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Response of the Norwegian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway

from 13 to 23 September 1999

The Norwegian Government has requested the publication of this response to the CPT's report on its 1999 visit to Norway. The CPT's report on its visit to Norway is set out in document CPT/Inf (2000) 15.

Strasbourg, 9 October 2000

Response of the Norwegian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway

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RESPONSE OF THE NORWEGIAN AUTHORITIES TO THE REPORT OF THE EUROPEAN COMMITTEE FOR THE PREVENTION OF TORTURE AND INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT ON ITS VISIT TO NORWAY FROM 13 TO 23 SEPTEMBER 1999

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6. The CPT comments that in a number of establishments visited, it was evident that information regarding the Committee's visit and the mandate of the CPT had been received by senior management, but had not been effectively transmitted to other members of staff. This highlights the importance of detailed information regarding the CPT's terms of reference being made available to all staff working in places which fall within the Committee's mandate.

Information on the forthcoming visit of the CPT was distributed to the establishments concerned, and was later followed by details of the CPT's delegation and places which the delegation intended to visit. The Ministry of Justice issued circular letters to subordinate authorities before the CPT's visit. The Committee was given a copy of these letters during its visit in 1999.

The Ministry of Health and Social Affairs has noted the lack of knowledge about the CPT's visit and mandate among members of staff in the psychiatric hospitals.

The Norwegian authorities regret that the necessary information on the CPT's visit and mandate had not been transmitted to all members of staff. We note however that the CPT felt that given the general goodwill of the staff members with whom the CPT's delegation had contact, this did not hamper its work in any significant way.

When making arrangements for future visits by the CPT, the Norwegian authorities will emphasise the importance of ensuring that detailed information regarding the CPT's terms of reference is made available to all staff working in places which fall within the Committee's mandate.

A. POLICE FORCES

11. The CPT comments that no more force than is reasonably necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can be no justification for them being struck by police officers.

The Ministry of Justice fully shares the Committee's view that no more force than is reasonably necessary should be used when effecting an apprehension. The police should only use force when this is clearly necessary and justifiable in the light of the gravity of the situation and the consequences for the person involved.

General rules on the performance of police duties are found in the Police Act of 4 August 1995 and the Police Instructions of 22 June 1990. The Committee was given a translation of the Act during its visit in 1999.

We would especially like to draw the Committee's attention to the second paragraph of section 6 of the Act, which states that the police shall not employ stronger means unless weaker means are presumed to be inadequate or inappropriate, or unless such means have been attempted to no avail. The means employed must be necessary and commensurate with the gravity of the situation, the purpose of the action taken and the circumstances in general. The third paragraph states that the police shall act in a fair and impartial manner and with consideration for persons' integrity, so as to ensure that anyone who is the object of police intervention is not laid open to public exposure to a greater degree than required by performance of the police action.

12. The CPT recommends that all such items held on police premises as items of evidence be properly labelled and kept in a secure location designated for that purpose, and that no other non-standard issue weapons be held on police premises.

All objects that are seized shall be dealt with in accordance with the Norwegian Criminal Procedure Act of 22 May 1981 with subsequent amendments, the Prosecution Instructions of 28 June 1985 with subsequent amendments, and the rules set out in the Economy Instructions. Rules for seizure are found in chapter 16 of the Criminal Procedure Act. Section 207 states that all objects seized shall be accurately recorded and marked in such a way as to avoid confusion.

All objects that are seized shall be registered in a seizure journal. The journal shall include all the relevant information on the objects seized and where they are stored. Each object shall be marked with the case number, seizure number, the name and national identity number of the person charged and the time and place of the seizure. Objects seized shall not be stored in any place other than a room designated for this purpose unless it is necessary due to the size, nature, etc., of the object. Weapons that are seized are to be transferred as quickly as possible to the National Bureau of Crime Investigation. The police district shall keep a journal of all seized weapons.

The Ministry of Justice is now in the process of issuing a circular letter regarding routines for dealing with seizures.

On police premises, the police may keep weapons for use by officers on duty. The use of such weapons is regulated in the Weapons Instructions for the Police. The instructions are based on the principle that Norway's police force is civilian and unarmed. Weapons may only be carried in special situations. According to the instructions, stored weapons are to be adequately locked up.

The Committee refers to certain items – a baseball bat and nunchaku sticks – found in a room used for questioning detained persons at a Lensman's office. We have been informed that these objects were seized from a youth late at night, and that the seizure was recorded as prescribed by the legislation. However, the items were not transferred that night to the special seizure room, but were instead kept in a locked office. They were to have been transferred to the seizure room the next day.

14. The CPT comments that detainees held for prolonged periods are entitled to expect a better physical environment and regime than that which is available at Bergen Police Headquarters.

During its visit in 1999, the Committee stated that virtually all of the police establishments visited provided adequate conditions of detention. The Norwegian authorities attach great importance to the conditions of detention in police establishments. The Norwegian detention premises are built according to criteria established by the CPT.

As regards detention in police establishments, it should be noted that the rule is now that remand inmates shall be transferred to an ordinary prison within 24 hours after a court has ordered their remand in custody. Thus, the time spent in police cells is very limited. We refer to the comments made by the Committee concerning the conditions at Bergen Police Headquarters. It is now only in exceptional cases that the Bergen Police hold remand inmates in police cells after the court has ordered their remand in custody. Efforts are made to ensure that remand prisoners are transferred to prison as soon as possible. Significant progress has been made, even though the Bergen Police frequently have to transfer remand inmates to other prisons than Bergen Prison.

