



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

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COMMITTEE AGAINST TORTURE

**Written replies by the Government of Norway* to the list of issues
(CAT/C/NOR/Q/5) to be taken up in connection with the consideration of the fifth periodic
report of NORWAY (CAT/C/81/Add.4)**

[11 September 2007]

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being edited sent to the United Nations translation services.

ARTICLE 1

Question 1

The Committee would like to receive precise information on the place of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment inside the Norwegian judicial system and on the question of whether Norwegian laws must be interpreted according to the Convention.

1. Norway has a dualistic legal system. Conventions are therefore not directly applicable, but have to be transformed (actively or passively) or incorporated into national legislation. The Government is, however, clearly of the view that Norwegian legislation complies with Norway's obligations deriving from the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.

2. On 2 July 2004 a new provision prohibiting torture in the General Civil Penal Code was adopted, cf. section 117 a. The provision reads:

“Section 117 a: Any person who commits torture shall be liable to imprisonment for a term not exceeding 15 years. In the case of aggravated and severe torture resulting in death, a sentence of imprisonment for a term not exceeding 21 years may be imposed. Any person who aids and abets such an offence shall be liable to the same penalty.

Torture here means that a public official inflicts on another person harm or severe physical or mental pain:

- a) with the intention of obtaining information or a confession,*
- b) with the intention of punishing, threatening or compelling someone, or*
- c) because of the person's creed, race, skin colour, sex, homosexual inclination, lifestyle or orientation or national or ethnic origin.*

In this provision public official means anyone who:

- a) exercises public authority on behalf of a State or municipality, or*
- b) performs a service or work that a State or municipality shall pursuant to a statute or regulation appoint someone to perform or wholly or partly pay for.*

Torture also includes any acts referred to in the second paragraph committed by a person who acts at the instigation of or with the express or implied consent of a public official.”

3. This provision was adopted as a concrete follow-up of earlier recommendations from the UN Committee against Torture and transforms the definition of torture in Article 1 of the Convention more clearly into national legislation.

4. We would also like to point out that certain Acts incorporate international obligations within their scope. For example section 4 of the Immigration Act states that the Act shall be applied in accordance with international rules by which Norway is bound when these are intended to strengthen the position of a foreign national. The Criminal Procedure Act has a similar provision, cf. section 4.

5. It is a general principle under the Norwegian legal system that national legislation shall as far as possible be interpreted in a manner compatible with Norway's international legal obligations ("the principle of presumption"). This is of particular interest in the issue at hand, since section 117 a was adopted specifically to comply with the obligations of the Convention against Torture. In the light of the above-mentioned principle of statutory interpretation, it should be stressed that the transposition of the Convention against Torture into the Norwegian Penal Code ensures that it is given full effect in the Norwegian legal system. In a conflict between the Norwegian Penal Code and the Convention against Torture, it is therefore unlikely that the former would prevail.

Article 3

Question 2

The Committee takes note of the amendments made to the Immigration Act in implementation of Security Council resolution 1373 (2001), including amendments relating to the expulsion of foreign nationals on the basis of certain offences in connection with terrorist acts regardless of whether criminal liability according to the Penal Code can be established. In this regard, please provide information on relevant safeguards which will ensure that decisions on expulsions under the amended legislation will not result in a violation of the Convention.

6. Expulsion may not take place if there is a risk that the expelled person will be subjected to persecution or inhuman treatment. This issue is accounted for in Norway's fifth periodic report, paragraph 113.

7. The same rules of procedure apply to foreign nationals who are to be expelled under any of the provisions adopted in implementation of Security Council resolution 1373 (2001) as to persons who are to be expelled for other reasons. According to the Immigration Act and the Public Administration Act, such persons are entitled to receive advance notice regarding a pending decision on expulsion and to express their opinion before the expulsion may be ordered.

8. Foreign nationals whose expulsion is ordered under the new provisions of the Immigration Act may also appeal the decision on expulsion before the courts in the same manner as persons who are to be expelled for other reasons.

Question 3

Please inform the Committee on whether a foreign national who is to be expelled under any of the provisions adopted in implementation of Security Council resolution 1373 (2001) is entitled to receive advance notice regarding the pending decision on expulsion and to express himself in writing or orally before the expulsion can be ordered, in the same manner as persons who are to be expelled for other reasons. In this context, the Committee would also like to know whether a foreign national whose expulsion is ordered under the new provisions of the Immigration Act will be able to appeal the decision on expulsion before the Courts.

9. Reference is made to our response to question 2 (paragraph seven and eight).

Question 4

Can an individual from a third country that has been declared “safe” by Norway claim that, in his/her particular case, he/she risks being subjected to torture if returned, expelled or extradited? Please also indicate the criteria Norway uses to draw up and update the list of third countries declared “safe”.

