare institutions

32. Reference is made to Norway's fourth periodic report (para. 42).

33. Training in the use of Multisystemic Therapy for youth (MST) and Parent Management Training for younger children (PMT) has been initiated throughout the country. These home-based interventions/methods are based on supporting both the child with serious behavioural problems and his/her family without having the child admitted to an institution (see also the fourth periodic report).

Medical personnel

34. Reference is made to Norway's fourth periodic report (para. 35).

35. Pursuant to the Act of 12 May 1995, No. 22 on Universities and Colleges of Higher Education, the Ministry of Education may lay down national framework plans for specific training programmes, for example for health and social work education. Such national framework plans indicate the overall aim and objective of the programmes concerned. The institutions will then draw up more detailed curriculum guidelines based on these framework plans.

36. On 1 July 2004 the Ministry of Education decided on a new framework plan for the training of nurses, including a general chapter for several health and social work professions. According to this plan the study programmes should, in preparing students for future work in the health and social work professions, meet the requirements laid down in international conventions.

37. More particularly, the plan states that students through their studies should:

- Acquire a holistic view of human beings, and respect the integrity and rights of others;
- Learn to recognize conflicting values and ethical dilemmas in practical health and social work;
- Learn ethical reflection and an ability to act according to ethical principles.

38. In a specific chapter relating to the training of nurses it is stated clearly that the study programme shall be in accordance with both national and international policy objectives, including international covenants and conventions in the field of human rights.

Article 11

Criminal procedures and remand

39. For new restrictions on use of pretrial solitary confinement, see section II of this report.

40. By Act 28 June 2002, No. 55, section 183 of the Criminal Procedure Act (Act of 22 May 1981, No. 25) was amended. The time limit for bringing an arrested person, whom the prosecuting authority wishes to detain, before a judge, was changed from "as soon as possible and as far as possible on the day after the arrest" to "as soon as possible and at the latest the third day after the arrest". The amendment was caused partly by a wish to introduce an absolute time limit, and partly because it was assumed that by being able to keep suspects in custody for up to three days, the number of cases where there will be a need for further detention would be reduced, i.e. the total use of detention is likely to decrease. The relationship between such a reform and the right to be brought promptly before a judge was discussed thoroughly in the *travaux préparatoires*. The reform has not yet entered into force, awaiting the finalization of regulations to ensure that the reform will not increase the time spent in police custody.

41. There has been a special focus on remand in custody on police premises and the harmful effects of restrictions upon remand prisoners. In order to reduce the length of pretrial detention in police cells, the Norwegian Correctional Services has decided that prison accommodation shall be made available within 24 hours after a remand order is made, unless this is practically impossible. The enforcement of the rule, including possible violations, shall be reported to the Norwegian Correctional Services on a weekly basis.

42. Due to current problems regarding accommodation capacity in Norwegian prisons, several steps have been taken to increase this capacity and ensure remand prisoners satisfactory conditions:

- Prisoners may be released a short time before he or she should otherwise be released to obtain available prison cells;

- At present, the Norwegian Correctional Services focus on increased use of execution of sentences in prisons with a lower security level and alternative ways of execution of sentences outside prisons;

- Furthermore, Oslo Prison is now renovated and all cells are in use. Bergen Prison is extended, and 30 new cells for remand prisoners will be available from December 2004.

Imprisonment

43. A new Act on Execution of Sentences was adopted on 18 May 2001 (Act No. 21) and entered into force from 1 March 2002, replacing the former Prison Act of 12 December 1958.

44. The Execution of Sentences Act, including its regulations and guidelines, was drafted in accordance with international human rights law. The new regulations provide several measures

aimed at preventing acts of "torture and other cruel, inhuman or degrading treatment or punishment", and ensuring investigation when there are reasonable grounds to believe that such acts have been committed in prisons.

45. Prisoners are entitled to make complaints to the Prison Governor, and they may appeal his decisions to the regional level of the Norwegian Correctional Services. Prisoners may also make complaints to the Parliamentary Ombudsman for the Public Administration. Moreover, there is a supervisory council in each region which exercises supervision over the prisons and the offices of the Probation Service and the treatment of the prisoners, ensuring that the treatment of the prisoners complies with the Act as well as the regulations and other provisions. This system allows prisoners to complain to persons outside of the prison and others than probation officers.

46. The Correctional Services may make use of a security cell, a restraining bed or other approved coercive measures in certain situations, such as to prevent a serious attack on or injury to a person. Such measures, when taken, shall be reported to the regional level and/or the Norwegian Correctional Services.