The Bergen Police Force initiates and gives priority to measures to prevent detention from having adverse effects. In the rare cases where remand inmates do spend more than 24 hours in police cells, they are for instance given the opportunity to spend half an hour per day outdoors in the Police Headquarters' outside area.

The CPT also recommends that in cases where holding persons on police premises after they have been remanded in custody is unavoidable, the Norwegian authorities should continue to make efforts to ensure that they are held there for the shortest possible period of time.

The Norwegian authorities are pleased to note that the Committee during its visit found that, in most cases, we were meeting the target of transferring remand prisoners to prison with 24 hours.

It is the aim of the Norwegian authorities to ensure that persons remanded in custody are transferred to prison as soon as possible. In a letter from the Ministry of Justice dated 8 June 2000, prison governors have been instructed to make arrangements so that persons remanded in custody can be taken directly from court to prison whenever possible. A transfer shall take place at the latest 24 hours after the court has made its decision. A translation of the letter is enclosed (Annex I).

As regards the transfer of remand prisoners to prison, at present there is no surplus of prison cells. Quite a number of prison cells are currently closed for refurbishment. Further, prisons need time for administration regarding incoming inmates and for making decisions on where they are to be placed. This means that from time to time it will be impossible to transfer a person from the police premises to a prison cell until another person has been released or transferred.

16. The CPT requests information on the findings of the review carried out by the Norwegian authorities regarding the quality of ventilation in the cells at Bergen Police Headquarters.

The Norwegian authorities refer to the positive remarks made by the Committee regarding the conditions of detention in police establishments. The Committee found, however, that the quality of the ventilation in the cells at the Bergen Police Headquarters still left something to be desired.

The Directorate of Public Construction and Property is responsible for maintaining the ventilation system and ensuring that it meets current standards as regards indoor climate. The Bergen Police Force has, in cooperation with the Directorate, measured and adjusted the air circulation in the cells several times. There is no indication that the amount of air is inadequate. However, the system has been restructured to increase the volume of air supplied to the cells. The exhaust system from the cells has been cleaned and new routines have been put in place for cleaning this system.

There have previously been some problems in connection with the lack of air conditioning, as a result of which the temperature in some cells could be too high. Heat sensors have now been installed in several cells to ensure that the temperature is measured systematically. In the staff's opinion, the air quality has now improved and the air supply is satisfactory.

17. The CPT recommends that immediate action be taken to ensure that <u>all</u> persons obliged to remain on police premises overnight – regardless of their condition or the legal basis on which they are being held – are provided with a mattress and clean blankets.

On 25 May 2000, the Ministry of Justice issued a circular letter to all police districts regarding the provision of mattresses and clean blankets for persons detained in police cells. A translation of the letter is enclosed (Annex II).

The Ministry has decided that any person who spends the night in a police cell is to be supplied with a clean mattress and blankets. If security considerations so require, the police may postpone supplying the inmate with blankets, etc. Any postponement is to be noted in the register kept by the officer on duty or in some other approved register. These arrangements apply to any person who spends the night in a police cell, regardless of whether the person concerned has been apprehended pursuant to the Police Act or is remanded in custody on a criminal charge. The mattresses should be made of flame-resistant material that can be hosed down.

18. The CPT would like to receive the comments of the Norwegian authorities on the issue of shackling detained persons to a wall.

The use of handcuffs is regulated by the Police Instructions of 1990. Pursuant to section 3-2, third paragraph, handcuffs or other restraints may be used if a person during arrest or transport threatens to commit or commits an act of violence, or when there is reason to fear that the person in question will resort to violence or escape. Such measures may also be used in respect of a person who attempts to injure himself, or otherwise in order to prevent interference with evidence. The need to use handcuffs must be assessed in each individual case, and guard capacity, transport conditions, available detention facilities and the degree of danger are key considerations in this assessment.

The police shall place handcuffs on an arrested person in such a way that he is not subjected to unnecessary injury or pain. Handcuffs shall never be used for reasons of convenience or as a sanction for uncooperative behaviour. If handcuffs or the like are used, the person arrested must be kept under close supervision.

Some police districts have installed rings in order to chain arrested persons to a bench. Rings of this type, to which handcuffs may be attached, are used only in exceptional circumstances, for instance during mass arrests when persons arrested may be aggressive. Use of the rings shall be limited as far as possible.

Insofar as it is considered necessary to contact a doctor, the police will do so. We also refer to the Ministry of Justice's circular letter of 21 July 2000 regarding the right of access to necessary health care for persons in police custody (Annex III).

22. The CPT recommends that appropriate steps be taken to ensure that the possibility to delay the exercise of a detained person's right to notify a third party of his situation is not only clearly circumscribed but also made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor).

As regards notifying relatives and a lawyer of a person's arrest, we refer to the letter of 10 November 1999 from the Director General of Public Prosecutions to all public prosecutors and chiefs of police. Section 2 of the guidelines specifies the procedure for postponing notification when it is expected that it will significantly prejudice police investigations. The Norwegian authorities welcome the fact that the Committee fully recognises that it may in exceptional cases be necessary in the interests of justice to delay the exercise of a detained person's right to notify a third party of his situation.

