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International Convention for the Protection of All Persons from Enforced Disappearance

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Consideration of reports of States parties under article 29 (1) and additional information under article 29 (4) of the Convention

Replies of Norway to the list of issues in relation to its report submitted under article 29 (1) of the Convention*

[Date received: 16 August 2024]

* The present document is being issued without formal editing.

I. General information

A. Introduction
Preparation of the replies to the list of issues (CED/C/NOR/Q/1)

1. This response relates to the list of issues (CED/C/NOR/Q/1) regarding the report submitted by Norway in 2021 (CED/C/NOR/1) and is submitted pursuant to Article 29 (1) of the International Convention for the Protection of All Persons from Enforced Disappearance (ICPPED) which entered into force with respect to Norway on 21 September 2019, hereafter referred to as "the Convention". Norway needed to request an extension for the submission of the response and the Secretariat of the Committee granted the requested extension in February 2024.

2. The response has been prepared by the Ministry of Justice and Public Security in cooperation with other Ministries, and, as with the initial report, in consultation with civil society.

3. The Committee should consider the updated common core document for Norway (HRI/CORE/NOR/2024), which contains general information on Norway and on the legal system for all UN Committees, an integral part of the initial report and this response.

B. Further replies to the list of issues

4. With respect to the Committee's recognition that the situation in relation to enforced disappearances may vary greatly in different countries, the responses endeavour to address the issues adopted by the Committee at its twenty-fourth session in March 2023 (CED/C/NOR/Q/1).

5. With respect of the definition of "enforced disappearance" as defined in article 2 of the Convention, there are no reported cases in Norway. The legal tradition, the legal safeguards in place and their implementation, prevent such acts, as described in article 2, from occurring in Norway. In addition, "enforced disappearance" is covered by several criminal provisions of the Penal Code. Our interpretation of article 3 is that the article constitutes an important safeguard for article 2, so that no Government can claim ignorance in order to avoid accountability regarding incidents of forced disappearances.

6. At the outset of this response, Norway would like to confirm the initial report's paragraph 13. No reports or alerts of acts falling within the scope of arts. 2 and 3 have been reported to neither the Government, NHRI, NPE nor to the relevant civil society stakeholders such as Amnesty etc.

Reply to paragraph 1 of the list of issues

7. Norway has a dualistic legal system. The Convention is not incorporated into Norwegian law and is thus not given direct effect.[1] As explained in the initial report paragraphs 8 to 12, Norway decided to make enforced disappearance an autonomous criminal offence in Norway before ratifying the Convention. Apart from that, no further legislative actions have been taken as there were not considered to be any contradictions between Norwegian law and the Convention.

8. Thus far, no decisions have been issued by domestic courts in which the provisions of the Convention have been invoked or applied. As regards other authorities, the National Preventive Mechanism of the Parliamentary Ombud carried out a visit to Oslo District Court in 2023. Between 1 August and 30 September 2023, there had been 443 instances in total where someone was placed in a holding cell in the district court. In five of these instances, the authorities had not documented whether and when the detainee was released or moved from the holding cell. In this context, the Parliamentary Ombud made reference to Article 17,

[1] Meaning status as a domestic law that may be directly invoked before and applied by courts or other relevant authorities.

third paragraph, letter h of the Convention, whilst also recommending that the police ensures that the time of release or the time of transfer to another place where people are deprived of their liberty is always registered in its database on arrests.

Reply to paragraph 2 of the list of issues

9. Consultations were held during the preparation of this response, see paragraphs two above.

Reply to paragraph 3 of the list of issues

10. The Norwegian Human Rights Institution was established by the Norwegian Parliament in 2015 and was accredited with A-status by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions in 2017. NHRI was re-accredited with A-status in October 2022.

11. On both occasions, the SCA recommended further strengthening of the institution on three issues:

- Selection and appointment: to formalise processes that promote broad consultation and/or participation in the selection and appointment of both the board and director;
- Dismissal: to ensure an independent and objective process with sufficient guarantees of tenure for the board and director; and
- Encouraging ratification or accession to international human rights instruments should be included as a core function according to law.

12. The main efforts taken by NHRI to follow-up on these recommendations are:

- Forwarded the SCA's recommendations from 2017 to an external evaluation team in 2020;
- Submitted written comments to Parliament 20 April 2022 to advocate legislative amendments in line with the SCA's recommendations from 2017;
- Sent a letter to Parliament 12 October 2022 forwarding the renewed SCA recommendations of 10 October 2022, supporting the input submitted in April.

13. The context of the first input was a planned evaluation to be conducted four years after NHRI was established.[2] A positive outcome of the evaluation was that it recommended that the procedures for appointment of the board and director should be set out in law. Another outcome was that the board, rather than the Parliament, should appoint the director. NHRI considered this to be a means to strengthen its independence. Both recommendations were later adopted. The context of the other two submissions was an initiative by Parliament to review and harmonise practices across its five monitoring institutions, including NHRI.[3] This broader legislative review provided an opportunity to advocate further for follow-up of the SCA's recommendations.

14. NHRI also advocated an appointment procedure that guarantees pluralism and civil society participation, specific procedures for dismissal of board members and the director, and an explicit mandate to encourage ratification. These issues were indirectly strengthened since the law now includes a direct reference to the Paris Principles. Parliament, in its final considerations of 1 December 2022, did not include the more specific amendments, but they were implicitly covered through the reference to the Paris Principles.[4]

[2] *Evaluering av Norges institusjon for menneskerettigheter (NIM)*, (Evaluation of the Norwegian Human Rights Institution (NIM), December 2020 (in Norwegian only), https://www.stortinget.no/globalassets/pdf/evalueringsrapporter/rapport_evaluering-av-nim.pdf.

[3] Other institutions administratively subsidiary to Parliament include the Parliamentary Ombud and the Auditor General.

[4] NIM's submissions to Parliament and the SCA recommendations from 2017 and 2022 are included as addendums in the Parliament committee recommendation (in Norwegian only), https://www.stortinget.no/globalassets/pdf/innstillinger/stortinget/2022-2023/inns-202223-102l.pdf.

Reply to paragraph 4 of the list of issues

15. Norway recognises that the Committee's competence to receive and consider individual and inter-State communications regarding enforced disappearances or acts that amount to enforced disappearances, is key in states in which such acts take place. No such reports or alerts have been received in Norway; hence it is not a current priority for the Government to make such declarations.