47. The following figures indicate the use of coercive measures in prisons in Norway in recent years:

Year	Security cell	Restraining bed
1998	292	14
1999	302	18
2000	282	6
2001	359	16
2002	351	21
2003	343	21

48. The use of security cells and restraining beds are in most cases limited to a period of time that is less than 24 hours.

49. The Correctional Services may impose sanctions on prisoners that breach the rules regarding peace, order and discipline or conditions in or pursuant to the Execution of Sentences Act. However, solitary confinement is now abolished as a sanction, mainly due to the detrimental effects this sanction may have.

Detention of asylum-seekers

50. Reference is made to Norway's fourth periodic report (paras. 59-60).

51. A separate centre has been established for the arrest and custody of persons detained pursuant to section 37 d of the Immigration Act of 24 June 1988, No. 64. This is done in order to separate them from criminals in ordinary prisons and enable a more lenient regime. The centre does not have the same strict regulations as a prison. Couples can stay together, and children can remain together with their parents. The persons are not confined to a cell, but can move freely within the boundaries of the institution. In 2003, 131 persons were detained in this centre pursuant to sections 37 and 41 of the Immigration Act.

Other forms of detention and coercive measures

52. Information about detention and use of coercive measures in child welfare institutions, psychiatric treatment, institutions for mentally disabled persons, treatment of drug abusers and persons suffering from senile dementia, is provided under article 16.

Article 12

53. Reference is made to the information provided in Norway's second periodic report (paras. 34-36), which still applies.

Special investigative bodies

54. Reference is made to Norway's fourth periodic report, article 2 (paras. 5-8), regarding special investigative bodies and the committee appointed by the Director-General of Public Prosecution in 2000 to evaluate the quality of the investigations by the special investigative bodies.

55. The committee found that the quality of the investigations was acceptable, but that there were marked differences between the various bodies.

56. Against this background, the Government in 2003 proposed to replace the former special criminal investigation bodies with a new central unit (Ot.prp. No. 96 (2002-2003)). The parliament (Stortinget) approved the proposal, and the new unit is expected to be in full operation from 2005. The unit will not only investigate alleged criminal acts by members of the police and prosecuting authority, but also decide on prosecution. The body's competence to decide on prosecution is intended to remove any suspicion that close ties between the prosecuting authority and members of the police in the same district might influence decisions on whether to prosecute the offences or not.

Article 13

57. Reference is made to the information provided in Norway's fourth periodic report (paras. 45-46) and to the third periodic report (paras. 41-48), which still applies.

58. Reference is also made to the administrative complaint procedures described under article 11 (paras. 39-73 below) for prisoners. Reference is further made to the complaint procedures for other groups of persons subjected to coercive measures in institutions described under article 16.

Article 14

59. Reference is made to Norway's fourth periodic report (para. 42).

60. A new act on compensation from the State to victims of violent crimes was adopted in 2001. A translation of this act is enclosed to this report as appendix No. 2.

61. A centralized Compensation Board, the decisions of which can be appealed to an Appeals Committee, now decides upon claims for compensation.

62. There are certain conditions to be fulfilled before compensation is granted:

- Compensation is restricted to victims of a violent crime, or to relatives of such a victim. The State compensation scheme is applicable to victims of *any* violent crime;

- As a main rule, the person seeking compensation must have reported the crime to the police without undue delay. Exceptions from this requirement are made in cases where the victim's failure to immediately report the crime to the police is understandable and not unreasonable;

- It must be established as a probable cause that the victim was a victim of a criminal act of violence. For this purpose, the Compensation Board has access to the police files in question. There is, however, no requirement of a conviction of the alleged perpetrator. Nor is there any requirement that the identity of the perpetrator has to be established;

- In order to facilitate the work of the Compensation Board, the claim for compensation must be filed using a special form. The forms are available with the police, the advisory agents for victims of violent crimes, the county governor, the social security office, the National Insurance Office and the website of the Ministry of Justice.

63. There are also regulations for the compensation payment:

- Compensation may cover loss of income already incurred, and future loss of income as a result of the crime, expenses that the injury has either caused or that will be incurred, and damage to clothing and other personal effects worn by the victim as the offence was committed. In addition, the victim may be entitled to compensation for permanent injuries and/or compensation for damage of a non-pecuniary nature;

- The State compensation scheme is subsidiary to any compensation that the victim may obtain from the perpetrator (should his or her identity be known) or under any insurance policy;

- The Compensation Board can oblige the perpetrator (should his or her identity be established) to reimburse the compensation awarded. As a main rule, this is done where a court has identified the offender.