However, the Committee wishes to stress that any possibility to delay the exercise of this right should not only be clearly circumscribed but also made subject to appropriate safeguards. The Norwegian authorities share the Committee's views regarding the importance of these safeguards. We refer to the letter of 10 November 1999, page 2, item 2, which states that if it is decided to postpone notification, this must also be noted in the orderly book or register of arrests, along with brief reasons.

In our view it follows implicitly from item 2 of the letter from the Director General of Public Prosecutions that a decision to postpone notification will in practice be taken by a senior police officer or public prosecutor. According to item 2, the chief of police must establish the routines needed to ensure that an officer who decides that notification is to take place also has the knowledge required to assess whether notification can be postponed for the sake of police investigations. In practice, the need for making a decision to postpone notification will most often arise in serious cases where it is natural for such decision to be made by an experienced senior officer or a prosecuting lawyer.

23. The CPT recommends that appropriate steps be taken to ensure that all persons deprived of their liberty by the police, including those apprehended under the Police Act, are guaranteed the right to inform a close relative or another third party of their detention, as from the moment when they are first obliged to remain with the police.

The Ministry of Justice refers to the letter of 10 November 1999 issued by the Director General of Public Prosecutions to all public prosecutors and chiefs of police regarding notification. The guidelines state that a person arrested pursuant to the Criminal Procedure Act must be asked if he wishes a member of his household or another person named by him to be notified of his arrest. If so, notification must be given as soon as possible and as a general rule no later than two hours after the person charged has been brought to the police station or Lensman's office. Notification may be postponed if it is anticipated that it may significantly prejudice police investigation in the case. Notification shall be noted in the orderly book or register of arrests.

The Norwegian authorities note that the CPT is of the opinion that all persons deprived of their liberty by the police, including those apprehended under the Police Act, should be guaranteed the right to inform a close relative or another third party of their detention, as from the moment when they are first obliged to remain with the police.

Persons apprehended under the Police Act may not be held longer than necessary, and only for a maximum of four hours (Police Act, section 8). In many situations, and especially where a large group of people is arrested at the same time, the police will not be able to assist the arrested person in notifying a member of his household of his arrest within the period of detention. For these reasons, persons apprehended under the Police Act do not currently have a right to notify a third person.

The Ministry of Justice is now examining various matters related to custody on remand. In connection with these deliberations, we are considering issuing a circular letter to the police recommending that persons apprehended under the Police Act should also, under certain circumstances, be able to inform a close relative or another third party of their arrest.

26. The CPT recommends that steps be taken to introduce a fully-fledged right of access to a lawyer (as described in paragraph 26) for all persons deprived of their liberty by the police in Norway, as from the outset of their detention.

The legal basis for the right of access to a lawyer for a person charged with a criminal offence is to be found in chapter 9 of the Criminal Procedure Act. According to section 94, any person charged is entitled to the assistance of a lawyer of his own choice at every stage of the case. According to section 98, a person charged shall as far as possible have a defence counsel at the court sitting held to decide the question of a remand in custody, and shall have a defence counsel as long as he is in custody. The guidelines issued by the Director General of Public Prosecutions, quoted in the CPT's report, specify in more detail how the right to access to a lawyer is to be implemented by the police.

Various proposals have recently been discussed concerning a charged person's right to access to a lawyer and related questions. In early 2000, a consultative memorandum dealing mainly with various questions related to custody on remand was circulated for comment. In this memorandum, the question was raised whether an arrested person should have a right to a lawyer remunerated by the state during interviews conducted by the police.

In June 1999 the Ministry of Justice set up two working groups to find ways of reducing the overall time spent during investigation and court proceedings in criminal cases. These groups have made several suggestions that will directly or indirectly reduce the amount of time spent in custody.

One of the suggestions is to amend section 183 of the Criminal Procedure Act, which today states that if the prosecuting authority wishes to detain the person arrested, it must as soon as possible and as far as possible *on the day following* the arrest, bring the question before the courts. It is suggested that this period should be extended from one to three or four days in order to give the police more time to investigate the case. According to the working groups, this will probably reduce the need for custody on remand, and give the court a better basis for making a decision. The Ministry of Justice will consider this suggestion, especially in light of article 5 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. A possible amendment to section 183 will also make it necessary to consider the extent of the right of access to a lawyer remunerated by the state.

The Ministry of Justice is now working on a consultative memorandum based on the working group's proposals, with the intention of proposing amendments to the Criminal Procedure Act to the Storting next year. The question of extending the right to a lawyer remunerated by the state will be dealt with in the follow-up to the suggestions from the working groups.

The Ministry of Justice notes the recommendations made by the CPT and will take them into consideration in our future work in this area.

27. The CPT recommends that in the context of the review of medical services for persons in police custody currently being carried out by the Ministry of Justice and the Police, concrete action should be taken to implement the Committee's 1993 recommendations on this subject, namely that:

- **the right of persons detained by the police to be examined by a doctor be explicitly recognised;**

The municipalities are responsible for primary health care in Norway. Act of 19 November 1982 No. 66 relating to Municipal Health Services states that any person permanently residing or temporarily staying in the municipality is entitled to receive necessary health care (section 2-1). This right also applies to persons detained by the police. Medical health care provided by the municipality is free of charge for the detained person.

- **a detained person be entitled, if he so wishes, to be examined by a doctor of his choice (in addition to any examination carried out by a doctor designated by the police authorities);**

In most Norwegian municipalities, the police do not have their own doctors. Hence, the doctor called upon will normally be a doctor designated not by the police but by the local health authority. Nevertheless, the detained person has a right to be examined by his private doctor or another doctor of his choice, as long as this doctor is available, and is within a reasonable distance of the place where the person is detained.

