

UNHCR Observations on the proposed legislative amendments to Chapter 12 of the Norwegian Immigration Act on the use of coercive measures, including administrative detention of families with children, arrest, directed residence/residence restrictions and regular reporting to the authorities- public hearing/public consultation

[Høringsbrev om endringer i utlendingslovens regler om tvangsmidler]

I. Introduction

1. The UNHCR Regional Representation for Northern Europe (hereafter “RRNE”) is grateful to the Ministry of Justice and Public Security for the invitation to express its views on the draft law proposal “Public hearing on proposed legislative amendments to the Norwegian Immigration Act on the use of coercive measures”¹ of 19 December 2016 (hereafter the “Proposal”).
2. As the agency entrusted by the United Nations General Assembly with the mandate to provide international protection to refugees and, together with governments, seek permanent solutions to the problems of refugees,² UNHCR has a direct interest in law and policy proposals in the field of asylum. According to its Statute, UNHCR fulfils its mandate *inter alia* by “[p]romoting the conclusion and ratification of international conventions for the protection of refugees, supervising their application and proposing amendments thereto [.]”³ UNHCR’s supervisory responsibility is reiterated in Article 35 of the 1951 Convention⁴ and in Article II of the 1967 Protocol relating to the Status of Refugees⁵ (hereafter collectively referred to as the “1951 Convention”).⁶ It has also been reflected in European Union law, including by way of a general reference to the 1951 Convention in Article 78(1) of the Treaty on the Functioning of the European Union (hereafter “TFEU”).⁷

¹ Public hearing on proposed legislative amendments to the Norwegian Immigration Act on the use of coercive measures, available at: <https://www.regjeringen.no/no/dokumenter/horingsbrev-om-endringer-i-utlendingslovens-regler-om-tvangsmidler/id2524047/>.

² UN General Assembly, Statute of the Office of the United Nations High Commissioner for Refugees, 14 December 1950, A/RES/428(V), available at: <http://www.refworld.org/docid/3ae6b3628.html> (hereafter “UNHCR Statute”).

³ *Ibid.*, para. 8(a).

⁴ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html>.

⁵ UN General Assembly, *Protocol Relating to the Status of Refugees*, 31 January 1967, United Nations, Treaty Series, vol. 606, p. 267, available at: <http://www.refworld.org/docid/3ae6b3ae4.html>.

⁶ According to Article 35 (1) of the 1951 Convention, UNHCR has the “duty of supervising the application of the provisions of the 1951 Convention”.

⁷ European Union, Consolidated version of the Treaty on the Functioning of the European Union, 13 December 2007, OJ C 115/47 of 9.05.2008, available at: <http://www.unhcr.org/refworld/docid/4b17a07e2.html>.

3. UNHCR's supervisory responsibility is exercised in part by the issuance of interpretative guidelines on the meaning of provisions and terms contained in international refugee instruments, in particular the 1951 Convention. Such guidelines are included in the UNHCR Handbook on Procedures and Criteria for Determining Refugee Status (hereafter "UNHCR Handbook") and subsequent Guidelines on International Protection.⁸ UNHCR also fulfils its supervisory responsibility by providing comments on legislative and policy proposals impacting on the protection and durable solutions of its persons of concern.
4. The following comments are based on international protection standards set out in the 1951 Convention, in international human rights law, on Conclusions on International Protection of the UNHCR Executive Committee (hereafter "ExCom"), and on UNHCR guidelines. While neither UNHCR ExCom Conclusions nor UNHCR guidelines are binding on States, they contribute to the formulation of *opinio juris* by setting out standards of treatment and approaches to interpretation which illustrate States' sense of legal obligation towards asylum-seekers and refugees.⁹ As a member of the UNHCR ExCom since 1959, Norway has contributed extensively to the development of the Conclusions on International Protection, adopted unanimously by the ExCom.
5. In light of the above-mentioned sources of law, UNHCR welcomes the opportunity to give its opinion on *one key issue* in the Proposal pertaining to immigration detention of children – both unaccompanied and children with their parents or guardian- and highlight in particular the recent legal developments with regard to applicable criteria and standards relating to such detention, with a view to provide interpretative legal guidance to the Government of Norway to ensure observance of emerging principles in this area of law where national immigration law and criminal law intertwine.¹⁰

II. General Observations

6. UNHCR notes that the stated aim of the Proposal is to amend relevant provisions in Chapter 12 of the Norwegian Immigration Act (hereafter "Immigration Act")¹¹ containing general rules on coercive measures and their application (Sections 99-

⁸ UNHCR, *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.refworld.org/docid/4f33c8d92.html>.