Article 15

64. Reference is made to Norway's fourth periodic report with references to the information provided in Norway's third periodic report (paras. 54-56). This information still applies.

65. Explicit references to international human rights standards play an increasingly significant role in court proceedings. In particular, a number of Supreme Court cases address the right to examine witnesses, in relation to the reading out of statements made to the police - with references to case law from the European Court of Human Rights.

Article 16

Child welfare institutions

66. Reference is made to Norway's fourth periodic report (paras. 68-69) and Norway's third periodic report (paras. 60-62).

67. A regulation from 1993 concerning children's rights and use of coercion in child welfare institutions was replaced in 2002. The new regulation extends to matters concerning the rights of the children, use of coercion, appeals and special regulations concerning placement and detention according to section 4-24 and section 4-26 in the Child Welfare Act of 17 July 1992, No. 100.

68. Juveniles deprived of their liberty according to section 4-24 and section 4-26 have, inter alia, a right to complain to the supervisory authorities about breaches of the regulation.

69. A county social welfare board in each county is authorized to decide in cases pursuant to certain sections of the Child Welfare Act, among them cases pursuant to section 4-24 (Placement and detention in an institution without the child's own consent). Statistics from the county social welfare boards within the period 2000 to 2003 show that on the national level, there is no significant increase in use of placement without the child's own consent. However, the number of children who are admitted to an institution pursuant to section 4-24 varies by county and from year to year.

70. Cases pursuant to section 4-26 (Detention in an institution on the basis of consent) are not handled by the county social welfare board. According to statistics from the county governors for 2001-2004, there is a small decrease in the number of children who are admitted to institutions pursuant to section 4-26.

71. From 1 January 2004 State authorities are in charge of child welfare institutions pursuant to the Child Welfare Act. On this date new regulations on requirements for institutions and a special authorization for private institutions were introduced. The aim of these regulations is to ensure that the institutions have a satisfactory standard. Regulations concerning rights during stay in child welfare institutions as well as regulations concerning supervision of these institutions have been amended to ensure that the rights of the child are emphasized.

Psychiatric treatment

72. Reference is made to Norway's fourth periodic report (paras. 36-37). The Mental Health Care Act of 2 July 1999 entered into force in January 2001.

73. According to the Mental Health Care Act, restrictions and compulsive measures shall be limited to what is strictly necessary. The patient's view of such measures shall be taken into account as far as possible. Only measures that have favourable effects that clearly outweigh the disadvantages of the measure may be used.

74. The use of coercion within the mental health/care services for adults can mainly be divided into three groups: establishment of compulsory mental health care, compulsory treatment and the use of means of coercion. According to the Mental Health Care Act, compulsory mental health care may be applied to persons with serious mental disorders only:

- If it is necessary to prevent a considerable reduction of the prospects of his or her health being restored or significantly improved, or;

- When it is highly probable that the condition of the person concerned will significantly deteriorate in the very near future, or;

- To prevent an obvious and serious risk to his or her own life and health or those of others, on account of his or her mental disorder.

75. Even if these conditions are satisfied, compulsory mental health care may only be applied when, after an overall assessment, this clearly appears to be the best solution for the person concerned, unless he or she constitutes an obvious and serious risk to the life or health of others. In this assessment, special emphasis shall be placed on the level of strain the compulsory intervention will entail for the person concerned.

76. When a person is placed under mental health care pursuant to the Mental Health Care Act, there shall be a supervisory commission. The provisions on the commission are contained in chapter six of the Act. The supervisory commission is autonomous in its activity. It shall make the decisions that have been specially assigned to it and shall also, insofar as possible, carry out such supervision as it deems necessary for the welfare of the patients. It may take up cases on its own initiative or pursuant to a request by the patient, the patient's closest relative or staff. If it finds circumstances to which it wishes to draw attention, it shall take the matter up with the responsible mental health professional and, as the case may be, the chief county medical officer.

77. When a person is placed under compulsory mental health care, notification shall be sent to the supervisory commission, together with a copy of the supporting documents. As soon as possible, the supervisory commission shall ascertain that the correct procedure has been followed, and that the administrative decision is based on an assessment of the criteria in the Mental Health Care Act.