On 21 July 2000, the Ministry of Justice issued a circular letter to all police districts regarding the right of access to necessary health care for persons in police custody. An English translation of the letter is enclosed (Annex III).

In the Ministry's opinion, it is not appropriate for the police to screen requests from detained persons for access to health care. The need for and content of health care must be determined by persons who are competent to do so. The police are required to arrange for contact between detained persons and health care services.

The Ministry has decided that the following guidelines shall apply to all persons in police custody, whether they have been detained pursuant to the Police Act or arrested pursuant to the rules of criminal procedure.

1. Persons detained in police custody shall be entitled to access to necessary health care. Such access may be arranged either by the police contacting health personnel or by the detainee himself contacting health personnel by telephone after the police have made sure that the inquiry is being answered by health personnel. If the detainee wishes, he may speak to the health personnel directly and without supervision.

2. A detained person who expresses a desire to contact a particular doctor shall normally be entitled to do so.

3. A detained person shall be entitled to have access to health personnel as soon as possible and as a general rule no later than two hours after the detainee has been brought to a police station or lensman's office (and has requested such medical attention).

4. A note shall be made in the duty or detention register when the detainee's request for access to necessary health personnel has been complied with, or when an attempt has been made to do so.

- **any medical examination be undertaken out of the hearing and, preferably, out of the sight of police officers (unless the doctor concerned requests otherwise);**

According to the new Act concerning Health Personnel, health personnel have an obligation to prevent others gaining access to information regarding a person's state of health or other personal matters confided in him as a health professional (Health Personnel Act, section 21). This means that a medical examination shall be undertaken out of hearing, and, if necessary, out of sight of police officers.

- **the results of the medical examination as well as relevant statements by the detainee and the doctor's conclusions be formally recorded by the doctor and made available to the detainee and his lawyer.**

Health professionals have a duty to enter results and relevant statements in the patient's journal (new Health Personnel Act, section 39). The Act regarding Patients' Legal Rights entitles the patient to see his journal with enclosures, and to make copies of it (section 5-1). Health information may also be given to the patient's lawyer, provided that the patient consents.

28. The CPT trusts that the information sheet stating prisoners' rights will be made available to <u>all</u> persons deprived of their liberty by the police as from the outset of their detention.

As mentioned in the letter from the Norwegian authorities to the CPT, the Ministry of Justice will, in cooperation with the Director General of Public Prosecutions, issue an information folder stating the rights laid down in the Criminal Procedure Act for persons remanded in custody.

We note that the CPT recommends that not only persons remanded in custody, but also persons apprehended under the Police Act, should be given this information folder**.**

The Ministry of Justice is now examining various matters related to custody on remand. The rights of persons detained pursuant to the Police Act and those detained pursuant to the rules of criminal procedure have not yet been laid down. The completion of an information folder is therefore being postponed until these deliberations have been completed.

The CPT would also like, in due course, to receive a copy of the information sheet referred to in paragraph 28 and information on the languages in which it will be made available.

When the information folder is made available, we will be pleased to send the Committee a copy of the folder and information on the languages into which it is translated.

29. The CPT trusts that, in due course, the information sheet referred to in paragraph 28 will be amended to take account of the implementation of the recommendations set out in paragraphs 23, 26 and 27 regarding notification of custody, access to a lawyer and access to a doctor.

We refer to what has been said under items 23, 26, 27 and 28. The Ministry will take due note of the CPT's recommendations in its work on these questions.

30. The CPT requests information on the comments of the Norwegian authorities on the limited role which SEFOs accord to complainants as well on the presence of serving police officers among the members of the Boards.

There are eleven Special Enquiry Boards in Norway. Each board consists of one leader who satisfies the criteria for appointment as a Supreme Court Judge, one lawyer with experience of criminal cases and one person with experience as a police investigator.

The role of the complainant during investigations by the Special Enquiry Boards (SEFO) is the same as that of the complainant in the investigation of ordinary criminal cases conducted by the police. The Norwegian Criminal Procedure Act and appurtenant regulations apply to both kinds of investigation in broadly the same way. According to the law, the complainant does not have a statutory right to be present at hearings when witnesses and suspects, including accused officers, are being questioned. Nor does the complainant have a statutory right to be questioned during the investigation. It should be emphasised that SEFO's task is limited to *investigating* reports and suspicion of crimes committed by police officers. After completion of an investigation, SEFO shall submit a recommendation to the public prosecutor. SEFO does not have prosecuting or judiciary authority.

A research project which was completed in 1999 showed that approximately 50 per cent of the cases investigated by SEFO were decided without prior interviews of complainants, witnesses or suspects. In 2000 the Ministry of Justice has allocated funds to a research project which is to assess the quality of the investigations carried out by SEFO. The project is being administered by the Director General of Public Prosecutions. When the project is completed, the Ministry of Justice will assess whether amendment of the regulations concerning investigation by SEFO is required.