⁹ Goodwin Gill/McAdam, *The Refugee in International Law*, Oxford University Press, 2007, page 217.

¹⁰ This emerging area of law has been coined "cimmigration", see in this respect relevant jurisprudence of the European Court of Human Rights in *Abdullahi Elmi and Aweys Abubakar v. Malta*, Applications nos. 25794/13 and 28151/13, Council of Europe: European Court of Human Rights, 22 November 2016, available at: <http://www.refworld.org/cases,ECHR,583d35774.html>.

¹¹ Act of 15 May 2008 on the Entry of Foreign Nationals into the Kingdom of and their Stay in the Realm (Immigration Act), 15 May 2008, available at: <http://www.refworld.org/docid/507522792.html>.



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106¹²) in order to clarify which provisions shall apply under the Immigration Act. This objective is sought to be achieved primarily by incorporating key provisions of the Norwegian Criminal Procedure Act of 1981 [Straffeprosessloven]¹³ into the Immigration Act, inserting references to relevant provisions of the Criminal Procedure Act, and repealing current unnecessary references in the Immigration Act. The Government considers that those legal changes are necessary for the purposes of i. establishing clear legal rules on the application of coercive measures; ii. ensuring that the provisions are sufficiently accessible; and iii. inserting explicit provisions on procedural rights to ensure that the procedural rules governing arrest and remand in custody (detention and administrative detention) are formulated in a sufficiently clear and precise manner. UNHCR welcomes the proposed improvements to the existing legislation as they contribute to the fulfillment of the principle of legal certainty.

7. Furthermore, in its present form, the Immigration Act, Section 106 governing detention, contains provisions *inter alia* on *remand in custody* (“fengsling”) for asylum/immigration purposes.¹⁴ The Proposal seeks to substitute the wording *remand in custody* with the wording *forcible confinement* (“tvangsmessig tilbakehold”) as the Government considers that the latter term is better suited to describe the process of keeping a person in administrative detention. UNHCR welcomes the intended purpose of distinguishing between criminal detention and immigration detention, and does not consider it necessary to provide input on this particular aspect as the Proposal clearly spells out that the suggested term does not entail any substantive changes.
8. UNHCR understands that the Proposal, in addition to the above amendments, also recommends an increased reliance on detention of unaccompanied children and children with their parents. UNHCR will in the below sections focus on these aspects of the Proposal.

¹² Currently, Chapter 12 of the Immigration Act under the heading “Processing of fingerprints etc., coercive measures and penalties”, contains in Sections 99-106 general rules on coercive measures and their application, such as processing of fingerprints (Section 101), search of a foreign national's person, dwelling or the like (Section 103), seizure (Section 104), obligation of notification and stay in a specific place (Section 105), and detention (Section 106).

¹³ Norwegian Criminal Procedure Act: available at: <http://app.uio.no/ub/ujur/oversatte-lover/data/lov-19810522-025-eng.pdf>.

¹⁴ Section 106 is broad in scope and covers various categories of third country nationals *inter alia* applicants for international protection in ordinary procedures, applicants for international protection in fast-track (accelerated) procedures, applicants for international protection subject to Dublin procedures, applicants whose claims for international protection have been refused, applicants whose applications for family reunification have been rejected, persons detained at the border to prevent illegal entry (e.g. airport transit zone), persons found to be illegally present on the territory of the (Member) State without having lodged an application for international protection thus not subject to a return decision, persons who have been issued a return decision, as well as other categories of persons.