10. All foreign nationals who apply for asylum, including foreign nationals from countries that are generally regarded as safe, shall be interviewed as soon as possible. The person conducting the interview shall ensure that any matter of importance to the assessment of the application for asylum is clarified as far as possible.

11. The Norwegian immigration authorities do not operate with a list of “safe” countries as such. However, the applications of asylum seekers who come from certain countries that are generally regarded as safe and whose application for asylum is assessed as manifestly unfounded after the asylum interview shall be rejected within 48 hours (the so-called “48-hour procedure”). The countries that are regarded as safe with regard to the 48-hour procedure have been assessed as such after an overall evaluation of how well the State’s legal system and police force function, and whether the authorities have the will and the ability to protect its citizens.

Question 5

Please indicate in what cases Norway would seek diplomatic assurances from a third country to which an individual is to be extradited, returned or expelled. Please also provide examples of cases in which the authorities did not proceed with the extradition, refoulement or expulsion of an individual for fear that the person concerned would be tortured. On the basis of what information were any such decisions taken?

12. According to the Immigration Act, a foreign national is always entitled to protection in Norway if he/she risks persecution or torture or other inhuman or degrading treatment or punishment on return to his/her country of origin. This provision is unconditional and also applies in cases of extradition and expulsion, regardless of the grounds for the extradition or expulsion order.

13. Norway has no practice of obtaining diplomatic assurances in cases of return or expulsion. However, the possibility cannot be ruled out that Norway would in exceptional cases seek diplomatic assurances from a third country.

14. Norway would seek diplomatic assurances from a country to which an individual is to be extradited in the following circumstances:

a) If the actions for which his/her extradition is sought may, according to the law of the requesting State, be punished by death.

b) If there is reason to fear that the person whose extradition is sought may be subjected to prison conditions that may constitute a breach of Article 3 of the European Convention on Human Rights.

c) To ensure that the person is given a fair trial, for example that he/she is given the right to legal representation.

d) Other guarantees that, depending on the circumstances, are deemed necessary.

15. There may have been requests for extraditions that have been denied on other grounds, but where torture, inhuman or degrading treatment could also have been an issue. However, to our knowledge, we have not had any cases during the past five years where fear that the person concerned would be tortured was the ground used for refusing to comply with an extradition request.

Question 6

Please provide data disaggregated by age, sex and nationality for the past five years on:

- a) **The number of asylum applications registered;**
- b) **The number of successful asylum applications;**
- c) **The number of asylum-seekers whose application was accepted because they had been tortured or might be tortured if returned to their country of origin;**
- d) **The number of deportations or forcible returns, with an indication of the number of deportations or returns relating to asylum-seekers whose asylum applications were rejected; and**
- e) **The countries to which these people were expelled.**

16. **6 (a):** See Appendix 1: Applications for asylum in Norway by citizenship 2002-2006. Question no. 6 (a).

17. **6 (b):** See Appendix 2: Decisions by the Directorate of Immigration (the first instance) granting protection. Question no. 6 (b) – 1.

18. See Appendix 3: Rejections by the Directorate of Immigration which were set aside by the Immigration Appeals Board in the period from 01.07.2003 to 31.12.2006. Male and female applicants. Question no. 6 (b) – 2. Unfortunately, we are not able to disaggregate this data by age.

19. **6 (c):** Unfortunately, we do not have statistics concerning question C. One reason for this is that the statistical data are compiled on the basis of the legal provisions that are applied in each individual case. Most asylum-seekers whose application was accepted due to the risk of torture upon return to their home country are granted refugee status and asylum, not a special permit based on the risk of being tortured. Asylum-seekers who have a need for protection due to the risk of being tortured, but who are not granted refugee status (for instance because there is no nexus to one of the Refugee Convention grounds), are granted protection on so-called humanitarian grounds. This also applies to asylum-seekers who do not have an individual need for protection but are nevertheless granted protection due to the overall security situation in their country of origin. Thus the provisions for granting protection to asylum-seekers due to the risk of torture also apply to asylum-seekers who are granted protection for other reasons. This makes it difficult to compile accurate statistic regarding question C.

20. **6 (d):** See Appendix 4-7: Number of deportations or forcible returns from 01.01.2004 to 31.07.2007. Question no. 6 (d)

21. **6 (e):** See Appendix 8. Countries to which these people were expelled from 01.01.2004 to 31.07.2007. Question no. 6 (e).

22. The statistics concerning questions no. 6 (d) and (e) are unfortunately not complete. More complete statistical information will be forwarded as soon as possible.

Question 7

Please indicate the maximum period of time for which an alien in an irregular situation can be detained. Furthermore, please indicate which measures the Government has adopted to apply the Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) in asylum procedures and to provide training regarding this manual to relevant professionals.