II. Definition and criminalization of enforced disappearance (arts. 1–7)

Reply to paragraph 5 of the list of issues

16. The executive branch of the Norwegian government has very limited possibilities of derogating Norwegian law during a state of emergency. There are no general provisions in written Norwegian law allowing derogation in a civil state of emergency. During wartime, however, there is a provision allowing derogation in section 3, first paragraph of the Act. No 7 of 15 December 1950 relating to special measures in time of war, threat of war and similar circumstances (see annex).

17. This provision does not allow derogation from the constitution. As explained in Norway's initial Report, an enforced disappearance would be a breach of the human rights laid down in the Norwegian constitution. There is a general principle of constitutional necessity under Norwegian law, whereby the constitution can be derogated from in a severe and unprecedented crisis if such derogation is strictly necessary and proportionate to the aim pursued. This principle only applies in an acute crisis where the most extraordinary circumstances leave the government no other choice but to derogate from the constitution in order to preserve i.e, democracy, the rule of law, or the existence of the realm. Bearing in mind these strict requirements of constitutional necessity, which reflect the values enshrined in the constitution itself, a general derogation from the prohibition of enforced disappearance would not be accepted under Norwegian law. The prohibition of enforced disappearance is therefore a non-derogable right.

Reply to paragraph 6 of the list of issues

18. The Norwegian Police has no unified and operational register of disappeared persons, but the police use several registers for this purpose:

- ELYS is the police's central wanted register. In ELYS you can search for a person, vehicle, license plate, boat, boat engine, and document;
- The criminal case register (STRASAK), which is a database of all registered criminal offences, with names of suspects and victims, if applicable, and so on;
- SSP – The register of convictions and the personal identity and police information register contains information regarding imposed punitive measures, sentences imposed, investigative steps, custodial incidents, any information about identification of a person (photo, fingerprint and/or DNA), personal surveys conducted, forensic psychiatric declarations submitted, expulsions, and inquiries registered on a person.

19. We reiterate that no reports or alerts have been received of enforced disappearances or acts that amount to an enforced disappearance, however asylum-seeking minors who have gone missing from reception centres are a concern. Hence, new guidelines have been issued on the cooperation between the police, the child welfare services, and the immigration service concerning the disappearance of unaccompanied minors from asylum centres. See also the response to no. 35.

20. Guidelines for the police on the search for missing persons are under review, with a special focus on improving investigations into missing asylum-seeking unaccompanied minors.

Reply to paragraph 7 of the list of issues

21. Deprivation of liberty is punishable pursuant to section 254 of the Penal Code, which reads:

> "Any person who by confinement, abduction or other means unlawfully deprives a person of his or her liberty shall be subject to a fine or imprisonment for a term not exceeding 3 years."

22. Section 255 of the Penal Code covers aggravated deprivation of liberty. In determining whether a deprivation of liberty is aggravated, particular weight shall be given to its duration, whether it has caused extraordinary suffering or death, or whether it has resulted in considerable harm to someone's body or health. Entering into a conspiracy to commit an aggravated deprivation of liberty is a criminal offence under section 256 of the Penal Code.

23. Moreover, section 143 of the Penal Code criminalises hostage-taking for terrorist purposes, which could involve disappearances (see annex).

24. Other provisions in the Penal Code which could involve disappearances carried out without the authorisation, support, or acquiescence of the State include section 102, first paragraph, letter i, section 173, letter c and section 261, first paragraph. Section 102 concerns involuntary disappearance in the context of a broad or systematic attack on a civilian population. The offence will be further explained in the response to question 8 below. Section 173 concerns misuse of public authority by inter alia committing a breach of official duty that results in wrongful deprivation of liberty. Section 261, first paragraph covers various modes of unlawfully removing minors from care. The offence will be further explained in the response to question 34 below.

25. Aiding and abetting and attempts to violate any of the provisions above are also punishable, cf. each provision read in conjunction with section 15 and 16 of the Penal Code, respectively.

Reply to paragraph 8 of the list of issues

First sentence

26. Sections 175 a) and 175 b) of the Penal Code duly implement the obligations to criminalise enforced disappearance in line with the definition provided in Article 2 of the Convention. Section 102, first paragraph, letter i of the Penal Code implements and is consistent with Article 7 nr. 1 letter i, cf. nr. 2 letter i of the Rome Statute of the International Criminal Court.

27. The criminal offences covered by section 102, first paragraph, letter i and section 175 a are fairly similar, though not identical. Firstly, section 102 – as opposed to section 175 – encompasses enforced disappearances carried out on behalf of political organisations. Secondly, section 102 – as opposed to section 175 – requires the offence to be committed as part of a broad or systematic attack on a civilian population. Thirdly, section 102 requires the person who aids or abets the involuntary disappearance of a person to have the intent of depriving the aggrieved party of legal protection for a prolonged period of time, whereas it suffices that the perpetrator has the intent of depriving the aggrieved party of legal protection under section 175 a).

Second sentence

28. In the Penal Code 'intent' exists when a person commits an act that fits the description of the offence in a penal provision deliberately, with the awareness that the act with certainty or most likely fits the description of the offence or considers it possible that the act fits the description of the offence and chooses to act even if that should be the case, cf. section 22. Under section 102, first paragraph, letter i, the wording 'prolonged period of time' is to be interpreted in conformity with Article 7, second paragraph, letter i of the Rome Statute of the International Criminal Court.

Reply to paragraph 9 of the list of issues

First sentence

29. The Norwegian wording *bidra til* (‘contribute to’) in section 175 a) cover any physical or psychological contribution to the enforced disappearance. Section 175 a) therefore covers the acts of anyone who has participated in an unlawful enforced disappearance. The acts of ordering and inciting are explicitly mentioned in the preparatory works.

Second sentence

30. Section 175 a), second paragraph implements Article 6, first paragraph, letter b, no. (i) to (iii) of the Convention. The provision merely establishes two cumulative conditions in order for a superior to be held criminally liable. Firstly, the superior must with intent or negligently ignore information that a person under his or her effective authority and control committed or prepared to commit a criminal enforced disappearance. Secondly the superior must fail to prevent or stop the disappearance or to report it to the competent authorities. There is no explicit requirement that the superior also exercised effective responsibility for and control over activities concerned with the disappearance.

31. Superiors – military or civilian alike – may also be held criminally liable for their subordinates’ contributions to the involuntary disappearance as set out in section 102, first paragraph, letter i, cf. section 109 of the Penal Code.[5]

Reply to paragraph 10 of the list of issues

First sentence

32. The Penal Code does not include any provision that explicitly prohibits invoking an order or instruction from a public authority as grounds for justification or an excuse for the commission of a criminal offence. However, anyone who commits a criminal offence and fulfils the basic conditions for criminal liability as set out in section 14 to 26 of the Penal Code shall be held responsible. To act in accordance with an order or instruction from a public authority is not in itself an excuse.