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III. Specific observations concerning detention of unaccompanied children and children with parents or guardian

9. One key aspect of the Proposal, which raises serious issues under applicable international and regional refugee and human rights law, is that it opens up for forcible confinement of children and families with children for a period of time of up to seven days and expands the grounds upon which a person may be detained to encompass identity grounds, including unclear identity and doubts regarding the person's real age. The Proposal also stipulates that the initial period of forcible confinement may be extended to a maximum of one week at the time.
10. Currently, Section 106 of the Immigration Act, only allows for detention of children in situations where the authorities upon an individual determination establish that there is a risk of absconding. The Norwegian Government emphasizes in the Proposal that the domestic legislation shall not exclude identity grounds as a legal basis for detention bearing in mind that chaotic mass influx situations may warrant such provisions. Norway considers that all the legislative amendments envisaged in the Proposal are in line with Norway's international obligations and constitutional law.
11. UNHCR acknowledges that coercive measures, including detention, may be required in certain instances and only under certain limited circumstances. UNHCR welcomes the proposed improvements to the existing legislation as they contribute to the fulfillment of the principle of legal certainty. Moreover, UNHCR welcomes that the Proposal refers extensively to relevant international human rights law and jurisprudence from the European Court of Human Rights (hereafter "ECtHR"), including the Court's recent jurisprudence, which in UNHCR's view demonstrates Norway's commitment to ensure respect for international law.
12. At the outset, UNHCR would like to emphasize that Article 31(1) of the 1951 Convention clearly stipulates that asylum-seekers who enter a State illegally should not be penalized.¹⁵ The provision proscribes criminalization, punishment and detention of asylum-seekers on the sole basis that they entered national territory undocumented or unauthorized or both. Article 31(2) of the Convention calls upon States not to apply to the movements of refugees within the scope of paragraph 1, restrictions other than those that are necessary, and only until their status is regularized locally or they secure admission to another country. Article 31 (2) of the Convention also prohibits "restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into

¹⁵ UNHCR, *UNHCR Observations on the proposed amendments to the Norwegian Immigration Act and Regulation: Høring – Endringer i utlendingslovgivningen (Innstramninger II)*, 12 February 2016, available at: <http://www.refworld.org/docid/56c1c6714.html>, paras. 13-19.



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another country”.¹⁶ Already at the time of the drafting of Article 31, it was recognized that refugees (and asylum-seekers) whose departure from their country of origin is usually a flight, will rarely be in a position to comply with the requirements for legal entry (possession of a passport and visa) into the country of refuge.¹⁷

13. Furthermore, the right to liberty and security of person and the right to freedom of movement are fundamental human rights that are reflected in all major international and regional human rights instruments, and are available to all regardless of migration status.¹⁸ For example, Article 9 of the International Covenant on Civil and Political Rights (hereafter ICCPR) expresses the general principle of liberty and security of person, and applies to all deprivations of liberty, including detention for the purposes of immigration control. Further, the Convention on the Rights of the Child (hereafter “CRC”), stipulates in Article 3(1) that the best interests of the child shall be a primary consideration, while Article 37 enshrines that detention of children “must be a measure of last resort and for the shortest appropriate period of time”.¹⁹ The wording of Article 37 implies that alternatives to detention must always be the States’ first choice rather than to deprive a child of his or her liberty.

14. Further, the European Convention on Human Rights (hereafter “ECHR”), recognises that “[e]veryone has the right to liberty and security of person” and that “[n]o one shall be subjected to arbitrary arrest or detention” in Article 5. It is also recognised under international law that the right to security and liberty of persons is inter-related with other core rights such as the prohibition of torture or inhuman and degrading treatment or punishment guaranteed by Article 3 of the ECHR and the right to respect for family and private life (Article 8 of the ECHR).

15. The restriction of the right to liberty and security of person and the right to freedom of movement in the asylum and migration context can take various forms and span

¹⁶ Cambridge University Press, Summary Conclusions: Article 31 of the 1951 Convention, June 2003, available at: <http://www.refworld.org/docid/470a33b20.html>.

¹⁷ UN Ad Hoc Committee on Refugees and Stateless Persons, *Ad Hoc Committee on Statelessness and Related Problems, Status of Refugees and Stateless Persons - Memorandum by the Secretary-General*, 3 January 1950, E/AC.32/2, available at: <http://www.refworld.org/docid/3ae68c280.html>.

