OFFICE OF THE COMMISSIONER FOR HUMAN RIGHTS

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REPORT
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ON HIS VISIT TO NORWAY

2 - 4 APRIL 2001

for the Committee of Ministers and the Parliamentary Assembly

INTRODUCTION

On the invitation of the Norwegian government, I visited Norway from the 2nd to the 4th April 2001. The main aims of this visit were to establish contacts with the Norwegian authorities, including the Ombudsman, and with representatives of its civil society via NGO's and other institutions, so as to conduct an initial appraisal of the human rights situation in Norway both in terms of its legislation and the application of this legislation in practice.

I wish to thank the Norwegian authorities for their warm welcome and their assistance during this trip. Thanks to their efforts, I was able to meet everyone I wished to see and, furthermore, visit the Bredtveit and Oslo prisons. I also thank Mr. Arne Fliflet, the Norwegian Ombudsman, for the valuable information he was able to give me in the course of our discussions.

I would like, lastly, to express my gratitude to Ambassador Torbjørn Aalbu for his close co-operation while accompanying me and thank Mr Mika Boedeker for his assistance throughout the visit.

1. CONSIDERATIONS OF A GENERAL NATURE

As a founder member of the Council of Europe, Norway ratified the ECHR in 1952 and it has subsequently ratified all the additional protocols. Nonetheless, up till 1999, Norwegian law prevailed over international law. It was only with the adoption, on the 21st May 1999, of a law on the reinforcement of human rights protection that three international conventions were incorporated into Norwegian legislation. The conventions concerned were the ECHR, the International Covenant on Economic Social and Cultural Rights (of the 16th December 1966) and the International Covenant on Civil and Political Rights (of the same date), both of the United Nations.

The Government presented a Plan of Action for Human Rights to the Norwegian Parliament on the 17th December 1999. This program contains more than 300 measures intended to improve the protection of human rights in Norway. It includes various legislative initiatives on human rights, most notably the incorporation of four additional conventions into national legislation. These conventions concern the rights of children, the rights of women, the prevention of racial discrimination and the prevention of torture.

2. SPECIFIC ISSUES

Despite this plan, the persistence of a number of problems was confirmed to me by those I met with during my visit. In particular, the Ombudsman and the representatives of the NGOs emphasised the difficulties involving aliens. The representatives of NGO's also adverted to problems concerning the rights of persons deprived of their liberty and of national minorities. These problems will be considered amongst the specific issues below.

2.1 Rights of detained persons

Both during my visit and in its preparation, I took into account the recommendations made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), of which a delegation visited Norway from the 13th to the 23rd September 1999. In its report (CPT/Inf (2000) 15), the CPT adverted to the need to respect the right of detained persons to legal assistance from the outset of their police custody and the need to lift some of the restrictions on their rights to correspond and receive visitors.

The problems regarding the rights of detainees to legal assistance during police custody seem to have been resolved; the Minister of Justice informed me that detained persons already enjoy the right to see a lawyer as soon as possible after their arrest or within a maximum delay of two hours thereafter.

However, as a result of my visits to the Bredtveit prison (for women) and the Oslo Prison, I was able to confirm that, despite the progress made since the visits of the CPT in 1997 and 1999, the restrictions on the rights of persons detained on remand to correspond and receive visitors remain problematic and that the difficulties raised by the CPT in this area have still not been fully resolved.

Those arrested usually come before a court within 24 hours of their arrest (the period may be extended in the event of public holidays), so that the court can decide on whether to allow a pre-trial detention of, usually, four weeks. This period can be prolonged, but each renewal can only be for a maximum duration of four weeks. The court also has the power to order, on the request of the police, visiting restrictions and limitations to the rights to correspond and maintain contacts.

Persons detained on remand may, in accordance with the law, have their rights to receive visitors and maintain contacts, even with other detained persons, significantly restricted. The same is also true of access to newspapers, radio and television programmes and books. According to article 186 of the Penal Code, the court can order such restrictions for periods stretching from 2 to 4 weeks depending on the necessities of the investigation.

It is to be noted that domestic legislation does not fix a maximum duration for these restrictions, such that there exists a risk of a *de facto* isolation, which, with the exception of contact with one's lawyer, can in certain instances continue for quite some time. I was led to believe, as a result of my discussions with the Minister of Justice, that there were plans to limit the maximum duration of these restrictions or to take their imposition and length into account when considering the imputation of the pre-trial detention period to the sentence itself.

The potentially harmful psychological consequences of such isolation were confirmed to me during my visit to the Bredtveit prison, where I spoke with a woman who had suffered such restrictions for the last six weeks. During this period she had been denied the right to see her husband and her young children; her sole human contact being with her guards. It is, indeed, usual, when mental deterioration results, for the prison authorities to contact the police and to encourage them to speed up the

processing of the case or, sometimes, to demand of the judicial authorities that the restrictions be relaxed. Nonetheless, it seems to me preferable, rather than reach this stage, to ensure that in each individual case the restrictions in questions are imposed only for so long as they are strictly necessary for an adequate investigation.

I also have a number of reservations regarding the prevailing penitentiary policy for young offenders in Norway. In the majority of European countries juveniles in pre-trial detention (currently 90% of all detained juveniles in the Oslo prison are detained on remand) are separated from adults on pre-trial detention as well as all other convicted detainees. This practise not only avoids any bad influences they may be subjected to by professional criminals, but recognizes also the need for a penitentiary policy specifically tailored to their reintegration. For this reason they are usually detained in separate centres or, at least, in separate sections within more general penitentiary establishments.