33. The notion of “due obedience” in the military is regulated in section 24 of the Military Penal Code. The section could theoretically be invoked in a criminal case by a subordinate who partakes in an enforced disappearance. This would require that the subordinate wasn’t aware, or couldn’t have been expected to be aware, of the fact that their actions constituted a contribution to an illegal act. The section does not reduce the effectiveness of the prohibition against enforced disappearance, as the superior authorising the act, and any other subordinates aiding in carrying it out, will be held responsible provided they fulfil the basic conditions for criminal liability.

Second sentence

(See annex for a translation of section 24 of the Military Penal Code)

Third sentence

34. The Norwegian Military Penal Code section 46 places military subordinates under a duty to obey superiors’ orders in matters of service. In principle, the notion of “matters of service” does not encompass orders which are manifestly unlawful. For all practical purposes, an order which entails enforced disappearances will be manifestly unlawful.

35. Summary punishments can be imposed for violations of “lawful orders” in accordance with the Armed Forces Act section 65. A “lawful order” is specified in the preparatory works

[5] Section 109 is based upon and corresponds to Article 28 of the Rome Statute of the International Criminal Court.

to be any order concerning the military service, issued by a superior and *not in contravention of law*.[6]

36. It follows from the above that there is no legal basis to prosecute, or enforce summary punishments upon, subordinates in the military chain of command who refuse to obey orders that entail enforced disappearances.

37. Subordinates who for any reason are sanctioned with summary punishment for disobedience may appeal to higher disciplinary authorities and the Board of Appeal for Summary Punishments. A summary punishment may also be brought before an ordinary civilian court for legal review.

Reply to paragraph 11 of the list of issues

First sentence

38. Pursuant to section 14, second paragraph of the Penal Code, the minimum sentence of imprisonment is 14 days unless otherwise stated. Sections 175 a) and 175 b) merely set out the maximum sentences; accordingly, the minimum sentence that could be imposed for the offence of enforced disappearance is 14 days. Section 77 to 84 sets out general rules on determining sanctions that also apply in cases regarding enforced disappearance. Pursuant to Section 175 b) of the Penal Code particular weight shall be given to the circumstances mentioned in Article 7 paragraph 2 letter b in determining whether an offence of enforced disappearance is aggravated.

Second sentence

39. Pursuant to the Norwegian Civil Service Act section 29, a civil servant may be suspended when there is reason to assume that s/he is guilty of an offence that will involve summary dismissal pursuant to the Civil Service Act section 26, and the needs for undertaking so indicate.

40. It follows from section 26 that a civil servant may be summarily dismissed when s/he has shown gross negligence in the service or is guilty of a gross breach of official duties, has repeatedly breached his/her official duties despite a written warning, or by improper behaviour in or outside the service proves himself/herself unworthy of his/her post, or damages the respect or confidence that is essential to the post.

Third sentence

41. Section 78 of the Penal Code lays down a list of non-exhaustive factors to be considered in connection with sentencing. Amongst the factors explicitly mentioned therein are whether an offender limited the harm or loss of welfare caused by the criminal offence, or sought to do so, as well as whether the offender made an unreserved confession or significantly contributed to solving other criminal offences, cf. section 78 letters b and f, respectively. Accordingly, section 78 includes the mitigating factors mentioned under Article 7, second paragraph, letter a of the Convention.

III. Judicial procedure and cooperation in criminal matters (art. 8–15)

Reply to paragraph 12 of the list of issues

42. As stated in the response to no. 6 above, among other places, no case of enforced disappearance, as defined in article 2, has been reported in Norway. However, should such a case occur, the victim of an enforced disappearance can file a claim for compensation and reparation against the State in accordance with the general principles of compensation law. According to section 9 of the Limitations Act, the limitation period for claims for damages or restitution is 3 years from the day the injured party acquired or should have acquired the

[6] Prop. 133 L (2022-2023) section 8-1-4

necessary knowledge of both the damage and the person responsible. The claim nevertheless expires no later than 20 years after the damaging act or other basis for liability ceased.

43. This does not apply in the case of personal injury if the damage was caused in the course of an acquisition activity or a similar activity or was caused while the injured party was under 18 years of age and if the person responsible, or someone for whom s/he is responsible knew or should have known prior to the termination of the damaging act that it could entail danger to life or serious damage to health. Even if a compensation claim against the state is obsolete according to the Limitations Act section 9, the state may, in certain cases, refrain from claiming limitation.[7] Moreover, claims for damages and redress arising from a punishable offence may – even if the limitation period has expired – be asserted in the course of a penal case in which the debtor has been found guilty of the offence under which liability has been incurred. Such claims may also be brought by a separate action at law instituted within one year after the judgment of conviction in the penal case has become res judicata, cf. section 11.

44. Furthermore, a victim of forced disappearance is most likely entitled to compensation cf. the new[8] Act on Compensation for Violent Crimes. The scope of the Act is directly linked to specific provisions in the Penal Code, and the Penal Code section 251 on coercion, section 252 on gross coercion, section 255 on severe deprivation of liberty, are all covered by the scheme. According to the Act, the claim for compensation shall, as a main rule, be administered by the court as part of the criminal case and follow general compensation law. Compensation awarded by the court will be paid almost immediately after the court proceedings have been concluded, without further application. The compensation must be claimed within 6 months of the judgement. If the compensation claim has not been administered by the court during its proceeding in the criminal case, the person may file an application to the Criminal Injuries Compensation Authority. The application must be submitted within one year after the final prosecution decision has been made or the judgment in the criminal case or court settlement has become final. If the case is dismissed due to the statute of limitations under criminal law, the application must also be submitted before the claim against the alleged offender is obsolete pursuant to section 9 of the Limitations Act.

45. In addition, the Norwegian Parliament's Fair Compensation Scheme is a secondary compensation scheme, where individuals can, in obsolete cases, apply for discretionary compensation from the state. The scheme is applicable to persons who have had a particularly unfortunate outcome and have suffered damages or inconvenience that are not covered under general compensation law or through social security, insurance or other compensation schemes. The cases are decided by the Parliament's committee for judicial remuneration. Compensation amounts granted are generally somewhat lower than under general compensation law. The maximum amount is NOK 250,000.