78. Patients under compulsory mental health care may, without their own consent, be placed under such examination and treatment as is clearly in accordance with professionally recognized psychiatric methods and sound clinical practice. Unless the patient has consented, no examination or treatment entailing a serious intervention may be carried out. However, the patient may be treated with medicine without his or her consent. Such medication may only be

carried out using medicines registered in Norway and using commonly used doses. Medication may only be carried out using medicines that have favourable effects that clearly outweigh the disadvantages of any side effects.

79. The Mental Health Care Act regulates the use of coercive means in overnight stays in institutions, and separates the means into three categories: mechanical means (including belts and straps), isolation (short-term confinement behind locked doors without personnel present) and medicaments with a short-term effect (singular use of medicaments that only have an effect for a short period of time for the purpose of calming or anaesthetizing the patient).

80. So far, we do not have adequate information on the extent to which coercion and force are used in psychiatric treatment. A report prepared by the Foundation for Scientific and Industrial Research at the Norwegian Institute of Technology regarding these issues will be issued by the end of 2004.

Mentally disabled persons

81. Reference is made to Norway's fourth periodic report (para. 39).

82. As mentioned in the previous report, chapter 6A of the Social Services Act of 13 December 1991, No. 81 entered into force on 1 January 1999. The chapter contained provisions relating to the rights of, and restriction and control of the use of coercion and force towards certain mentally disabled persons. In order to allow for an evaluation of the new legislation, the Norwegian parliament decided that the Act should only be in effect for three years, later prolonged to five years.

83. Evaluation of the legislation showed that it had led to better control of the use of coercive measures and a higher recognition of mentally disabled persons' right to respect and self-determination. The use of coercive measures had been reduced under the five years the legislation has been in effect.

84. On the basis of this evaluation, the parliament added a permanent chapter 4A to the Social Services Act. According to chapter 4A, like previous chapter 6A, coercive measures can only be applied when they are professionally and ethically justifiable. The interventions must go no further than necessary for the purpose, and they must be proportionate. Use of methods of punishment or treatments that are degrading or offensive to personal integrity are not permitted. The Act does not contain specific descriptions of the measures that may be used. It provides for a system of supervision. The provisions apply wherever health and/or social services are provided.

Persons with senile dementia

85. Reference is made to Norway's fourth periodic report (para. 67).

86. The Norwegian Centre for Dementia Research conducted a survey (1999-2001) on the prevalence of patients subjected to constraint in Norwegian nursing homes. In this survey all actions either taken in general or towards an individual were registered, whether the recipient

opposed it or not. It is important to bear in mind when reading the statistics that the numbers may be misleading as the registered actions partly will be coercion and partly will be other actions taken without the explicit consent of the recipient. A structured interview was carried out with the primary care workers of a random sample of 1,501 patients from 222 nursing-home wards in 54 municipalities representing all five health regions in Norway. Data were collected from regular units (RUs) and special care units (SCUs) for persons with dementia. Five main groups of constraint were aggregated: mechanical restraint, non-mechanical restraint, electronic surveillance, force or pressure in medical examination or treatment; and force or pressure in activities of daily living.

87. The survey showed that 36.7 per cent of the patients in the RUs and 45.0 per cent of the patients in SCUs were subjected to constraint. Most frequent were use of mechanical restraint (23.3 per cent in RUs, 12.8 per cent in SCUs), of which three quarters of the incidents consisted of the use of low barriers to prevent patients from falling out of bed during sleep, and use of force or pressure in activities of daily living (20.9 per cent in RUs, 16.6 per cent in SCUs). Use of force or pressure in medical examination or treatment was more frequently used in SCUs (19.1 per cent) compared with RUs (13.5 per cent). Non-mechanical restraint was less frequently used and electronic surveillance was seldom used (7.2 per cent in RUs, 0.9 per cent in SCUs).

88. The degree of dementia, aggressive behaviour and loss of function in activities of daily life had significant impact on all types of constraint except for electronic surveillance. The staff level and education level of the staff had no significant impact on the use of constraint. The most commonly stated grounds for using the above-mentioned measures were to enable at least a minimum of nursing to be carried out, to prevent the patient from falling out of a bed or a chair, and to enable necessary treatment, including medical treatment, to take place.

89. The Government presented a report to the parliament (St.meld. nr. 45 (2002-2003): *Betre kvalitet i dei kommunale pleie-og omsorgstenestene*/White Paper No. 45 (2002-2003): Better Quality in the Municipal Nursing and Care Services) in 2003 where several measures were described to improve the quality of the health and care services, with a particular focus on the care of the elderly. Legal provisions regulating the quality of the nursing and care services of senile dementia patients have also been issued. Furthermore, the Ministry of Health and Care is in the process of reviewing the need for new regulations relating to the restriction and control of the use of coercion towards senile dementia and other patients lacking capacity to consent.