23. Asylum seekers in Norway are not detained pending a decision on their application. They are housed in open reception centres all over the country operated under municipal or private management, where they enjoy the right to freedom of movement. As a rule, rejected asylum seekers and illegal immigrants liable for removal are not detained either. When they have been issued a final expulsion or deportation order, they generally remain at liberty and it is up to them to comply with the order within the prescribed time limit.

24. According to the Immigration Act, there are two situations in which asylum seekers, rejected asylum seekers and illegal immigrants may be taken into custody at Trandum Detention Centre or other detention facilities, such as prisons or police stations: to establish their identity, or to effect their removal out of the country after they have failed to comply with an expulsion or deportation order in time.

25. According to Section 37, sixth paragraph, of the Immigration Act, the total period of custody for identification may not exceed 12 weeks unless there are special grounds. Detention pending the implementation of a deportation order may be decided for a maximum of two weeks at the time, and the detention period may only be extended if the foreign national does not leave the country voluntarily and it is highly probable that he/she will otherwise evade implementation of any decision to leave. In such cases, the time limit may be extended for a period not exceeding two weeks, but not more than twice.

26. Regarding the Istanbul Protocol, reference is made to the answer to question no. 13.

Article 4

Question 8

The Committee notes that Norway, on 2 July 2004, adopted a special penal provision against torture as section 117 (a) of its Penal Code. The Committee would be interested to know whether any person has since been tried under the newly adopted provision for the crime of torture.

27. No one has been tried under section 117 a of the Penal Code since the provision was adopted.

Article 5

Question 9

The Committee notes that that the White Paper on a new Penal Code, which was submitted to the Norwegian parliament on 2 July 2004, proposed a provision explicitly stating that Norway has universal jurisdiction where this follows from treaties with other States or from international law. Please inform the Committee whether the White Paper with the proposed provision on universal jurisdiction has been adopted.

28. A white paper on a new Penal Code was submitted to the Parliament by the King in Council on 2 July 2004. The new Penal Code was adopted as Act of 20 May 2005 No. 28. According to section 6 of the new Penal Code (which has not yet entered into force), Norwegian criminal law is applicable to acts which Norway, pursuant to an agreement with a foreign State or international law, is generally permitted or obliged to prosecute. However, prosecution in this respect will not be initiated unless this is considered necessary in the public interest. In the Bill (Proposition No. 90 (2003-2004) to the Odelsting, page 192) the Ministry of Justice stressed that the legal basis for prosecution should only be utilised in a precautionary manner. Relevant features to take into consideration in this respect is whether the perpetrator or the criminal act has a specific connection to Norway which makes it appropriate to prosecute in the realm. Furthermore, attention should be made to whether the perpetrators native country is a party to the convention constituting the legal warrant for Norwegian jurisdiction.

Article 8

Question 10

Has the State party rejected, for any reason, any requests for extradition by another State for an individual suspected of having committed a crime of torture, and thus engaging its own prosecution as a result?

29. To our knowledge, the Norwegian authorities have not rejected any requests for extradition by another State for an individual suspected of having committed a crime of torture.

Article 10

Question 11

The Committee notes that training on international law and human rights norms, including those contained in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, is provided during the first year at the Police Academy. Please provide information on whether any further training in this area is being provided for law enforcement officials during the course of their working lives and how any such training is monitored and evaluated.

30. During the three years of basic study at the Norwegian Police University College, international law and human rights are taught in several subjects during the first and third year, for instance in subjects like "professional code of ethics", "tactical and operational duty", "criminal law", "criminal procedure", "coercive means", "legal theory" and "police and diversity". The Norwegian Police University College also provides lectures on the issue of interrogation techniques. The interrogation is taped and made subject to evaluation by the students themselves and their teachers. The students also have to sit an exam on interrogation techniques that is marked by highly qualified persons

31. In in-service training, specific courses are provided on international law and human rights. Ethics, legal protection and the rule of law are a part of the curriculum for the courses on “Advanced leadership” and “Combating organised crime”. Human rights are not covered as a specific subject, but they are touched upon in the courses in the context of Norwegian law and international law.

32. International law and human rights are also part of the course “Culture understanding, diversity and conflict negotiation. The course deals with the European Convention on Human Rights and the main conventions to which Norway is a party. It also deals with the issue of diversity in the community and the rule of law.

33. In order to further prevent ill-treatment of detainees and suspects under interrogation, the Norwegian Police University College introduced in 2003 a newly designed in-service training programme on investigation and interview techniques called K.R.E.A.T.I.V. The programme focuses on “information gathering techniques” with the aim to replace and eliminate more traditional “confession electing techniques”. The programme is influenced by academic and practical work carried out in the British training programme called “the P.E.A.C.E. course”. Efforts have been placed on pedagogical issues to enhance the police officers apprehension of the theoretical input. Results and feedback with regard to this programme have been very positive, especially since there has been a distinct need for a more systematic training programme on methods of interrogation also in Norway.