¹⁸ The following instruments may be of particular interest in the Norwegian context: UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A (III), Articles 3 and 9, available at: <http://www.refworld.org/docid/3ae6b3712c.html>; UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, Treaty Series, vol. 999, p. 171, (hereafter “ICCPR”) Articles 9 and 12, available at: <http://www.refworld.org/docid/3ae6b3aa0.html>; Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, as amended by Protocols Nos. 11 and 14*, 4 November 1950, ETS 5, (hereafter “ECHR”), Article 5, available at: <http://www.refworld.org/docid/3ae6b3b04.htm>; UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: <http://www.refworld.org/docid/3ae6b38f0.html>.

¹⁹ UN General Assembly, *New York Declaration for Refugees and Migrants: resolution / adopted by the General Assembly*, 3 October 2016, A/RES/71/1, available at: <http://www.refworld.org/docid/57ceb74a4.html>.

across “a spectrum of deprivation of liberty”.²⁰ At the extreme end of the spectrum is detention, which UNHCR defines as “deprivation of liberty or confinement in a closed place which [a person] is not permitted to leave at will”.²¹ However, other measures short of detention, which impose a lesser restriction of the liberty and freedom of movement of persons, should also entail guarantees against arbitrariness and are subject to international and EU law and standards.²² Alternatives to detention, for example, involve some form of restriction of liberty or freedom of movement, and therefore are subject to legal safeguards. As explained in the UNHCR Detention Guidelines, the distinction between deprivation of liberty and restrictions on freedom of movement under Article 2 of Protocol No. 4 is merely one of degree or intensity, and not one of nature or substance”, a principle which has been established by the European Court of Human Rights (hereafter “ECtHR”)²³ in its case-law and reiterated recently in *Khlaifia and others v. Italy*.²⁴

Detention of unaccompanied children

16. As UNHCR recently emphasized in its “Position regarding the detention of refugee and migrant children in the migration context”, children *should never be detained for immigration related purposes*, irrespective of their legal/migratory status, or that of their parents, as detention could never be said to serve the best interests of a child.²⁵
17. As affirmed by Article 3 of the CRC, the best interests of the child shall be a primary consideration in all the measures affecting the child and not an enforcement, needs to govern the actions taken, since the extreme vulnerability of minors. A best interests assessment procedure should be conducted, which may be in the context of the existing child protection system of the States, where applicable. The principles of minimal intervention and the best interests of the child should govern any measures taken by States. Consequently, unaccompanied or separated children should not be detained;

²⁰ UNHCR, *Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention*, 2012, available at: <http://www.refworld.org/docid/503489533b8.html> (hereafter “UNHCR Detention Guidelines”), page 9.

²¹ *Ibid.*

²² See in part. Art. 2. of 4th Protocol to the ECHR; UNHCR Detention Guidelines, See also UNHCR, *Back to Basics: The Right to Liberty and Security of Person and 'Alternatives to Detention' of Refugees, Asylum-Seekers, Stateless Persons and Other Migrants*, April 2011, PPLA/2011/01.Rev.1, available at: <http://www.refworld.org/docid/4dc935fd2.html>, page 8.

²³ UNHCR Detention Guidelines, page 9, where reference is made to the judgement of the European Court of Human Rights in *Guzzardi v. Italy*, (1980), ECtHR, App. No. 7367/76, para. 93, available at: <http://www.unhcr.org/refworld/docid/502d42952.html>.

²⁴ *Khlaifia and Others v. Italy*, Application no. 16483/12, Council of Europe: European Court of Human Rights, 15 December 2016, available at: <http://www.refworld.org/cases/ECHR,58529aa04.html>.

²⁵ UNHCR’s position regarding the detention of refugee and migrant children in the migration context, January 2017, available at: <http://www.refworld.org/docid/5885c2434.html>.

instead, appropriate care arrangements remain the best measure, as liberty and freedom of movement of children should be always the preferred solution.²⁶ In the same vein, the UN Committee on the Rights of the Child has stressed that “Detention cannot be justified solely on the basis of the child being unaccompanied or separated, or on their migratory or residence status, or lack thereof.”²⁷ It has also held that States should expeditiously and completely cease the detention of children on the basis of their immigration status.”²⁸