The composition and organisation of SEFO have been carefully considered. In Proposition No. 13 (1986-98) to the Odelsting, the Ministry of Justice emphasised that the composition of SEFO is mainly designed to ensure that the investigation of crimes committed by prosecutors and officers of the police is conducted as thoroughly and satisfactorily as an ordinary criminal investigation. It is important to maintain public confidence in SEFO's ability to deal objectively with complaints regarding police misconduct. On the other hand, it is essential that SEFO possess knowledge and skills in technical investigation. SEFO investigates crimes by traditional methods, and therefore at least one member of the board must have the necessary knowledge and experience of such work. In practical terms, this means that at least one member of each board must have experience of work within the police or the prosecuting authority. The fact that they have experience of technical investigation is important for public confidence in the boards.

It must be emphasised that the recommendations of special enquiry boards are the result of a majority decision. Only one member serves on the board at the same time as he is employed by the police force or the prosecuting authority. Furthermore, in general this member does not investigate cases from his own police district.

In the last few years, the Ministry has never selected the other two members from people who have a significant connection with the police or the prosecuting authority. On the contrary, the Ministry seeks to appoint both the other members from people without such a background.

The research report from 1999 mentioned above showed that there is no significant correlation between the composition of the different SEFO boards and the final outcome of the investigations.

B. SNARØYA ALIENS DETENTION CENTRE

33. The CPT recommends that training such as that described in paragraph 33 should be introduced for all staff working in centres for immigration detainees in Norway.

Since the visit of the CPT, Norway has assessed the possibility of introducing training activities for the staff at the Snarøya Aliens Detention Centre. The alien detention centre at Snarøya is to be closed down during the autumn of 2000, and it has therefore been decided not to introduce such measures before the establishment of a permanent centre near Gardermoen. There will be a temporary detention centre at Gardermoen until the completion of the permanent centre during 2002. The agreement with the private security company will also be extended until the centre is permanently established.

When staff are recruited for the new permanent centre, language skills, cultural understanding and psycho-social competence will be considered important qualifications. It is also proposed to initiate training programmes, and to employ someone to be responsible for activities for children.

Even though the personnel from the current security company have no specialised training, the company gives new guards general training when they are hired. Staff are also required to possess adequate skills in English or other relevant languages. In addition, the staff at the Snarøya Alien Detention Centre consists mainly of experienced guards.

At the temporary centre, we will as far as possible start the implementation of new measures such as training programmes and facilities for children, since most of the personnel and equipment will be transferred to the permanent centre.

34. The CPT trusts that the requirements set out in its 7th General Report will be fully taken into account in the design of the new detention centre for immigration detainees to be constructed near Gardermoen International Airport.

The design of the new detention centre should be in conformity with the requirements of the 7th General Report. Information on the design and room plan of the new alien detention centre was forwarded to the CPT during its visit. The new centre will provide improved facilities for children, both nursery rooms and indoor and outdoor play areas. There will be separate outdoor areas for children and adults. In addition, the facilities in bedrooms and day rooms will be improved, particularly for persons who must stay more than one night. The plan is for any person staying for a longer period of time at the detention centre to have their own room with a WC and a sink.

The CPT also requests information on the conclusions of the working group established under the auspices of the Ministry of Justice and the Police to determine "the … location, structure and organisation and the training and educational needs of the … employees" of the new detention centre for immigration detainees to be constructed near Gardermoen International Airport.

The working group referred to in the report has not been looking at the content and design of the detention centre as such. It has been assessing and making recommendations on the organisation of police activities and operations at the central police unit at Trandum. The alien detention centre will be part of this unit. The report concludes that the administrative responsibility for the centre should lie with the police unit, and that security should be based on hired personnel and services, as is the case today. The central police unit has been given extended responsibilities as regards suggestions for the design and organisation of the detention centre's activities. However, the Ministry of Justice must approve the design and organisation of the centre. The working group further recommends that a person be employed to organise activities for children, and that special attention be devoted to children and young people staying at the detention centre.

C. PRISONS

45. The CPT recommends that the authorities carry out a six-month review of the impact of the Guidelines referred to in paragraphs 42 to 44 upon the manner in which prosecuting authorities seek and apply restrictions to remand prisoners, and would like to be informed of the outcome of that review.

The Norwegian authorities welcome the comments of the CPT regarding the guidelines issued on 10 November 1999 by the Director General of Public Prosecutions. The Ministry of Justice will, together with the Office of the Director General, carry out a six-month review of the impact of the guidelines, and will inform the CPT of the outcome of the review.

46. The CPT comments that responsibility for the decision as to whether a prisoner subject to restrictions may associate with other prisoners ought to be vested in the courts.

A bill proposing amendments to the Criminal Procedure Act will be submitted to the Storting in autumn 2000. One of the proposals is a follow-up to the CPT's recommendations to strengthen the judicial supervision of decisions to subject persons remanded in custody to restrictions.

Pursuant to section 186 of the Criminal Procedure Act, the court may, to the extent that due consideration for the investigation of the case so indicates, by *order* decide that the person in custody shall not receive visits or send or receive letters or other consignments, or that visits or exchange of letters may only take place under police control.

A court order to remand a person in custody must specify the statutory authority, briefly mention why just cause for suspicion is deemed to exist and otherwise explain the reason for the remand in custody (section 184). There are currently no specific requirements as to how comprehensive the reasoning for the decision on use of restrictions should be. Considering the seriousness of a decision to make a remand prisoner subject to restrictions, the Government will propose an amendment to section 186. It is suggested that the order must state how the investigation will suffer if the prisoner is not made subject to any restrictions. In addition, it must be made clear that the restrictions will not be a disproportionate intervention in view of the nature of the case and other circumstances.