34. The “Mandatory course for new lawyer” is a three-week course which is mandatory for new lawyers in the police service. During this course, training is given on the European Convention on Human Rights.

35. The “United Nation police officer course” includes eight hours of training in human rights for law enforcement officials. One of the main subjects relates to the Convention against Torture and there is a focus on the police officer’s role in apprehending a person, arrest and detention. This course is mandatory for all police officers who are going to serve in UN/OSCE/EU missions.

Question 12

The Committee notes that the Norwegian Correctional Service Staff Academy offers a two-year course for the professional training of staff in the Correctional Service, which covers issues related to human rights. Please inform the Committee whether this is a compulsory programme to be taken by all relevant staff or, should this not be the case, provide an estimate on the percentage of correctional service staff that have availed themselves of such training.

36. The Norwegian Correctional Service Staff Academy offers a two-year course for the professional training of staff in the Correctional Service, which covers issues related to human rights. This is a compulsory programme to be taken by everyone attending the Academy.

Question 13

Please provide information on whether any other professional groups, including medical personnel, public officials in relevant positions or military personnel are being trained in the application of human rights norms set out in the Convention, and how such training is being monitored and evaluated.

37. All military personnel are given training in the application of International Public Law and human rights norms as a part of their basic training for becoming military personnel. Before they are participating in international operations they are one more time given training in the application of International Public Law and human rights norms set out in human rights conventions.

38. The Norwegian Immigration Appeals Board has a consistent focus on international human rights. University lecturers are often invited to speak on various human rights topics. For several years the Board has had an internal human rights training programme for its caseworkers. In addition to the Immigration Act, the 1951 Convention relating to the Status of Refugees and the European Convention on Human Rights (especially Article 3), the Convention against Torture and the Convention on the Rights of the Child is covered thoroughly in the programme.

39. Several human rights advisers have been appointed. These advisers are experienced executive officers who are supposed to monitor the development of human rights law, particularly the instruments mentioned above. They are also responsible for the development of and adjustments to the human rights training programme. Furthermore they are responsible for the implementation and evaluation of the programme.

40. The implementation of the Convention against Torture in the Immigration Appeals Board's human rights training programme is based on an internal document regarding the prohibition of torture. This document is available to all executive officers. First, it gives an overview of the most important universal and regional legal instruments, which include a general prohibition against torture. Second, it gives an overview of the definition of the term "torture" in Article 1 of the Convention against Torture as well as the jurisprudence. In this regard, reference is made to the Istanbul Protocol (1999). Third, it gives an overview of the provisions of the Convention against Torture and the jurisprudence regarding the burden of proof and risk of being subjected to torture.

41. If an asylum-seeker has stated that he/she has been subjected to torture in his/her home country, an important issue is whether sufficiently reliable evidence has been provided. In this regard the Immigration Appeals Board has developed a checklist that is available to all caseworkers where reference is made to national instruments and the Istanbul Protocol of 1999 and its "Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment".

42. The Norwegian Directorate of Immigration provides the following information on the thirteenth issue to be considered:

Training in application of human rights norms set out in the Convention against Torture

43. In recent years, the Directorate has sought to provide all personnel with a basic knowledge of relevant human rights standards and their impact on their daily work. Basic-level seminars, mainly given by lecturers from the university-based Norwegian Centre for Human Rights, are arranged on a regular basis.

44. To further enhance the staff's knowledge of human rights standards, more specialised human rights seminars with external lecturers are held twice a year. The topics for these seminars are all linked to immigration or asylum issues.

45. The training covers human rights instruments relevant to immigration/asylum questions. However, as to human rights norms on torture, inhuman or degrading treatment or punishment, the main focus is on Article 3 of the European Convention on Human Rights and the non-refoulement standards developed by the European Court of Human Rights. So far, there have been no seminars designed specifically to provide in-depth training on the Convention against Torture.

Monitoring and evaluation of training

46. A coordinator for the human rights work in the Directorate was appointed in 2005. A team made up of participants from all relevant departments, tasked with keeping up to date on human rights questions, has also been set up. The team monitors and evaluates the human rights seminars.

Training regarding the Istanbul Protocol in asylum procedures for relevant personnel

47. So far, the Directorate has not arranged training that specifically deals with the Istanbul Protocol as such. Insofar as the Protocol's methods for investigating and documenting torture and other cruel, inhuman or degrading treatment are applicable to asylum procedures, our view is that they are in most respects complied with. Relevant personnel are given the training required, for example by arranging courses regarding asylum interviews for new staff.

Article 11

Question 14

The Committee takes note of the amendment made to section 183 of the Criminal Procedure Act, which changes the time limit in which arrested persons are to be brought before a judge from "as soon as possible and as far as possible on the day after arrest" to "as soon as possible and at the latest the third day after the arrest". The Committee would like to know whether there is any evidence suggesting that the reform has indeed reduced the total use of detention as intended. In due course, the Committee would also like to receive a copy of the relevant implementing regulations.

