



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

Distr.
GENERAL

CAT/C/NOR/CO/5
5 February 2008

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Thirty-ninth session

Geneva, 5 - 23 November 2007

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

Conclusions and recommendations of the Committee against Torture

NORWAY

1. The Committee considered the fifth periodic report of Norway (CAT/C/81/Add.4) at its 791st and 794th meetings, held on 12 and 13 November 2007 (CAT/C/SR.791 and CAT/C/SR.794), and adopted, at its 804th meeting on 20 November 2007 (CAT/C/SR.804), the following conclusions and recommendations.

A. Introduction

2. The Committee welcomes the submission of the State party's fifth periodic report, which was prepared in accordance with the Committee's guidelines and submitted on time. The Committee commends the comprehensive written responses provided to the list of issues (CAT/C/NOR/Q/5/Add.1) and appreciates the fruitful and constructive dialogue with the State party's multi-sectoral delegation.

B. Positive aspects

3. The Committee commends the State party for its compliance with its obligations under the Convention and for its ongoing efforts to prevent and eliminate any acts or conduct contrary to its provisions. In particular, the Committee notes with satisfaction:

a) The incorporation of a new provision in the Penal Code that prohibits and penalizes torture, in conformity with article 1 of the Convention;

b) The adoption of an amendment to the Criminal Procedure Act to reduce the overall use of pre-trial solitary confinement and to strengthen its judicial supervision, as well as the abolition of solitary confinement as a sanction, in accordance with the new Act on Execution of Sentences and its implementing regulations;

c) The recent adoption of legislative measures to regulate the rights of persons staying at the Trandum Alien Holding Centre in accordance with the revised UNHCR Guidelines on Applicable Criteria and Standards for the Detention of Asylum Seekers;

d) The establishment of a new central unit for the investigation of alleged crimes by members of the police, with authority to initiate prosecutions, and the allocation of additional resources to the investigation of reports of crime committed by the police;

e) The measures taken to ensure that the Committee's concluding observations are promptly translated into Norwegian and distributed more widely, including through publication on the website of the Ministry for Foreign Affairs;

f) The State party's regular donations to the United Nations Voluntary Fund for the Victims of Torture since its establishment; as well as bilateral cooperation and development assistance aimed at the combat of torture.

C. Principal subjects of concern and recommendations

Incorporation of the Convention

4. The Committee, while noting the State party's explanation with regard to its general principles concerning the transformation of its international obligations into national law and the reasons for incorporating only the most general international instruments in its Human Rights Act, nevertheless regrets that the State party has not changed its position with regard to the specific incorporation of the Convention into Norwegian law.

The State party should further consider incorporating the Convention into domestic law in order to allow persons to invoke the Convention directly in the courts, to give prominence to the Convention and to raise awareness of the provisions of the Convention among members of the judiciary and the public at large.

Definition of torture

5. The Committee, while noting with appreciation the incorporation of a new provision prohibiting and penalizing torture in the Penal Code, notes that the wording of the definition of torture in the Penal Code, in contrast to the definition in article 1 of the Convention, enumerates specific forms of discrimination as possible motives rather than referring to all types of discrimination.

The State party should further consider the possible use of wording similar to that used in the Convention so as to ensure that the definition of torture comprises all types of discrimination as possible motives.

Non-refoulement

6. The Committee notes the existence of a so-called "48-hour procedure" for the rejection of asylum-seekers from countries generally regarded as safe and whose application is assessed as manifestly unfounded after an asylum interview.

The State party should ensure that a genuine consideration of each individual case can still be provided for under the “48-hour procedure” and keep under constant review the situation in those countries in respect of which that procedure is applied.

7. With regard to the State party’s participation in the International Security Assistance Force (ISAF) operation in Afghanistan, the Committee notes the State party’s explanation that any Afghan citizen apprehended by Norwegian ISAF personnel is handed over to the Afghan authorities in accordance with a Memorandum of Understanding obliging the Afghan Government to comply with relevant international standards in the treatment of any persons thus transferred.