As mentioned above, the Ministry of Justice has set up two working groups whose terms of reference are to propose ways of reducing the overall time spent on investigation and court proceedings in criminal cases. The groups have made several suggestions to include in the Criminal Procedure Act provisions which will reduce the overall time spent in custody and the use of solitary confinement, and also strengthen the judicial supervision of the use of such restrictions.

The following proposals from the working groups will be among those considered by the Government with a view to submitting a proposal for amendments to the Criminal Procedure Act to the Storting:

The working groups recommend that a separate provision on the use of solitary confinement during custody on remand should be included in the Criminal Procedure Act, and that the use of solitary confinement should thus be dependent on an explicit authorisation by the court. The requirement that solitary confinement must be decided explicitly by the court in a written ruling will ensure a more thorough and concrete assessment of the necessity of this measure.

Furthermore, the working groups suggest that maximum time limits for the use of solitary confinement should be included in the Criminal Procedure Act. The time limit should, in the opinion of the working group, be based on the maximum sentences under the relevant penal provision, and vary from four weeks to three months. It should only be possible to extend the limit in exceptional cases.

The working groups have also proposed that, if a prisoner on remand is under the age of 18, he or she should under no circumstances be isolated for more than eight consecutive weeks regardless of the maximum sentence.

Another suggestion made by the working groups is to amend section 185 of the Criminal Procedure Act. This currently prescribes that the court, when deciding to remand a person in custody, must fix a set time limit for such custody if the main hearing has not already begun. The time limit shall be as short as possible and may not exceed four weeks at a time. The working groups propose to reduce the general maximum time limit to two weeks.

The court shall as soon as possible fix the time for the main hearing. Unless special circumstances prevent this, the main hearing in the District Court or the City Court shall be *scheduled* not later than two weeks after the case was referred to the court, cf. the Criminal Procedure Act, section 275. The working groups suggest that the main hearing normally shall *start* no later than eight weeks after the case was referred to the court, for example if the person charged is on remand when the main hearing is scheduled.

We would also like to mention that the working groups have proposed other legal and administrative measures to reduce the amount of time spent on investigation and rulings in criminal proceedings. We consider this to be an important point, and believe that it will also have a positive effect on the need for custody and restrictions and that it will reduce the amount of time individuals spend under these regimes.

47. The CPT recommends that serious efforts continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions.

The Norwegian authorities wish to continue and intensify current efforts to provide activities and contact for inmates who are remanded in custody and subject to restrictions. However, these activities are limited by the available funds, and any additional or increased activities must be introduced within the present budgetary limits. The limits are set by the Government and by the Storting through the annual budget process.

In a letter of 8 June 2000, with reference to the comments made by the CPT, the Ministry of Justice asked the prison governors to consider whether manpower can be used more efficiently and activities and contact increased by redistributing the available funds. The Ministry of Justice will continue its work to improve the situation for this group.

49. The CPT requests information on the concrete action which has been taken by the supervisory authority to ensure that the health care service at Oslo Prison once again begins to operate effectively as a team.

The situation has been put before the Oslo Chief County Medical Officer, who, on behalf of the Norwegian Board of Health, is in charge of the overall supervision of the county's health services.

The Chief County Medical Officer considers the conflict referred to in the report to be the outcome of a reorganisation of the health care service in Oslo Prison. The staff has been reduced, and the shifts have been adjusted, and this has caused some problems. The reorganisation is intended to make the service more efficient and improve the quality of the care provided.

However, the Chief County Medical Officer still wishes to maintain his previous statement, in which he concludes that the ongoing conflict has not affected the quality of the health care services provided for the prison's inmates. Nevertheless, the Chief County Medical Officer will continually assess the situation in the months ahead. An adviser from the Oslo Chief County Medical Officer has helped the prison health care service to implement an internal control and quality control system. According to the present plans this project will be completed when the Oslo Chief County Medical Officer visits Oslo prison for inspection in September-October 2000.

D. PSYCHIATRIC FACILITIES

55. The CPT requests information on any measures which have been taken to avoid a repetition of a case such as the one referred to in paragraph 55.

The Committee's remarks have been noted by the Norwegian Ministry of Health and Social Affairs. The Ministry recognises the importance of limiting the use of physical restraint to an absolute minimum.

Pursuant to the Regulations on Limited Use of Coercive Means in Psychiatric Institutions, physical restraint shall only be used when this is absolutely necessary to prevent the patient from injuring himself or herself or others, or to avert significant damage to buildings, clothing, furniture or other things. Coercive means shall only be used when milder means have proved to be obviously futile or inadequate.

The administrative decision to use coercive means may only be made by a physician, and the usage shall be as short lasting as possible. The use of coercive means shall be recorded in the patient's journal and in a specially designated protocol.

When the use of coercive means lasts for more than eight hours, the restraint shall be removed for a shorter or longer period of time, provided that the patient's condition and the situation in general permits it.

However, Akershus County's Chief Medical Officer has looked into the case mentioned, and has concluded that the patient in this particular case has been treated in a conscientious manner and according to law.

According to Dikemark Hospital, the case seems to be of an extraordinary kind. The patient was very agitated and violent, and for the first few months he responded little to medication. The long-term use of instruments of physical restraint (straps) has been necessary because of the patient's unpredictable and violent assaults on others. Before the Committee's visit, the hospital had made several unsuccessful attempts to gradually remove the restraint. However, these quickly resulted in the patient trying to injure others.