48. The amendment made to section 183 of the Criminal Procedure Act, which changed the time limit within which arrested persons are to be brought before a judge, entered into force on 1 July 2006. In the Bill (Proposition No. 66 (2001-2002) to the Odelsting, page 26) the Ministry of Justice states that the amendment of the pertinent time limit should be subject to control to verify whether the total use of detention has in fact been reduced. The aim of this control is also to clarify whether the new rules are put into practice in conformity with the obligations under Article 5, para. 3, of the European Convention on Human Rights and Article 9, para. 3, of the

International Covenant on Civil and Political Rights. The Ministry of Justice has initiated the said control, but the work is still at too early a stage to provide any information on whether this reform has in fact reduced the total use of detention as intended. See Appendix 9.

Question 15

The Committee notes that the Norwegian Correctional Service has decided that, in order to reduce the length of pre-trial detention in police cell, prison accommodation shall generally be made available within 24 hours after a remand order is issued. The Committee would like to know whether this rule has been successfully implemented.

49. Prison accommodation shall generally be made available within 24 hours after a remand order is issued. Based on the statistics, this rule has been quite successfully implemented. For the year 2004, violations were reported in 12.8% of the cases, whereas the figures were 6.6% for 2005, 4.3% for 2006 and, so far, 7.6% for 2007. Of the cases in 2007 where prison accommodation failed to be available within 24 hours, 55% had been transferred to prison within the next 24 hours. This should indicate that even though there have been some violations, the number is small.

Question 16

The Committee welcomes the detailed information provided on the amendments made to the Criminal Procedure Act with the aim of restricting the use of pre-trial solitary confinement, including through making such confinement dependent on an explicit authorization by a court. The Committee also notes that the use of solitary confinement as a sanction has been abolished. With regard to the latter, please confirm that the abolition has been achieved through inclusion of relevant express provisions in the new Execution of Sentences Act, which entered into force on 1 March 2002.

50. As stated in the fifth periodic report of Norway, solitary confinement as a sanction was abolished through the commencement of the Execution of Sentences Act. With regard to the latter, it still remains for the Correctional Services to decide that a prisoner shall be wholly or partly excluded from the company of other prisoners as a preventive measure. This might be necessary in order to maintain peace, order and security, or to prevent prisoners from injuring themselves or others, or from threatening others. Exclusion may also be decided in order to prevent criminal acts or considerable material damage.

51. The Correctional Services may impose administrative reactions if prisoners wilfully or negligently breach the rules for peace, order and discipline or preconditions and conditions in or pursuant to the Execution of Sentences Act. One reaction to be imposed is exclusion from leisure company or other leisure activities for a limited period.

Question 17

As regards inter-prisoner violence, including sexual violence and intimidation, please provide information on the scale and nature of this problem. What specific measures have been taken to monitor and address this issue, and to protect inmates, particularly female, juvenile and immigrant detainees, against this type of violence? Please provide information on voluntary isolation offered to prisoners who feel at risk of assault or intimidation.

52. No general statistics are compiled on inter-prisoner violence in the Norwegian Correctional Service. Based on relatively close contact between inmates and employees in Norwegian prisons, this issue is regarded to be sufficiently under control. Nevertheless, the need for statistics is closely monitored, and work is now being done to produce information about the scale and nature of this issue. This information will be sent to the Committee as soon as possible. Research is also being carried out on inmates' safety and security, and necessary improvements will be made.

Question 18

The Committee notes that a separate centre has been established for the custody of persons detained pursuant to sections 37 and 41 of the Immigration Act, in order to keep those persons apart from criminals. Please provide up-to-date statistical data, disaggregated by age, sex and nationality, on the number of asylum-seekers detained and the maximum length of and the grounds for detention since the establishment of the centre. Please indicate whether detention measures are regularly reviewed by a competent, independent and impartial authority or judicial body.

53. Work is now being done to produce up-to-date statistical data. This information will be sent to the Committee as soon as possible.

54. As mentioned in our answer to question 7, detention for implementing a deportation order may be decided for maximum two weeks at the time. The ordinary courts shall then review if the conditions for detention are fulfilled. Detention for the purpose of identification may be decided for four weeks, before the detention-order must be reviewed by the court. In special cases detention for identification may be decided by the court for a longer period than four weeks at a time. However, as mentioned in our answer to question 7, the total detention-time for the purpose of identification cannot as a main rule exceed 12 weeks.