18. Moreover, the UN General Assembly requires in its Resolution 71/177 on the Rights of the Child that States must put in place, if they have not yet done so, appropriate systems and procedures to ensure that the best interests of the child are a primary consideration in all actions or decisions concerning migrant children, regardless of their migration status, and to use alternatives to the detention of migrant children. The Resolution also spells out that children, including adolescents, should not be subject to arbitrary arrest or detention based solely on their migration status and that the deprivation of the liberty of migrant children and adolescents should be a measure of last resort, under conditions that respect the human rights of each child and in a manner that takes into account, as a primary consideration, the best interests of the child.²⁹

19. In this context, UNHCR also refers to the UN Special Rapporteur on Torture, who has expressed that “the deprivation of liberty of children based on their or their parent’s migration status is never in the best interests of the child, exceeds the requirement of necessity, becomes grossly disproportionate and may constitute cruel, inhuman or degrading treatment of migrant children.”³⁰

20. The conclusion that children should not be detained for immigration purposes finds further support in the case-law of the ECtHR, in particular *Rahimi v. Greece*.³¹ The Court considered that the national authorities had afforded “no consideration to the best interests” of the applicant as a child, nor to his individual circumstances, although he, as an unaccompanied child, belonged to the category of highly vulnerable members of society. The Court noted that the authorities had failed to examine both whether the

²⁶ UNHCR’s position regarding the detention of refugee and migrant children in the migration context, January 2017, available at: <http://www.refworld.org/docid/5885c2434.html>.

²⁷ UN Committee on the Rights of the Child (CRC), General comment No. 6 (2005): Treatment of Unaccompanied and Separated Children Outside their Country of Origin, 1 September 2005, CRC/GC/2005/6, available at: <http://www.refworld.org/docid/42dd174b4.html>.

²⁸ UN Committee on the Rights of the Child (CRC), Committee on the Rights of the Child, Report of the 2012 Day of General Discussion on the Rights of All Children in the Context of International Migration, 28 September 2012, available at: <http://www.refworld.org/docid/51efb6fa4.html>.

²⁹ UN General Assembly, Rights of the child: resolution / adopted by the General Assembly, 7 February 2017, A/RES/71/177, available at: <http://www.refworld.org/docid/5899eae24.html>.

³⁰ UN Special Rapporteur on Torture, Thematic Report on torture and ill-treatment of children deprived of their liberty, 5 March 2015 (A/HRC/28/68), para. 80, available at: www.ohchr.org/.

³¹ *Rahimi c. Grèce*, Requête no. 8687/08, Council of Europe: European Court of Human Rights, 5 April 2011, available at: <http://www.refworld.org/cases,ECHR,4d9c3e482.html>.



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decision to place the child in the detention centre had been necessary as a measure of last resort or whether less drastic action could have secured the child's deportation. The above elements led the Court to doubt the authorities' good faith in carrying out the detention measure. It should be noted that the ECtHR found a violation of Article 5(1) and 5(4) of the ECHR despite the fact that the applicant has only been detained for two days. In addition, the Court found a violation of Article 3 (prohibition against torture) as the authorities had failed to protect and care for the child by taking appropriate measures in the light of the State's positive obligations under Article 3.

21. Moreover, in *Abdullahi Elmi and Aweys Abubakar v. Malta*³² (a judgment concerning the placement of unaccompanied children over the age of 16 years in detention accommodation centers together with adults), the ECtHR held in light of its previous jurisprudence in *Mahamed Jama v. Malta*,³³ that the necessity of detaining children in an immigration context must be very carefully considered by the national authorities. The Court stressed that "at no stage did the authorities ascertain whether the placement in immigration detention of the applicants was a measure of last resort for which no alternative was available". In this seminal judgment, the ECtHR appears to depart from its previous practice, in particular *Saadi v. the United Kingdom*,³⁴ where the Court had concluded that it was a necessary adjunct to the State's right to control the entry and residence of aliens to detain would-be immigrants who had applied for permission to enter, whether by way of asylum or otherwise.
22. UNHCR also recommends Norway to take into account the comment published by the Commissioner for Human Rights of the Council of Europe on 31 January 2017, where the Commissioner not only called for a *complete abolition* of the detention of migrant children, but also required States to invest in alternatives to detention for migrants. The Commissioner referred in this respect to European standards, which establish that detention should be a measure of last resort, while stressing that alternatives to detention were especially pressing for vulnerable persons, such as unaccompanied children.³⁵

³² *Abdullahi Elmi and Aweys Abubakar v. Malta*, Applications nos. 25794/13 and 28151/13, Council of Europe: European Court of Human Rights, 22 November 2016, available at: <http://www.refworld.org/cases,ECHR,583d35774.html>.