In the view of Dikemark Hospital, the only alternative to restraint was heavier medication, which would have made it impossible to communicate with the patient, and been a possible hazard to his health.

The restrictions were maintained for some time after the CPT's visit. Eventually, the patient started to respond to medical treatment and environmental therapy. The hospital was also able to make a diagnosis. It appeared that the patient had a case of nevrolues (syphilis of the nervous system) that was very difficult to diagnose.

In May 2000, the patient was discharged from Dikemark, and transferred to a regular long-term psychiatric unit (Vår Frues Hospital). The patient has again applied for political asylum, and measures are being taken to prepare him for care in an open ward. Reports from Dikemark Psychiatric Hospital suggest that the improvement in the patient's condition is persisting.

The CPT also requests information on any further progress which has been made as regards the longer-term solution of returning the patient referred to in paragraph 55 to his home country.

The patient was registered as an applicant for political asylum in October 1998. In August 1999 he withdrew his application. Since he wished to return to his home country, Dikemark Hospital made an arrangement with a psychiatric hospital in Algeria, and the formalities regarding the use of restraint in international airspace were settled. However, correspondence with the Algerian authorities indicated that there were some difficulties in confirming the patient's identity. According to the Algerian embassy the patient's papers were not sufficient to verify his alleged Algerian citizenship. This no longer seems to be an issue of importance, since the patient no longer wishes to return to his home country and has reapplied for asylum. He has now been granted a residence permit valid for one year in order to receive medical treatment in Norway. It will be possible to apply for renewal of the permit when it expires.

57. The CPT requests information on whether it is intended to provide a room or rooms dedicated to occupational therapy for patients held in the acute admission wards at Aker Hospital.

Both the present regulations and the proposed new regulations pursuant to the Mental Health Care Act require that the premises of a psychiatric institution are designed and equipped in a way that meets the need for proper and secure treatment (proposed Regulations concerning Approval of Psychiatric Institutions, section 4). The proposed regulations explicitly require premises suited for occupational therapy/educational purposes. However, this matter is not elaborated further. It will be the responsibility of the Norwegian Board of Health, which approves psychiatric institutions, to decide whether premises meet the legal requirements.

In the opinion of the Norwegian Ministry of Health, the arrangement by which the dining room is used for occupational therapy at Aker Hospital does not involve any significant inconvenience for the patients.

The CPT also requests information on the measures which have been taken to ensure that all patients held in those wards who wish to take outdoor exercise are able to do so for at least one hour every day.

The Norwegian Ministry of Health and Social Affairs notes the Committee's comments, and agrees that physical activity is important for psychiatric patients. The proposed Regulations on Approval of Psychiatric Institutions state that there should be suitable outdoor areas near the institution. When the regulations enter into force together with the new Mental Health Care Act, all institutions will need new approval in accordance with the new regulations. The Ministry will instruct the approval authority, the Norwegian Board of Health, to take special note of the patients' need for outdoor exercise. The approval authority will not only assess the premises, but also the staff situation and arrangements made in this context.

59. The CPT requests information on further details about the manner in which involuntary placement in a psychiatric establishment will be regulated under the new mental health legislation.

Involuntary placement in a psychiatric establishment may be requested by a public authority or by the closest relative (Mental Health Care Act 1999, section 3-7). The request must be based on a statement made by a physician. Consequently, it is a condition for involuntary placement that a physician has examined the person concerned (section 3-4). The physician must ensure that the conditions for involuntary placement are fulfilled, and must rule out the possibility of intoxication or somatic causes. The physician submits a written statement. If the person refuses to submit to such examination, section 3-5 allows compulsory examination. Decisions on compulsory examination are taken by the chief municipal medical officer, but the examination itself must be carried out by another physician. The chief municipal medical officer's decision may be appealed to the chief county medical officer.

If, after such an examination, the physician is in doubt as to whether the conditions for involuntary placement are fulfilled and deems further examination necessary, a public authority or the closest relative may request that the person concerned is examined in an institution. The decision on further examination is made by the institution's responsible mental health professional (section 3-8).

On the basis of the request and the medical information and opinion submitted, the institution's responsible mental health professional will decide whether the person concerned shall be involuntarily placed under mental health care (section 3-8). Before the decision is made, the person for whom compulsory mental health care is requested must be examined by a physician at the institution responsible (section 3-8, fifth paragraph).

It should be underlined that a decision on involuntary placement does not automatically entail the authority to carry out an examination, or give medication or any other treatment without the patient's consent. Involuntary examination, medication or other treatment requires a separate administrative decision (section 4-4). The same applies to segregation (section 4-3), limitation of contact with the outside world (section 4-5) and use of coercive means (section 4-8). Such decisions may only be made by the responsible mental health professional.

The responsible mental health professional means a doctor with professional qualifications in psychiatry. The Norwegian Government will in the course of the year decide whether a psychologist with clinical expertise may be the responsible mental health professional in relation to some of these matters.

60. The CPT recommends that introductory brochures should be drawn up and issued to all patients admitted to psychiatric facilities in Norway.

The Norwegian Ministry of Health and Social Affairs takes note of the Committee's recommendation. An introductory brochure will to a large extent contribute to greater knowledge among patients and their relatives regarding legal rights.