Question 19

In its response of 4 October 2006 to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, the Norwegian Government indicated that it had proposed new regulations for detention centres based on the "UNHCR revised Guidelines on applicable Criteria and Standards relating to the Detention of Asylum Seekers (February 1999)", and that these regulations would be put before the Norwegian parliament in the 2006 autumn session. Please inform the Committee whether these regulations have been formally adopted in the meantime. Should this be the case, the Committee would like to receive an English version of these regulations in due course. The Committee would also like to receive information on the regulations applicable to the detention of persons held at the Trandum Aliens Holding Centre.

55. The regulations applicable to the detention of persons held at the Trandum Detention Centre have now been formally adopted and have come into force, see Appendix 10 Bill concerning amendments to the Immigration Act (detention centres for foreign nationals).

56. We would like to clarify that these are the only regulations regarding detention centres that we have, since Trandum is the only detention centre in Norway (for the detention of foreign nationals). Reference is also made to the answer to question no. 7 above, where it is stated that as a rule, foreign nationals are not detained. It is the "Trandum regulations" that were described in

the reply of 4 October 2006, where the Norwegian Government stated that these regulations were based on “UNHCR revised Guidelines on Applicable Criteria and Standards relating to the Detention of Asylum Seekers (February 1999)” and that they would be put before the Norwegian Parliament during the 2006 autumn session.

Question 20

Please provide information on any emergency or anti-terrorist laws that might restrict a detainee’s rights, in particular the right to a prompt hearing by a judge, the right to contact family members, and the right to have access to a lawyer and a doctor of his/her choice from the moment of arrest.

57. In time of war, threat of war and similar circumstances, special rules apply to proceedings in criminal cases, cf. chapter IV of Act No. 7 of 15 December 1950 relating to special measures in time of war, threat of war and similar circumstances. If the country is at war or war is threatening or the independence or security of the realm is in danger, the King may, insofar as special circumstances require, decide that an arrested person must be brought before a judge or prosecuting authority at the earliest opportunity, but it is not necessary to observe the time limit prescribed in the first paragraph, first sentence, of section 183 of the Criminal Procedure Act. However, the time limit pursuant to the first paragraph, second sentence, shall be three days. Relevant legislation is attached as Appendix 11.

Articles 12

Question 21

The Committee notes that the new Execution of Sentences Act, which was adopted on 18 May 2001, provides for several measures aimed at ensuring investigations are carried out when there are reasonable grounds to believe that acts of torture or other cruel, inhuman or degrading treatment or punishment have been committed in prisons. The Committee also notes that the former special criminal investigation bodies (SIBs) have been replaced by a new central unit, which is empowered to decide on prosecutions. The Committee would like to know whether these measures have resulted in an increase in the number of cases related to the use of force by the police in which suspects and/or witnesses were questioned before a decision was made, and/or to an increase in the number of reported cases that resulted in prosecutions. The Committee would also like to receive information on measures adopted to prevent violence or brutality by the police, including violence or brutality with racist motives.

58. Several measures have been adopted to prevent violence or brutality (included acts of racist motives) by the police. In 2002 the Government enacted an action plan on racism and discrimination, which puts into action the following measures:

a) A Dialogue Forum of representatives from the most significant institutions and NGOs working to oppose racism and violence, and led by the Police Directorate, has been established.

b) Oslo Police District has elaborated a strategy plan in respect of the relationship between the police and ethnic minorities.

c) The Police Directorate has instructed the Police University College (PUC) to provide one representative from each Police district with lectures on the issue of ethnic pluralism.

d) Instructions are given to improve the recruitment of police officers with a background from an ethnic minority society.

59. Moreover, Norwegian Authorities strongly believe that thorough investigation of all allegations of police violence and brutality is of vital importance. This is not only essential in order to establish the facts and prosecute if the evidential situation calls for a sanction, but also as a measure to prevent new cases. Knowledge among the police officers that their actions will be carefully investigated and evaluated is obviously a forceful deterrent. Against this backdrop, establishing the Special Unit for investigation of reports of crime committed by the police (and Prosecuting Authority) is very important. As the Committee probably has noted, the organisation of this unit has recently been carefully considered, and the resources allocated to the handling of such cases have been substantially increased.

60. Crimes that might have been committed with racist motives are given the highest priority, e.g. in the yearly directive from the Director of Public Prosecutions to the police. Obviously, this also applies to crimes allegedly committed by the police. There have been some cases lately where the police have been accused for committed acts of racist motives. These cases have been investigated thoroughly.”

61. Unfortunately there are no available statistics that can provide answers to the Committee’s questions. Work is now being done to provide such statistics, and the requested information will be sent to the Committee as soon as possible.

Article 13

Question 22

Please provide information on the number and content of complaints from detainees received by the Parliamentary Ombudsman, and describe what follow-up measures have been taken in relation to such complaints. What is the current average length of complaint proceedings?