Norway has not adopted such a practise across the board (and has, for this reason, limited the application of article 10 of the International Covenant on Civil and Political Rights of 16th December 1966). Indeed, given the small number of juvenile detainees and the generally short sentences they serve, the Norwegian penitentiary authorities have maintained that such a separation would amount to a de facto isolation. Indeed, according to the statistics of 1999, of the 17,155 convicted detainees in Norway only 1067 were minors (between 15 and 17 years old) and 2,317 youths aged between 18 and 20.

Nonetheless, the experiences of the Larvik prison (in the South East of Norway) demonstrate that the separation of young and old offenders can protect the young from the negative influences of established criminal circles. The plans to create a special section for young detainees at the Oslo prison are consequently a positive development and must be implemented.

2.2 Refugees and Immigration

Despite being a nation that offers considerable support to international refugee organisations, Norway admits relatively few refugees, even if the figures indicated, at one time, a certain increase. In 1998 Norway granted the right to asylum in 108 cases out of 3919 applications, in 1999 it granted asylum to 181 persons from 6060 applicants, and, in 2000, 108 from 7852. These figures should be supplemented by the 250 to 500 asylum requests granted each year on appeal.

I was informed during my meeting with NGO's that the duration of the processing of applications is very long and that applicants are frequently deprived of their liberty, especially in cases where there is some doubt as to their identity. The treatment of minors, currently representing some 30% of all asylum applicants, is also of concern. Whether accompanied or not, they are treated in the same way as adults an may, equally, spend long periods in reception centres.

Norway also accepts 1500 refugees at the request of the HCR. These last are refugees who, previously residing in camps, are distributed amongst participating states and whom Norway accepts on "humanitarian grounds".

Furthermore, in the last three years Norway has granted more "residence permits on humanitarian grounds" (1564 in 1998 to 2609 in 1999 and 2856 in 2000). Norway also adopted, in 1998 and 1999, guidelines on the application of the Convention on the status of refugees, which broadened the field of admissible applications to include persons persecuted by authorities other than those of their country of origin and those persecuted on the grounds of their sex, religion and ethnic origin. The reuniting of families has also been facilitated by these guidelines.

3. NATIONAL MINORITIES AND RACISM

a) Although national minorities are well protected by the existing legislation in Norway, a number of points were raised in my discussions with the representatives of NGO's during my visit. The groups considered to be national minorities in Norway are the Sami, the Kven (a people of Finnish origin living in the north of Norway), the Skogfinn (a people of Finnish origin living in south of Norway), the Roma/Gypsies, Travellers, and Jews.

The legal status of Samis has been considerably improved by the 1988 changes to the Norwegian Constitution, which places an obligation on the state to create conditions enabling the Sami to preserve their language, culture and way of life, and by the adoption of a law establishing the general framework of a Sami parliament. The representative of the Kven organisation I met with insisted that the 'Norwegianisation' of the Kven in the middle of the last century had left the knowledge of their language and culture in peril, despite the *recent* efforts of the Norwegian state. Whilst maintaining that these efforts were inadequate, he did not allege any human rights violations.

b) With a view to improving the situation of immigrants, Norway adopted a Plan of action to counter racism and discrimination. The NGO's I met with, however, maintained that immigrants and refugees were, according to several studies, discriminated against in various domains, most notably, in access to employment and in regard to housing. It was also pointed out to me that during local elections, the Progress Party made use of anti-immigrant and refugee arguments. Considering it is the second largest party in the country, I must say that I find this of some concern.

Following the Government's proposal in its 1999 Plan of action for human rights of a new law on the prohibition of ethnic discrimination, a working group was established in March 2000 and it is expected that they will complete their work by June 2001. It is to be hoped that the protection against discrimination will be effectively reinforced.

CONCLUSIONS

It is clear that the degree of human rights protection in Norway is high. Nonetheless, certain remaining problems need to be addressed by the authorities, in particular regarding the human rights of persons detained on remand, juvenile detainees and, especially, the protection of aliens and asylum seekers. The full implementation of the 1999 Plan of action on human rights would allow for the resolution of many of these problems. The final stages of its application should, therefore, be entered into as soon possible.

Programme of the Official Visit of Commissioner for Human Rights of the Council of Europe to Norway, 2nd to 4th April 2001.

Monday 2nd April

11.25	Arrival, Oslo
14.00	Meeting with Mr. Carsten SMITH, Chief Justice of the Supreme Court
15.15 – 16.15	Meeting with Mr. Arne FLIFLET, Parliamentary Ombudsman
16.30 – 17.30	Meeting with Mr. Asbjørn EIDE, Senior Adviser, and Mr. Daniel KJELLING, Administrative Head of Department, Norwegian Institute of Human Rights
19.15	Dinner hosted by Mr. Arne FLIFLET, Parliamentary Ombudsman

Tuesday 3rd April

09.50	Meeting with Ms. Hanne HARLEM, Minister of Justice
10.45 – 11.30	Meeting with Mr. Tom THORESEN, Chairman of the Norwegian Delegation to the Parliamentary Assembly of the Council of Europe
12.00 – 14.00	Lunch with representatives from the Ministry of Foreign Affairs hosted by Mr. Espen Barth EIDE, Secretary of State
14.30 – 16.00	Meeting with Norwegian NGOs for Human Rights; Chairman; Mr. Petter WILLE, Director General, Department for Human Rights, Democracy and Humanitarian Assistance, Ministry for Foreign Affairs.
16.30 – 17.30	Meeting with Mr. Steinar PEDERSEN, Secretary of State, Ministry of Local Government and Regional Development
19.25	Dinner hosted by Ms. Mette KONGSHEM, Director General, Department for Bilateral European Affairs and the EEA, Foreign Ministry

Wednesday 4th April

09.00 – 11.00	Visit to Bredtveit Prison and Security Detention Institute
11.30 – 14.30	Visit to Oslo Prison
16.45	Departure for Strasbourg.