Coercion in relation to drug and alcohol abusers

90. Chapter 6 of the Social Services Act contains provisions governing special measures directed towards persons who abuse intoxicating substances. According to section 6-2, if such persons endanger their health by substantial and long-term abuse, it may be decided that they shall be admitted to an institution for a maximum of three months. Such a decision may only be made if the institution is able to offer the person in question satisfactory help.

91. Statistics concerning drug and alcohol abusers subjected to compulsory placement are as follows:

	2001	2002	2003
Decisions by the county board	44	36	39
Decisions by social services, temporary decisions, so-called urgent matter decisions	31	35	30

92. According to section 6-2 a, which was added by Act No. 41 of 23 June 1995, it may be decided that a pregnant woman who abuses an intoxicating substance shall be held in an institution throughout her pregnancy, provided that the abuse is of such character that there is an overwhelming probability that the child otherwise will be injured. The social service shall, at least every third month, consider whether it is still necessary to keep the woman institutionalized.

93. Statistics concerning pregnant drug and alcohol abusers subjected to compulsory placement are as follows:

	2001	2002	2003
Decisions by the county board	13	27	14
Decisions by social services, temporary decisions, so-called urgent matter decisions	11	34	24

94. The temporary decisions made by the social services are short-term and subject to confirmation by the county board as soon as possible, and if possible within 48 hours. The temporary decisions can be subject of appeal to the county board (Committee of experts led by a chairman with legal training as well as representatives of laymen).

95. If a temporary decision is made, the proposal shall be sent to the county board for approval within two weeks. If the proposal is not sent to the county board within this deadline, the decision will be annulled.

96. Immediate/urgent decision is conditional upon qualified and/or paramount danger of harmful effects on the child if the decision is not immediately made and implemented.

97. The county board's decisions can be brought before the city court for appeal.

98. Three Norwegian treatment programmes reviewed the practical/clinical result of compulsory treatment of substance abusers by the end of the 1990s. One is a specialized treatment unit for pregnant drug abusers (*Borgestadklinikken*). The main finding is that a three-month period of compulsory treatment has an increased motivation for continued treatment on a voluntary basis as its main effect. Another review documents the same results of a treatment programme for younger drug abusers and for adult abusers referred from prisons (Tyrili Foundation). A third review from an emergency unit at Oslo University Hospital (*Ullevål*) concludes that the results are meagre.

II. COMPLIANCE WITH THE COMMITTEE'S CONCLUSIONS AND RECOMMENDATIONS

A special penalty provision concerning torture

99. On 2 July 2004, a specific penal provision against torture was adopted as section 117 a of the General Civil Penal Code. Section 117 a prohibits a public official from causing injury or serious bodily or mental pain to a person in order to obtain information or confession, in order to punish, threaten or force someone, or due to his or her religion, race, skin colour, sex, sexual orientation, lifestyle or inclination, or national or ethnic origin. A person who commits torture is liable to imprisonment for a term not exceeding 15 years. Serious or grave torture resulting in death is punishable with imprisonment for a term not exceeding 21 years.

100. The acts covered by the provision were previously covered by the more general provisions on use of force, threats, bodily injury, abuse of power, etc. of the Penal Code.

Pretrial solitary confinement

101. The Criminal Procedure Act was amended by Act 28 of June 2002, No. 55, the main purpose of which was to reduce the overall use of solitary confinement and to strengthen the judicial supervision of such use. The amendment entered into force on 1 October 2002.

102. According to the previous wording of section 186 of the Criminal Procedure Act, the court could by order decide that a person in custody should not be allowed to receive visits or send or receive letters or other consignments, or that visits or exchange of letters could only take place under police control. Based on such orders, the police were at liberty to decide whether the prisoner was to be held in solitary confinement. According to the revised section 186 and new section 186 a, the use of solitary confinement is now dependent on an explicit authorization by a court.

103. Moreover, in order to ensure that solitary confinement is not used unless strictly necessary, solitary confinement may now only be decided if there is an immediate risk that the person arrested will otherwise interfere with evidence in the case, e.g. by removing clues, or influence witnesses or accomplices. In addition, solitary confinement cannot be decided if such confinement would constitute a disproportionate intervention in view of the nature of the case and other circumstances.