In accordance with the Committee’s constant view (see CAT/C/CR/33/3, paras. 4 (b), 4(d), 5 (e) and 5 (f) and CAT/C/USA/CO/2, paras. 20 and 21) that article 3 of the Convention and its obligation of non-refoulement apply to a State party’s military forces, wherever situated, where they exercise effective control over an individual, the State party should continue to closely monitor the compliance by the Afghan authorities with their relevant obligations in relation to the continued detention of any persons handed over by Norwegian military personnel.

Pre-trial detention and treatment of persons otherwise detained or at the disposal of the authorities

8. The Committee, while noting the amendment of legislation to reduce the length of pre-trial detention and the use of solitary confinement as a preventative measure, remains concerned at the lack of adequate statistics validating the effectiveness of these measures.

The State party should compile detailed statistics on the application of pre-trial detention and the use of solitary confinement so as to verify the effectiveness of recent amendments to its relevant legislation in practice. The State party should also compile statistics relating to the application of recent amendments to the Immigration Act concerning the detention of foreign nationals.

9. The Committee, while welcoming the recent adoption of a legislative act to regulate the rights of persons staying at the Trandum Alien Holding Centre, notes that the supervisory board which will supervise the operation of the Centre in accordance with that act has yet to be established.

The State party should establish the supervisory board for the Trandum Holding Centre envisaged in recent legislation forthwith so as to ensure that the rights of persons held at the Centre are respected at all times.

10. The Committee, while noting that measures have been taken to address recent incidents of excessive use of force by the police, remains concerned about reports on the use of unnecessary force in some instances, and about reports of discriminatory treatment based on ethnicity.

The State party should ensure that all appropriate measures are taken to counter the possible persistence of practices involving the use of unnecessary force by the police, and the risks posed by any discriminatory treatment in this regard.

Education on the prohibition against torture

11. While noting that different training programmes for police and prison officers which cover human rights and rights of detainees, including the prohibition of torture, are systematically held, the Committee regrets that there is no available information on the impact of the training on reducing incidents of violence and ill-treatment, including incidents that may be racially motivated.

The State party should ensure that through educational programmes, law enforcement personnel and justice officials are fully aware of the provisions of the Convention, applicable limitations on the use of force and the need to avoid any discriminatory treatment. Furthermore, the State party should develop and implement a methodology to assess the effectiveness and impact of relevant training programmes on the incidence of cases of torture, violence and ill-treatment.

Prompt and impartial investigations

12. The Committee notes that the State party has taken measures to further improve the handling of complaints against the police and the investigation of relevant allegations. Nevertheless, the Committee remains concerned about allegations concerning violations committed by law enforcement officials, including allegations relating to discriminatory treatment, and about the impartiality of subsequent investigations.

The State party should closely monitor the effectiveness of the new procedures for the investigation of alleged crimes committed by law enforcement officials, in particular those in which discriminatory treatment based on ethnicity is alleged. The State party is requested to provide detailed information on the results of the ongoing review process in its next periodic report.

Provisional measures

13. In light of a recent case in which the State party's initial response to a request by the Committee for provisional measures was unfavourable, the Committee is concerned about the State party's general position with regard to requests for provisional measures by the Committee.

The State party should consider its position with regard to interim measures requested by the Committee in light of article 22 of the Convention and the principle of good faith, with a view to generally allowing the Committee sufficient time to consider any case that may arise in the future before any action is taken.

14. The Committee notes the State party's assurance that measures are being undertaken to seek the ratification of the Optional Protocol to the Convention, and encourages the State party to proceed to ratify the Protocol at the earliest possible date.

15. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party.

16. The Committee invites the State party to submit its core document in accordance with the requirements of the harmonized guidelines on reporting (HRI/MC/2006/3).

17. The State party is encouraged to disseminate widely the reports submitted to the Committee and the conclusions and recommendations, through official websites, the media and non-governmental organizations.

18. The Committee requests the State party to provide, within one year, information on its response to the recommendations contained in paragraphs 6, 7, 8 and 9 above.

19. The Committee, having concluded that during the consideration of the report of the State party, sufficient information was presented to cover the period of delay in submitting the fifth report, decided to request the seventh periodic report by 30 December 2011.