46. Under this compensation scheme, a special renumeration arrangement has been established for the benefit of educationally disadvantaged Sami and Kven and for Romani people/Taters who have been subjected to bullying because of their ethnic origin. The arrangement for Romani people/Taters also includes restitution for time spent at the former work colony Svanviken and the removal of children to institutions and foster homes, cf. no. 31.

Reply to paragraph 13 of the list of issues

47. The requirements in Article 9 first paragraph letters b and c and second paragraph are fulfilled by provisions in the Penal code section 5 and 6.

48. Pursuant to section 5, first paragraph, first subparagraph, letters a and b of the Penal Code, Norwegian criminal legislation is applicable when an act is committed abroad by a Norwegian national or by a person domiciled in Norway provided one of the conditions in the second subparagraph is met. This would be the case with respect to acts that are also punishable under the law of the country in which they were committed, cf. section 5, first paragraph, second subparagraph no. 1. Accordingly, the principle of double criminality is the

[7] Cf. Circular G-01/2017.

[8] Entered into force January 1st, 2023.

main rule for exercising extraterritorial jurisdiction over criminal offences. However, there are certain exceptions to this, i.e., with respect to the offences of war crimes, genocide, and crimes against humanity, as well as removal from care, cf. second subparagraph, no. 2 and 8, respectively. In this respect, section 5, first paragraph does not refer to 'serious crimes', but rather lists specific types of crimes or provisions in the Penal Code whose nature is considered to be particularly serious. Enforced disappearance taking place in the context of a broad or systematic attack on a civilian population will be deemed a crime against humanity, cf. section 102, first paragraph, letter a. In that context, an enforced disappearance committed abroad by a Norwegian national or someone domiciled in Norway is subject to Norwegian jurisdiction.

49. Pursuant to section 5, fifth paragraph, Norwegian criminal legislation applies to others than those Norwegian nationals and persons domiciling in Norway if the criminal offence was directed at someone whose nationality is Norwegian or whose place of domicile is in Norway and the act is subject to a maximum penalty of imprisonment for a term of six years or more pursuant to Norwegian criminal legislation. As the maximum sentence for the offence of enforced disappearance is 15 years (and 21 years for aggravated enforced disappearance), Norway is competent to exercise jurisdiction over enforced disappearance occurring abroad insofar as it is directed towards Norwegian nationals or anyone domiciling in Norway.

50. Norway may exercise jurisdiction over the offence of enforced disappearance committed outside of Norwegian territory by a foreign national when the alleged offender is present in Norway and the offence is classified as a crime against humanity under the Rome Statute of the International Criminal Court, cf. section 5, third and fourth paragraph read in conjunction with first paragraph, second subparagraph 1, no. 2. As mentioned, crimes against humanity encompass enforced disappearance in the context of a systematic or broad attack on a civilian population. Norway may also exercise jurisdiction over the offence of enforced disappearance committed outside of Norwegian territory by foreign nationals when the alleged offender is present in Norway and the offence is punishable under the laws of the country in which it occurred, cf. section 5, third paragraph read in conjunction with first paragraph, second subparagraph, no. 1.

51. Provided that neither section 4 nor 5 of the Penal Code apply, section 6 stipulates that Norwegian criminal legislation also applies to acts to which Norway is entitled or obliged to prosecute pursuant to agreements with foreign states or otherwise pursuant to international law. The Convention is considered an 'agreement with foreign states' for the purpose of section 6 of the Penal Code.

Reply to paragraph 14 of the list of issues

52. We refer to the 2021 reporting. According to the Execution of Sentences Act section 30, sixth paragraph, section 31, sixth paragraph, and section 32, sixth paragraph, a detained foreigner has the right to communicate with and receive visits from his or her consular authorities in accordance with international law without such a visit being monitored.

53. In addition, the police have instructions for the use of police custody cells. In this document the right of access to consular assistance is described. If the detainee is a foreign citizen, the person concerned must be made aware of his or her right to consular information and assistance. The information shall be given in a language the detainee understands.

54. Reference is also made to the Rights and Duties of Detainees in Accordance with the Police Act.

Reply to paragraph 15 of the list of issues

55. Pursuant to the Military Police Code section 22, military investigators are authorised to investigate certain minor crimes and violations of the Military Police Code, the Military Penal Code and the Armed Forces Act. Violations of the Penal Code section 175 a) and 175 b) are not among the provisions that may be investigated by military investigators. The attorney general or the public prosecutor's office may authorise investigations of violations not encompassed by the legislation mentioned above, but need to give due regard to the nature

of the case and whether the use of military investigators can affect trust in the investigation's impartiality. Military authorities have no prosecutorial powers.

Reply to paragraph 16 of the list of issues

56. The question has been forwarded to the Norwegian Red Cross's tracing service, the Norwegian National Human Rights Institution, the Parliamentary Ombudsman's National Preventive Mechanism (NPE) and the coordinating organisation for the various NGO's, namely the Norwegian Helsinki Committee for Human Rights.

57. As stated, no case of enforced disappearance, as defined in article 2, has been reported. However, the Norwegian Bureau for the Investigation of Police Affairs (the Bureau) is a national investigation and prosecution agency for cases where employees of the police or prosecuting authority are suspected of committing a criminal offence in the course of duty. The Bureau is an independent body that is not part of the ordinary public prosecution authority, cf. section 67, sixth paragraph of the Criminal Procedure Act and chapter 34 of the Prosecution Instructions.

58. The Bureau's aim is to maintain the public's trust in the police's exercise of authority, and achieve trust among police and prosecuting authority, by ensuring legal certainty for both the person reporting and the person reported.

59. To prevent future incidents and learn from past incidents, the Bureau publishes summaries of all cases decided on in annual reports. Cases are also used in police training and education at the Norwegian Police University College. To ensure independence, the Ministry of Justice and Public Security has the overall administrative responsibility for the Bureau, whilst the Director General of Public Prosecutions has the technical responsibility.

60. The Bureau receives complaints from private citizens, lawyers or the police itself, and may also investigate cases on its own initiative. Pursuant to the Criminal Procedures Act, an investigation is mandatory in cases where a person has died or been seriously injured as a result of a police action or while in the custody of the police or the prosecuting authorities.

61. Decisions and rulings made by the Bureau can be appealed to the Director General in accordance with the rules set out in the Criminal Procedure Act section 59 a). The Director General may order the Bureau to initiate, carry out, and halt investigations.

62. In 2023 the Bureau had 42 fulltime positions. The budget in 2023 was NOK 64.829 million. The Bureau's right to access places and documentation is the same as for the regular police.