According to the Regulations relating to Mental Health Care without the Patient's Consent, the chief mental health professional is obliged to ensure that all patients who are admitted to psychiatric facilities without their own consent are informed of their legal rights (section 6-1). This provision is upheld in the new regulations proposed in connection with the new Mental Health Act. However, there is no legal directive obliging the institution to provide this information in written form. Nonetheless, some institutions produce their own introductory brochures. In addition, the Association for Relatives of Psychiatric Patients has produced a brochure for relatives with information about psychiatric illnesses, the mental health care system and the legal rights concerned.

As soon as the new Mental Health Care Act enters into force, the Ministry of Health and Social Affairs will consider whether written information should be obligatory and whether it should be standardised.

62. The CPT would like to receive the comments of the Norwegian authorities on the subject of ensuring greater awareness of Control Commissions and of the right of patients to register a complaint, together with an account of any changes in the role and functions of Control Commissions which will be brought about by the entry into force of the new mental health legislation.

Traditionally, the control commissions have had two different sets of tasks, in connection with hearing of appeals and with supervision of the general welfare of patients. The new mental health legislation expands the tasks of the control commissions as an appeals body, while the supervisory part has been toned down. The commissions are to hear appeals not only on involuntary placement and the termination of such placement, but also on the use of coercive means (section 4-8), segregation (section 4-3), restrictions concerning visits and telephone calls (section 4-5), inspection of rooms and possessions and bodily searches (section 4-6) and seizure (section 4-7). The Control Commission will also receive notification when a person is placed under compulsory mental health care for a review. If the decision is upheld, and not appealed, the Control Commission shall after three months automatically assess whether or not the criteria for further compulsory care are fulfilled.

It should be added that the control commissions routinely visit new patients to inform them of the existence of the commissions and its mandate, and of their rights.

64. The CPT requests a full account of the manner in which the questions of the regular review of involuntary placement in a psychiatric establishment and of the right of appeal of patients will be regulated by the new mental health legislation.

On reviews:

When a person is placed under compulsory mental health care, notification shall be sent to the Control Commission, together with a copy of the supporting documents. As soon as possible, the Commission shall assure itself that the correct procedure has been followed and that the administrative decision is based on law (section 3-10, paragraph 1).

As mentioned above, in accordance with paragraph 62 a patient may appeal decisions regarding placement in involuntary care to the Control Commission. However, even if the patient does not appeal the decision, the Control Commission shall, three months after the decision is made, on its own initiative assess whether there is a need for compulsory care.

On termination:

Section 3-9 states that the responsible mental health professional shall continuously assess whether or not the patient needs to be held in compulsory mental health care.

The patient or his or her closest relative may at any time request termination of compulsory mental health care (section 3-9, paragraph 3). The responsible mental health professional's decision regarding such a request may be appealed to the Control Commission (same section, fourth paragraph).

Section 3-10, third paragraph, states that compulsory mental health care terminates after one year, unless the Control Commission consents to the care being prolonged. The Commission may prolong such care for up to one year at a time.

If the patient or his closest relative disagrees with a decision of the Control Commission concerning further examination or the provision or maintenance of compulsory mental health care, they may bring the decision before the court pursuant to the provisions of chapter 33 of the Civil Procedure Act of 13 August 1915 (Mental Health Care Act, section 7-1).

E. ESTABLISHMENTS FOR YOUNG PEOPLE

71. The CPT comments that educational activities for minors held in the BUS Acute Institution should be bolstered.

Young people who are placed at the BUS Acute Institution usually stay there for four weeks. During these weeks one important goal is to chart what type of education and training these juveniles need in the future.

80. The CPT would like to receive the comments of the Norwegian authorities on whether the BUS Acute Institution and the Fossum Collective currently have the appropriate resources to care for "dual diagnosis" juveniles.

The shortage of psychiatric treatment institutions for children and juveniles may in some instances result in young people with psychiatric disorders and serious drug problems being placed in institutions not primarily intended for "dual diagnosis" juveniles. Child care institutions are experiencing that increasing numbers of children and juveniles with dual diagnosis are being placed in child care institutions, and that it is therefore necessary to strengthen medical and/or psychiatric expertise in these institutions.

The Ministry of Children and Family Affairs has written to the municipality of Oslo regarding the CPT's recommendations, comments and requests for information. We have asked for information on the qualifications of the personnel at the BUS Acute Institution and the Fossum Collective. We have informed the municipal authorities of the personnel's concern that they lack the qualifications required to give medication. Furthermore, we requested the municipality of Oslo to forward the CPT's recommendations to the two institutions in question. The municipality of Oslo has reported that they will follow up the CPT's recommendations and are now, among other things, formulating a plan of action for the county municipal level (2001-2006). This plan includes measures for improving the institutions/personnel's expertise as regards dual diagnosis.

The County Governor has been informed about the CPT's recommendations, comments and requests for information. The County Governor's office is responsible for supervision and shall see to that the BUS Acute Institution and the Fossum Collective are run properly.

The Ministry of Children and Family Affairs will continue its efforts to ensure that the services offered at the county municipal level are better coordinated and more flexible as regards children and young people with dual diagnosis. We will continue focusing on and facilitating competence building in this field.

81. The CPT recommends that newly-arrived juveniles held at the BUS Acute Institution should be medically screened.

The municipality of Oslo agrees that newly-arrived juveniles held at the BUS Acute Institution ought to be medically screened shortly after arrival. The municipality of Oslo will propose that Ullevål Hospital establish medical screening routines.