³³ *Mahamed Jama v. Malta*, Application no. 10290/13, Council of Europe: European Court of Human Rights, 26 November 2015, available at: <http://www.refworld.org/cases,ECHR,56581a674.html>.

³⁴ *Saadi v. The United Kingdom*, 13229/03, Council of Europe: European Court of Human Rights, 11 July 2006, available at: <http://www.refworld.org/cases,ECHR,44dc70a34.html>.

³⁵ Council of Europe, Human Rights Comment, "High time for states to invest in alternatives to migrant detention", 31 January 2017, available at: <https://www.coe.int/ca/web/commissioner/-/high-time-for-states-to-invest-in-alternatives-to-migrant-detention>.



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Detention of children with parents

23. UNHCR emphasizes that children should never be criminalised or subject to punitive measures because of their parents' migration status. Alternatives to detention should be explored, preferably through family-based alternative care options or other suitable alternative care arrangements as determined by the competent childcare authorities.³⁶ The detention of a child because of their or their parent's migration status constitutes a child rights violation and always contravenes the principle of the best interests of the child. Children further have the right to family unity (*inter alia*, Articles 5, 8 and 16 of the CRC) and the right not to be separated from their parents against their will (Article 9 of the CRC).³⁷
24. The same stance was taken by the ECtHR in *Tarakhel v Switzerland*,³⁸ where the Court reiterated the principle that Contracting Parties must "bear in mind that the child's extreme vulnerability is the decisive factor and takes precedence over considerations relating to the status of illegal immigrant". In *Popov v France*,³⁹ a case concerning detention of a family with two infant children, the Court held once more— in light of the best interests of the child – that the detention of families with young children violated Article 3, Article 5 (1) (f) and Article 8 of the ECHR. The Court held in view of the children's young age, the duration (two weeks) and conditions of their detention, that the authorities had failed to take into account the inevitably harmful effects on the children. The treatment was therefore incompatible with the provisions of the ECHR and exceeded the minimum level of severity required to fall within the scope of Article 3. The Court also found a violation of Article 5 (1) (f) as the authorities had failed to take into account their particular situation and had not sought to establish whether any alternative solution, other than administrative detention, could have been envisaged, such as house arrest or placement in a hotel. In *Muskhadzhiyeva and others v. Belgium*,⁴⁰ the Court clarified that that the effect of conditions on children can amount to a breach of Article 3 even where the treatment would not reach that threshold in cases concerning adults.

³⁶ UNHCR, *UNHCR's position regarding the detention of refugee and migrant children in the migration context*, January 2017, available at: <http://www.refworld.org/docid/5885c2434.html>.

³⁷ UNHCR Detention Guidelines, at page 34, para. 51.

³⁸ *Tarakhel v. Switzerland*, Application no. 29217/12, Council of Europe: European Court of Human Rights, 4 November 2014, available at: <http://www.refworld.org/cases,ECHR,5458abfd4.html>.

³⁹ *Popov c. France*, Requêtes nos 39472/07 et 39474/07, Council of Europe: European Court of Human Rights, 19 January 2012, available at: <http://www.refworld.org/cases,ECHR,4f1990b22.html>.

⁴⁰ *Muskhadzhiyeva et autres c. Belgique*, Requête n° 41442/07, Council of Europe: European Court of Human Rights, 19 January 2010, available at: <http://www.refworld.org/cases,ECHR,4bd55f202.html>.



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IV. CONCLUDING RECOMMENDATIONS

25. In light of the above, in particular the recent legal developments with regard to applicable criteria and standards relating to detention of unaccompanied children and children with parents/guardians, UNHCR recommends the Government of Norway to

- Withdraw the provision authorizing the detention of unaccompanied children and children with their parents for immigration related purposes and expanding the grounds of detention, as such deprivation of liberty is never in the best interests of the child, is grossly disproportionate and may breach international human rights law standards.