Reply to paragraph 17 of the list of issues

63. Investigations of criminal offences are conducted by the police, whilst the public prosecution authority has the authority to instigate, supervise and close an investigation, cf. section 225, first paragraph of the Criminal Procedure Act. In the event that senior civil servants or officials serving in the police or the public prosecuting authority are reported for a criminal offence in the course of duty, the investigation is carried out and lead by the Bureau for the Investigation of Police Affairs, see also the response to issue no. 16 above. This applies equally whenever the public prosecuting authority finds that there is a suspicion of a criminal offence in the course of duty which warrants the institution of an investigation against a senior civil servant or official serving in the police or the public prosecuting authority, or whenever the suspect himself requests an investigation.

Reply to paragraph 18 of the list of issues

64. An agreement between the European Union, Norway and Iceland on the surrender procedure entered into force 1 November 2019. This instrument is regulated by the Act on the Surrender Procedure due to an Arrest Warrant of 20 January 2012. Enforced disappearance is a ground for surrender, as the offence is punishable under Norwegian law with imprisonment for more than one year and would not be considered a political offence.

65. No other extradition agreement has been concluded since the entry into force of this agreement.

Reply to paragraph 19 of the list of issues

66. No new agreement om mutual legal assistance has been concluded since the entry into force of the Convention. Since no mutual legal assistance or extradition requests related to enforced disappearances have been made to or by Norway, we cannot provide specific examples or numbers.[9]

IV. Measures to prevent enforced disappearance (art. 16–23)

Reply to paragraph 20 (a) to (e) of the list of issues

67. Reference is made to Norway's initial report section 104–106.

68. Regarding extradition or surrender, the Norwegian Extradition Act in combination with the Human Rights Act prohibits a person from being extradited or surrendered to a country where he or she will face a risk of being subject to torture or other inhuman or degrading treatment or punishment. Section 6 of the Act prohibits extradition if it may be assumed there is a grave danger that the person concerned, for reasons of race, religion, nationality, political convictions or other political circumstances, will be exposed to persecution directed against his or her life or liberty, or that the said persecution is otherwise of a serious nature.

69. Regarding returns, legal safeguards, guidelines, routines and procedures are in place to ensure that the Directorate of Immigration (UDI) undertakes a thorough and consistent individual assessment in all cases in order to adhere to the principle of non-refoulement. The same applies to the return of asylum-seeking minors. Immigrants who have reached the age of 18 are assessed as adults.

70. Regarding the right to appeal, decisions made by the Directorate, including decisions on expulsion, may be appealed within three weeks from receipt of the decision or when the applicant should have become aware of the decision. UDI reviews the case and can either grant the appeal or forward it to the Immigration Appeals Board (UNE) for consideration. UNE will consider the case and either reject or grant the appeal. If UNE also rejects the appeal, there are no other possibilities of appeal. The applicant may apply for suspensive effect of the decision pending the appeal.

71. With regard to extradition, the case will be brought before the district court, which makes a decision on whether the legal requirements in the Extradition Act are fulfilled. The decision may be appealed to the court of appeal, and further appealed to the Supreme Court. Provided that it is decided by a final court ruling that the criteria are fulfilled, the Ministry of Justice and Public Security will decide whether the request for extradition shall be complied with. Before the decision is taken, the defence counsel is given an opportunity to submit comments. The decision of the Ministry may be appealed to the King in Council. In accordance with the Extradition Act section 18 paragraph 4, the appeal will have suspensive effect.

72. In surrender cases, where the convention on the Nordic Arrest Warrant or the agreement between the EU, Iceland and Norway on the surrender procedure applies, there will as a main rule be a different procedure. The procedure still includes a judicial procedure where the court's decision may be appealed. The decision on the surrender is made by the Public Prosecutor and may be appealed to the Director General of Public Prosecutions. The appeal will have suspensive effect. The Ministry of Justice and Public Security is only involved in a few of the cases.

73. Whether diplomatic assurance can be accepted in a potential case, will have to be assessed on a case-by-case basis in accordance with our international obligations on human rights. To our knowledge, Norway has not had any extradition cases on this matter.

[9] For figures on extradition and surrender cases in general, see CAT/C/NOR/9 paragraph 88–91.

Reply to paragraph 21 of the list of issues

First sentence

74. As stated in Norway's initial report, secret detention is not allowed under any circumstances in Norway and no cases of such practices have ever been recorded.

75. Whilst there is no explicit prohibition of secret detention in Norwegian law, Article 94, first paragraph of the Constitution prescribes that no one may be taken into custody or otherwise be deprived of their liberty except in the cases determined by law and in the manner prescribed by law. No provisions under Norwegian law allow for secret detention.

Second sentence

76. As enshrined in the declaration and reservation to article 17 (2) of the Convention, Norway does not have formal law governing deprivation of liberty an armed conflict, as far as conflict related reasons for deprivation of liberty are concerned.

77. Conditions and procedures of deprivation of liberty during an armed conflict as laid down in IHL, are further specified and implemented in the Norwegian Armed Forces' Manual of the Law of Armed Conflict (The LOAC Manual) as well as mission specific rules and regulations and Rules of Engagement. The LOAC Manual chapter 6 has separate sections dealing with Prisoners of War (POWs) and Security Detainees. While the section dealing with POWs relies on the provisions of the Third Geneva Convention, the section dealing with Security Detainees outlines specific conditions both regarding the basis for deprivation of liberty, the places assigned for detention, as well as minimum procedural guaranties for those deprived of their liberty. Both rules governing the right to periodic review and duration of detention are set out in the LOAC Manual.

Third sentence

78. There have not been any complaints or allegations against the Norwegian military regarding failure to observe the rights enshrined under article 17 (2) of the Convention.

Reply to paragraph 22 of the list of issues

79. In respect to the declaration pursuant to article 17 (2), the national legislation in combination with relevant binding international documents are considered to be adequate to ensure that Norway acts in conformity with the object and purpose of the Convention in case of armed conflict. Norway does not envision establishing conditions for and guarantees related to deprivation of liberty that apply in situations of armed conflict in its formal national legislation at the present time.

Reply to paragraph 23 of the list of issues

First sentence

80. Pursuant to Article 94, second paragraph of the Constitution, any person who is arrested shall as soon as possible be brought before a court, whilst others who have been deprived of their liberty have the right to bring their deprivation of liberty before a court without unjustified delay. Similarly, Article 5 of the European Convention on Human Rights, Article 9 of the International Covenant on Civil and Political Rights and Article 37 of the UN Convention on the Rights of the Child – which are all given direct effect under Norwegian law, cf. section 2, first, third and fourth paragraph of the Human Rights Act – provide similar guarantees in respect of anyone arrested, detained or otherwise deprived of his/her liberty.