Current average length of complaint proceedings

62. The length of the Ombudsman’s complaint proceedings necessarily vary depending on the complexity of the case and the extent of the enquiries considered necessary. In cases that are rejected on formal grounds, e.g. those that fall outside the Ombudsman’s mandate, the complainant normally receives a formal rejection within a week of the Ombudsman’s having received the complaint. The examination of a complaint with a view to deciding whether it provides sufficient grounds for the Ombudsman to initiate further investigations generally takes four to eight weeks. It may take up to six months, and in some cases more, to conclude a case in which an investigation has been opened. The length of the latter period is partially due to the fact that both the public administration and the complainant must be given due time to reply to the Ombudsman’s enquiries and comment on the other party’s reply.

The activities of the Ombudsman with regard to the Correctional Services

63. The Ombudsman dealt with 49 cases regarding the Norwegian Correctional Services in 2006. Six of the complaints received from individuals concerned general issues, one concerned pardons, one concerned special criminal sanctions, and one concerned disciplinary actions. Ten complaints were related to issues of leave of absence, escorted leave, correspondence, use of

telephones or visits. Seventeen complaints concerned general prison conditions or the behaviour of civil servants. Ten complaints related to issues of placement, transfer and release, and three concerned other prison-related matters. In 2006 the Ombudsman initiated three enquiries in the aftermath of visits he made to various prisons around the country.

64. Out of the 49 prison-related cases dealt with in 2006, 28 were rejected either because formal requirements were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. Twenty-one investigations were opened, and ten cases resulted in criticism of and/or requests or recommendations being made to the Correctional Services. All of the three enquiries initiated by the Ombudsman resulted in criticism of the respective institutions.

65. In 2005 the Ombudsman dealt with 72 cases regarding the Norwegian Correctional Services. Nine of the complaints received concerned general issues, one concerned pardons, one concerned community sentences, and three concerned special criminal sanctions. Fourteen complaints were related to issues regarding leave of absence, escorted leave, correspondence, use of telephones or visits. Twenty-eight complaints concerned general prison conditions or the behaviour of civil servants. Thirteen complaints were related to issues concerning placement, transfer and release, and three concerned other prison-related matters. In 2005 the Ombudsman initiated five enquiries, three of which came in the aftermath of prison visits, one concerning arrangements in connection with children's visits to the high-security wing of a prison and one concerning confinement periods in police custody.

66. Out of the 72 prison related cases dealt with in 2005, 27 were rejected on formal grounds or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. Forty-five investigations were opened, and nine cases resulted in criticism of and/ or requests or recommendations being made to the Correctional Services. Two of the latter concerned enquiries initiated by the Ombudsman.

67. In 2004 the Ombudsman received 49 complaints from detainees in Norwegian prisons. Forty-eight complaints concerned decisions or actions taken by the Correctional Services. Twenty-four of these were rejected either because formal requirement were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. In the remaining 24 cases, investigations were opened.

68. In 2003 the Ombudsman received 63 complaints from persons who at the time were detained in Norwegian prisons. Seventy-three complaints concerned decisions or actions taken by the Correctional Services (the higher number is due to the fact that some complaints against the Correctional Services are put forth by persons that are no longer imprisoned). Thirty-four of the complaints were rejected either because formal requirement were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. In the remaining 39 cases, investigations were opened.

69. In 2002 the Ombudsman received 87 complaints from detainees in Norwegian prisons. Eighty-seven complaints concerned decisions or actions taken by the Correctional Services. Fifty-four of these were rejected either because formal requirement were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. In the remaining 33 cases, investigations were opened.

70. In 2001 the Ombudsman received 82 complaints from persons who at the time were detained in Norwegian prisons. Eighty-four complaints concerned decisions or actions taken by the Correctional Services. Forty-four of these were rejected either because formal requirements were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. In the remaining 40 cases, investigations were opened.

71. In 2000 the Ombudsman received 98 complaints from detainees in Norwegian prisons. Eighty-one complaints concerned decisions or actions taken by the Correctional Services. Fifty-one of these were rejected either because formal requirements were not met or because the complaint did not provide sufficient grounds for the Ombudsman to initiate further investigations. In the remaining 30 cases, investigations were opened.

72. Thus far in 2007, the Ombudsman has received 52 complaints regarding the Norwegian Correctional Services. Detailed statistics for 2007 will be available at the end of the year.

Article 14

Question 23

Please provide information, including disaggregated statistical data by sex and type of crime, on the number of cases where redress and/or compensation measures have been ordered by the courts, and on those actually provided to victims of torture or cruel inhuman or degrading treatment or punishment, or their families, during the past five years.

73. To our knowledge, we have not had any cases during the past five years where redress and/or compensation measures have been ordered by the courts or actually provided to victims of torture or cruel inhuman or degrading treatment or punishment, or their families.