104. Furthermore, solitary confinement is subject to time limits set by the court. The time limit must be as short as possible and may not exceed two weeks. It may be extended by order for up to two weeks at a time. If the nature of the investigation or other special circumstances indicate that a review after two weeks will be pointless, and the person charged is older than 18 years old, the time limit may be extended by four weeks at a time.

105. Maximum time limits for the use of solitary confinement have been introduced. The prisoner cannot be held in solitary confinement for more than six consecutive weeks when the offence for which the person is charged may result in a sentence of less than six years' imprisonment. When the maximum sentence is more that six years imprisonment, the prisoner

may be held in solitary confinement for 12 consecutive weeks. Exceptionally, the detainee may be held in solitary confinement for more than 12 weeks if necessitated by special circumstances. A detainee under 18 years of age may under no circumstances be isolated for more than eight consecutive weeks, regardless of the maximum sentence.

106. When a person has been remanded in custody pending trial, and is subsequently convicted, the judgement shall stipulate that the whole of this period shall be deducted from the sentence. If a period in custody has been spent in complete isolation, a further deduction shall be made equivalent to one day for each 48-hour period commenced while the convicted person was subjected to complete isolation (see section 60 of the General Civil Penal Code).

107. Furthermore, the Government has been working on reducing the overall time spent on investigating and adjudicating in criminal cases by means of new legislation, new routines, improving the qualifications of the staff, and developing and improving the relevant computer technology. These measures should have an impact on the time spent in pretrial detention in general and solitary confinement in particular.

Amendments to the Immigration Act on the basis of Security Council resolution 1373 (2001)

108. Security Council resolution 1373 (2001) obliges Norway to implement a range of measures in order to combat international terrorism. The Norwegian Government proposed a number of amendments in April 2003 to fulfil these obligations, including amendments to the Immigration Act. The amendments were adopted on 28 June 2002.

109. Paragraph 2 (c) of the resolution says that all States shall "[d]eny safe haven to those who finance, plan, support, or commit terrorist acts, or provide safe havens". Pursuant to this provision, sections 27, 28, 29, 30 and 58 of the Immigration Act concerning rejection and expulsion had to be evaluated and some of them amended.

110. The existing regulations relating to rejection in sections 27 and 28 of the Immigration Act were considered to satisfy the obligations arising from the Security Council resolution. Such decisions about rejection can only be made in respect of foreign nationals who do not hold a permit for work, residence or settlement in Norway.

111. The basis for expulsion of foreign nationals who hold a permit for work, residence or settlement is regulated in sections 29 and 30 of the Immigration Act. Based on an overall assessment of existing regulations and comments in the public hearing process, the following new paragraphs were introduced:

(a) Section 29, subsection 1, paragraph (e): a foreign national can be expelled "when the foreign national has violated section 147 a or 147 b of the Penal Code or has provided safe haven for someone who he or she knows has committed such a crime". Section 29 further states in subsection 2 that expulsion pursuant to paragraph (e) shall not be ordered if this would be a disproportionately severe action for the foreign national or his or her closest family members considering the seriousness of the offence and the foreign national's relation to the realm;

(b) Section 30, subsection 2, paragraph (c): any foreign national who satisfies the requirements for a settlement permit may only be rejected or expelled "when the foreign national has violated section 147 a or 147 b of the Penal Code or has provided safe haven for someone he or she knows has committed such a crime", c.f. section 29, subsection 1, paragraph (e);

(c) Section 58, subsection 3: "Any foreign national who is included under the EEA Agreement or the EFTA Convention may be expelled when the foreign national has violated section 147 a or 147 b of the Penal Code or has provided safe haven for someone who the foreign national knows has committed such a crime".

112. The new provisions clearly underline that terrorists and persons associated with terrorism can be expelled even if the activity is not directed towards Norway and also regardless of whether the person has been sentenced for such activities. It is not required that criminal liability according to the Penal Code can be established. It is sufficient to verify that the objective description of the offence has been violated. So far, there is no relevant case law to the new provisions in sections 29 and 30.

113. It should be noted that it was emphasized throughout the process of public hearing and in the final proposal for amendments that expulsion according to the new provisions may not take place if there is a risk of inhuman treatment of the expelled person. Neither must an expulsion be carried out when this would be a violation of international conventions, including the Convention against Torture, when these international standards are intended to strengthen the position of a foreign national.

List of appendices

Appendix No. 1: Updated version of the Norwegian Extradition Act.

Appendix No. 2: Act of 20 April 2001 No. 13 relating to state compensation for personal injury caused by a criminal act, etc. (Compensation for Victims of Violent Crime Act).