81. The procedure and conditions for bringing a case relating to the lawfulness of the deprivation of liberty before a court are governed by rules specific to the different types of deprivation of liberty that take place in Norway. For an overview of the various forms of deprivation of liberty and the applicable rules in that respect, paragraph 110 of the initial report should be consulted.

82. Sections 181, second paragraph, 183 and 185 of the Criminal Procedure Act, for instance, lay down the requirement of judicial review by a court in the context of arrests and

remand in custody. Other examples include sections 43, first paragraph and 44, second paragraph of the Penal Code governing access to judicial review by a court in connection with preventive detention and the release thereof. Moreover, the Penal Code lays down rules on judicial review with respect to the release from committals to either psychiatric care or care by court orders, cf. section 65, second paragraph of the Penal Code.

83. Outside of the criminal justice system, there is a right to judicial review pursuant to section 7-1 of the Mental Health Care Act, section 4A-10 of the Patients' and Users' Rights Act, section 5-9 of the Communicable Diseases Act, section 10-7 of the Act relating to Health and Care Services, section 14-25 of the Child Welfare Act, sections 106 a), seventh paragraph, 106 b and 106 c of the Immigration Act and section 77 of the Act relating to Military Service in the Armed Forces.

Second sentence (Reference is made to the response above)

84. Regarding registers, the police shall keep a custody record of all persons who are brought in or detained in police custody cells, cf. the Regulation on the use of police custody cells[10] section 2-2. The record shall be kept in accordance with the rules in Chapter 54 of the Police Register Regulations. The time and date when the person was brought in or detained in the police custody cell, and the time and date of release from custody shall be entered in the custody record.

85. Registers relating to prisons, i.e., pre-trial detention and the execution of sentences, are described in the guidelines to the execution of Sentences Act, see the Annex for further details. The initial report paragraph 234–236 should also be consulted.

Third sentence

86. Military arrest as a disciplinary measure has been abandoned by the Chief of Defence. Following recent[11] legislative amendments, such arrest is no longer among the disciplinary measures outlined in the Armed Forces Act section 69. Restrictions on the freedom of movement, however, remains a permitted disciplinary measure. The Armed Forces Act section 82 (2) governs situations of armed conflict and opens for disciplinary measures where the freedom of movement is restricted to such an extent that it amounts to deprivation of liberty, commonly referred to as "soft arrest". Such measures require derogation from the European Convention of Human Rights article 5 cf. article 15.

Reply to paragraph 24 of the list of issues

87. For legislation on police custody cells, reference is made to the response above to no. 23.

88. The Child Welfare act authorises the placement and detention in an institution of a child who has shown serious behavioural problems,[12] without the consent of the child, and with or without the consent of the person with parental responsibility for the child, cf. the Child Welfare Act chapter 6. The Act also authorises temporary placement in an institution without the consent of a child in danger of being the victim of human trafficking. The length of the detention of placements is also regulated by the Act.

89. Furthermore, the Child Welfare Act also regulates a duty of confidentiality and a duty to disclose information to judicial or other competent authorities. Pursuant to the Child Welfare Act chapter 13, anyone who performs services or work for a public body is subject to a duty of confidentiality. Information may however under certain conditions be disclosed to other bodies of the public administration or health professionals. A duty to provide information may also follow from other legislation. The Ombudsperson for Children shall have unrestricted access to all public and private institutions for children. Public authorities and public and private institutions for children shall, notwithstanding the duty of confidentiality, furnish the Ombudsperson with the information needed for the performance

[10] For-2006-06-30-749.

[11] The legislative changes entered into force on July 1st.

[12] Such as serious or repeated criminality or persistent abuse of intoxicants or drugs.

of the Ombudsperson's duties. Another example is the Parliamentary Ombud for Scrutiny of the Public Administration.

90. Section 14 of the Regulation on the Police Immigration Detention Centre[13] states that a register must be kept with information on decisions, arrivals, exits, implemented control measures, use of force and means of force, incidents, internal moves, visits, time of supervision and treatment by health personnel. It must be stated when and to whom measures were implemented, as well as their grounds and duration, and who made the decisions.

91. Bodies that supervise the detention centre have the right to access information from the register.

Reply to paragraph 25 of the list of issues

92. Norway does not lease any prisons in other countries.

Reply to paragraph 26 of the list of issues

93. The Child Welfare Act authorises the placement and detention in an institution of a child who has shown serious behavioural problems, cf. the Act's chapter 6. The Child Welfare Act also authorises temporary placement in an institution without the consent of a child in danger of being the victim of human trafficking.

94. Regarding access to information, pursuant to section 13-1 there is a duty of confidentiality and right to disclose information. Anyone who performs service or work pursuant to this Act has a duty of confidentiality pursuant to sections 13 to 13 e of the Public Administration Act. Information can be provided to government agencies when this is necessary to perform tasks pursuant to this Act. Information can also be provided to professionals governed by the Health Personnel Act pursuant to this provision. The provision in section 13 b) no. 6 of the Public Administration Act does not apply.

95. Furthermore, the parents of the child have a right to information about the placement and detention of the child in an institution. According to section 12-2, the Child Welfare Service must always assess whether the parents are a party to the case. The service must inform parents who have parental responsibility about all decisions that are made. The statutory duty of confidentiality does not prevent the Child Welfare Service from providing such information. The Service may refrain from informing parents who have parental responsibility about a decision if this might expose the child or other people to danger or harm. Information about decisions may also be withheld in cases where the parent is not available.

96. A child placed in an institution of a child due to serious behavioural problems or in danger of being the victim of human trafficking, is always a party to the case. Section 12-6 regulates the parties' right to access documents and exemption from access to protect the child.

97. The parties have the right to acquaint themselves with the documents in the case pursuant to the provisions set out in sections 18 to 19 of the Public Administration Act. The parties have the right to be provided with information, cf. section 17 of the Act. The parties may be denied access to documents in the case if access might expose the child or other people to danger or harm. Information that has been withheld must, upon request, be made known to a representative of the party unless there are special reasons for not doing so. The parties may also be denied access to case documents if access might prevent the Child Welfare Service from carrying out an investigation. The restrictions on access only apply for the duration of the investigation.

[13] For-2009-12-23-1980.