74. Reference is made to the information provided in Norway's fifth periodic report (paras. 60-63) regarding an Act on compensation from the State to victims of violent crimes. Although the Act may be applicable to compensation for torture or cruel inhuman or degrading treatment or punishment, we find reason to emphasise that this Act applies to victims of violent crimes in general. To our knowledge, there have been no cases where compensation measures have been applied for by or provided to victims of torture or cruel inhuman or degrading treatment or punishment under the Act on compensation from the State to victims of violent crimes.

Article 16

Question 24

The Committee takes note of the entry into force, in January 2001, of the New Mental Health Care Act, which, inter alia, contains provisions aimed at limiting restrictions and compulsive measures applied to patients under compulsory mental health care to what is strictly necessary. In order to remain informed of legislative developments in this area, the Committee would like to receive an English version of the amendments to the Mental Health Care Act adopted on 8 June 2006.

75. The amendments to the Mental Health Care Act entered into force on 1 January 2007 and are now being translated to English. The English translation will be sent to the Committee as soon as it has been completed.

Question 25

The Committee notes that the State party's Ministry of Health and Care is in the process of reviewing the need for new regulations relating to the restriction and control of the use of coercion towards senile dementia and other persons lacking capacity to consent. The Committee would like to know whether this review has resulted in the adoption of new regulations in this area.

76. The Ministry of Health and Care Services saw the need to regulate the use of coercion towards persons lacking the capacity to consent in cases where the said persons object to health care that is necessary in order to prevent substantial harm to the persons' health. The Government thus proposed regulating this in an amendment to the Patients' Rights Act. The Parliament passed the amendment on 22 December 2006, but it has not yet entered into force.

77. The Ministry of Health and Care Services is now in the process of translating the amendment to English, and will send the English translation to the Committee.

78. The purpose of the amendment is to perform necessary health care in order to prevent significant harm to health, and to prevent and minimise the use of coercion. The amendment sets out conditions on how the health care should be carried out and who should make the decision, and regulates information and complaint procedures. When a person lacking the capacity to consent objects to health care, such health care may only be given when the care is necessary to prevent significant injury to the person's health, and if the health care measures are in proportion to the need for the care. Furthermore, the health care may only be given if this, after an overall assessment, seems to be the best solution for the patient.

Other

Question 26

The Committee welcomes Norway's signing of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on 24 September 2003. In this regard, please indicate the status with regard to the ratification process.

79. The ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment is prioritized. The process is well under way and the Norwegian authorities are currently evaluating what national measures, both legal and organizational, are necessary. Norway expects to be able to ratify the Protocol within the next year. Further information about the ratification process will be submitted to the Committee at the examination in November 2007.

Question 27

Please indicate whether there is any legislation aimed at preventing and prohibiting the production, trade, export and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment. If so, please provide information about

the content and implementation of such legislation. If not, please indicate whether the adoption of such legislation is being considered.

80. Norway has not adopted any particular legislation aimed at preventing and prohibiting the production, trade, export and use of equipment “specifically designed” to inflict torture or other cruel, inhuman or degrading treatment. However, Norway has other legislation that may be applicable to this issue, for example: Act No. 1 of 9 June 1961 relating to firearms and ammunition, which regulates the right to manufacture and export firearms, cf. section 20 and 23; and section 7 a of the Police Act, which provides that the police may carry out inspections to find weapons and other dangerous objects, cf. section 7. Furthermore, the Criminal Procedure Act provides a legal basis for initiating a search for objects that may be seized (section 192) and for seizing objects that are deemed to have been produced by or been the subject of a criminal act (section 203). Relevant legislation is attached as Appendix 12.

List of appendices

Appendix 1: Applications for asylum in Norway by citizenship 2002-2006. Question no. 6 (a).

Appendix 2: Decisions by the Directorate of Immigration (the first instance) granting protection. Question no. 6 (b) – 1.

Appendix 3: Rejections by the Directorate of Immigration which were set aside by the Immigration Appeals Board in the period from 01.07.2003 to 31.12.2006. Male and female applicants. Question no. 6 (b) – 2.

Appendix 4: Number of deportations or forcible returns 2004. Question no. 6 (d).

Appendix 5: Number of deportations or forcible returns 2005 Question no. 6 (d).

Appendix 6: Number of deportations or forcible returns 2006. Question no. 6 (d).

Appendix 7: Number of deportations or forcible returns 2007. Question no. 6 (d).

Appendix 8: Countries to which these people were transported. Question no. 6 (e).

Appendix 9: Bill concerning amendments to the Immigration Act (detention Centres for foreign nationals).

Appendix 10: Circular No. 4/2006 on detention in custody. Excerpt related to the amendment made to section 183 of the Criminal Procedure Act.*

Appendix 11: Legislation relevant to question 20.*

Appendix 12: Legislation relevant to question 27 (unofficial translation).*

* Appendix 10 – 12 will be sent to the Committee as soon as they have been translated.