Reply to paragraph 27 of the list of issues

First sentence

98. Pursuant to the Prosecution Instructions, an accused person must be informed in a language s/he understands. The instructions for the use of police custody cells, mentioned above, state that the arrestee must receive information about their rights and duties in a language understood by those involved. An information brochure on the rights and duties for arrested persons is available in various languages on the expertise sharing platform on the police's intranet.

Second sentence

99. Pursuant to the Immigration Act section 106 a), the police shall ensure that the arrested person's household or any other person s/he specifies are duly notified. Notification can be omitted if the arrested person does not want such notification, the mentioned persons are abroad, or there are other special reasons. The "special reasons" referred to in the sixth paragraph, second sentence could for instance be that the police are planning to arrest other family members. An ongoing investigation in a criminal case could also constitute a special reason.

Reply to paragraph 28 of the list of issues

100. Reference is made to paragraph 149–212 of the initial report in which an overview of the Norwegian rules on relatives' and other persons' access to the information referred to in Article 18, first paragraph letters a to g of the Convention was provided. Not all of the rules to which reference was made are accompanied by a right of appeal or complaint.

Reply to paragraph 29 of the list of issues

101. As stated in the introduction, Norway has not had any allegations or complaints that fall within the scope of the Convention, hence specific and regular training on the Convention has not been considered a necessity. For further information on education of personnel, please see CAT/C/NOR/9 paragraphs 100 – 109[14] and the Common Core Document paragraph 144–146.[15]

102. The Child Welfare Act regulates invasive measures such as deprivation of liberty. It is thus important that employees in the child welfare sector, including child welfare institutions, receive training in human rights and other legislation. Good knowledge of the rights and regulations is important to ensure proper care and treatment and to safeguard the child's personal integrity and other rights. The new[16] Child Welfare Act stipulates that all new employees in institutions must have relevant education at the bachelor's degree level. This will strengthen the competency of the institutions and legal safeguards for children. Furthermore, the Act regulates the rights of the child and the use of coercion in child welfare institutions. The manager of each institution is responsible for ensuring that all employees have the necessary training. Guidelines and e-learning materials have been developed.

103. For the military, the handling of detainees and arrests is a part of the basic training for both regular and conscripted military police soldiers. Such training is also provided to commanders and officers. The Convention is not a part of the curriculum, but the training provided covers both requirements that stem from it, and the stricter requirements that follow from Norwegian law and other international legal obligations where this applies.

[14] Norway's ninth periodic report to the UN's Committee against torture of May 2022.
[15] HRI/CORE/NOR/2024.
[16] The act entered into force 1 January 2023

V. Measures to protect and guarantee the rights of victims of enforced disappearance (art. 24)

Reply to paragraph 30 of the list of issues

104. Although victims are afforded procedural rights in a criminal case, the term 'victim' is neither explicitly defined in the Criminal Procedure Act nor the Penal Code. Nonetheless, the 'victim' has traditionally been seen as the person whose interests the criminal offence is intended to safeguard.[17] As previously stated, there have been no cases of enforced disappearance in Norway. However, should a case occur, a person who is arrested, detained, abducted or otherwise deprived of liberty as part of an enforced disappearance is unquestionably considered a victim in the context of sections 175 a) and 175 b) of the Penal Code. With regard to others having suffered harm as the direct result of an enforced disappearance, the status as a victim will depend on the degree to which the people in question were directly affected by the enforced disappearance.

Reply to paragraph 31 (a) to (d) of the list of issues

105. There are several ways for victims of violence, or of enforced disappearance, to receive compensation. Reference is also made to our response to no. 12.

106. If a victim takes civil action against the perpetrator to secure compensation, it is not required to report the crime to the police. Pursuant to the Damages Act, Chapter 3, compensation encompasses expenses, loss of income, loss of future income, damages for pain and suffering for permanent medical invalidity, and reparation for non-pecuniary damage. Reparation for non-pecuniary damage is determined specifically at the court's discretion, cf. the Damages Act section 3-5. Concerning personal injury, both physical and mental injuries are encompassed. Compensation for personal injuries also includes the loss of a parent/guardian.

107. In criminal proceedings, victims may be entitled to *state* compensation, cf. the Compensation for Violent Crimes Act. It is then required that the crime is reported to the police in order to receive compensation. The victim may obtain compensation, even though the criminal case didn't lead to a conviction, or even though the police dismissed the case prior to court proceedings. It is the Criminal Injuries Compensation Authority that is responsible for processing applications for compensation for violent crimes. It also pays out such compensation when awarded by the court, cf. the Compensation for Violent Crimes Act section 6. The Norwegian Civil Affairs Authority is the appeals authority. The Compensation for Violent Crimes Act follows general compensation law, however, damage to the injured party's belongings or property is not covered by the state.

108. Concerning time limits, reference is made to our response to no. 12.

Reply to paragraph 31 (e) of the list of issues

109. Compensation and ex gratia payment schemes: reference is made to our response to no. 12 for information on the Parliament's Fair Compensation Scheme.

110. In 1998, the Government apologised for past abuses against the Romani people/Tater. The apology was later repeated[18] and as a follow the Government established a centre for documentation and dissemination of Romani people/Taters culture and history at Glomdalsmuseet.[19] The exhibition opened in 2006. The Romani people/Tater voiced that the exhibition was not a satisfactory collective compensation. Hence, the Government established a Romani people/Taters fund of NOK 75 million[20] The collective compensation is managed by Arts and Culture Norway as a grant scheme.

[17] NOU 2016: 24 sections 10.2.1 with further references.

[18] See White Paper no. 15 (2000–2001) *National minorities in Norway – About state policies in respect of Jews, Kvens, Roma, Romani and Forest Finns.*

[19] Located in Elverum.

[20] White Paper no. 44 (2003–2004) *Compensation scheme for war children and compensation schemes for Romani/Tater people and elderly educationally impaired Sámi and Kvens*.

111. A number of memorials have been erected for Romani people/Taters.

112. In 2011, a committee was established to investigate implementation of the assimilation policy in respect of the Romani people/Taters. The committee submitted its report[21] in 2015.

113. In 2017, the Parliament established a Commission to investigate the assimilation policy and injustices historically committed against the Sami people and Kvens/Norwegian Finns. The Commission later decided to include Forest Finns in its remit. The Sámediggi and Kven/Norwegian-Finnish and Forest Finn organisations were involved in the Commission's work. The Commission submitted its report to the Parliament June 2023.

114. See the Annex for the conclusions of the recommendations of the Truth and Reconciliation Commission. The Parliament will consider the report in the autumn of 2024 and the government will subsequently take a position on the proposals.

Reply to paragraph 32 of the list of issues

115. Reference is made to the response to no. 31 e) regarding Sami and the five national minorities in Norway.

116. Under Norwegian law, there is no specific provision that provides for a right of victims of enforced disappearance to the truth. Nevertheless, should a case of enforced disappearance occur and, in the event that the victim is deceased, the deceased person's relatives have different procedural rights[22] in connection with the investigation of an enforced disappearance.

117. The duty of confidentiality to which the police and the public prosecution authority are subject do not preclude making known data to the parties to the case, to aggrieved parties, surviving relatives of the aggrieved parties, their representatives, or otherwise to anyone to whom the data directly concern, cf. section 25, first paragraph of the Police Databases Act.

118. With respect to procedural rights, the victim or the deceased person's relatives (in statutory order) have a right to acquaint themselves with the documents in the case unless there are grounds to make an exception for particular documents, cf. section 242, first paragraph of the Criminal Procedure Act. A fairly similar right of access to the documents in a case is also provided in section 264 a), third paragraph, which applies after the public prosecution authority has indicted someone. Finally, the victim, a deceased victim's relatives or any other person for whom it has legal interest may request transcripts of courts records and other documents in a concluded criminal case, cf. section 28, first paragraph of the Criminal Procedure Act.

119. Additionally, the public prosecution authority is obliged to inform victims and surviving relatives about the developments and progress of the criminal case unless it is unadvisable due to the investigation or for any other reason, cf. section 93 e), second paragraph of the Criminal Procedure Act and section 7-6 of the Prosecution Instructions. An example in this respect would be that the public prosecution authority informs victims and surviving relatives in statutory orders that someone is indicted whilst providing information about their right to familiarise themselves with the indictment, cf. section 264 a), first paragraph. Furthermore, according to section 7A-1 of the latter instructions, the police shall establish a contact with whom the victim and surviving relatives may be in touch, so as to ensure that they receive the information to which they are entitled.

120. There are also other provisions that could provide victims of enforced disappearance with a right to access to either information or documents in the possession of public authorities. Outside of an individual criminal case, section 49, first paragraph of the Police Databases Act sets forth the right of a data subject to obtain information about which data relating to him has been recorded. Apart from that, the public's right of access to documents is enshrined in Article 100, fifth paragraph of the Constitution. The conditions for accessing

[21] Official Norwegian Report (NOU) 2015: 7 *Assimilation and Resistance – Norwegian policy towards the Taters/Romani people from 1850 to the present*.

[22] Cf. the statutory order set forth in section 93 a), second paragraph of the Criminal Procedure Act.

documents held by public authorities and public undertakings are primarily laid down in the Freedom of Information Act.

Reply to paragraph 33 of the list of issues

121. The legal situation of disappeared persons whose fate has not been clarified and that of their relatives in Norway is mainly regulated by the Disappeared Persons Act,[23] as explained in the initial report. Reference is made to page 37 where the rules on notification to the court and the county governor's appointment of a guardian for the disappeared person are explained.

122. The legal situation for relatives of a disappeared person, without having to presume the person dead, will to a certain extent depend on the circumstances in each case. The appointed guardian will generally universally represent the person and safeguard his or her rights. The estate of the disappeared person is to be managed following the rules set out in the Guardianship Act, cf. the Disappeared Persons Act section 6. The person's legal heirs are to be consulted before important decisions are made, such as the sale of property. The county governor can decide that a limited amount shall be paid from the funds of the disappeared person where s/he was responsible for providing for a family or such payment is otherwise necessary, cf. the Act section 7.

123. When a person who shares responsibilities for children with his or her spouse or cohabiting partner has been missing for at least 6 months, the other parent may receive extended child benefit when living alone with the child, cf. the Child Benefit Act section 9. Parents who are caring for a child alone, may also be eligible for other benefits pursuant to the rules set out in the National Insurance Act.

124. There is no specific procedure in the Act for obtaining a declaration of absence, apart from the court procedure following the mandatory report to the court that a person has disappeared. However, the county governor's decision to appoint a guardian will express the fact that the person is considered to have disappeared as part of the guardian's mandate.

125. In situations where it is highly likely that the disappeared person is deceased, a case can be brought before the court that the person is to be considered deceased after one year. In other cases, the time limit is five years from the last time the person was evidently alive, cf. section 9. Spouses, cohabitants, heirs and others who need such a decision, can demand such a decision from the court. A decision that a person is presumed dead, is universally legally binding, cf. the Act section 14. It follows from this that any rights the family might have when a person dies, for instance to pensions and similar, is triggered by the court decision. When such a decision is final, the Act section 15 provides that the estate of the person is to be distributed following the general rules of the Inheritance Act. Without a decision that a person is to be presumed dead, the estate shall also be distributed when five years have passed since the person was last known to be alive, cf. section 16.

126. When a married person disappears and a decision that the person is to be considered deceased is legally binding, the marriage is automatically considered dissolved if the remaining spouse remarries, cf. the Disappeared Persons Act section 17. If the spouse has not remarried, and the disappeared person returns, the marriage is still considered valid. The spouse of a disappeared person can also, like everyone else, unilaterally demand a legal separation and a subsequent divorce, cf. the Marriage Act sections 20 to 22. When a spouse has disappeared, the estate can be distributed publicly, meaning the court administers the division of property, cf. the Marriage Act section 96.

127. The Disappeared Persons Act chapter 5 regulates the situation where a disappeared person returns. A person who did not disappear voluntarily, can reclaim property from his or her heirs within 20 years of the day he or she was presumed to have died. However, the duty of heirs to pay or give back what they have received is limited to balance the rights and interests of the person and the heirs. For instance, no heir is obliged to restore inheritance that is lost, provided the heir cannot be blamed, cf. section 19. When an insurance sum is paid to the beneficiaries following a presumption of death, it cannot be reclaimed if the person

[23] Act of 12 May 2015 no. 27.

returns, unless it would be clearly unreasonable to allow the beneficiary to keep the awarded sum, cf. section 20. Section 21 further provides that public and private pensions and other benefits cannot be reclaimed from the person who has received them following a presumed death, even if the person that has been presumed dead, returns.

128. A criminal investigation shall be carried out when there are reasonable grounds to ascertain whether any criminal matter requiring prosecution by the public authorities subsists, cf. section 224 first paragraph of the Criminal Procedure Act. A case can only be dismissed if one of the alternative terms and conditions in section 62 a second and third paragraph applies. The death or presumed death of the victim is not a justification for dismissing a case.

VI. Measures to protect children from enforced disappearance (art. 25)

Reply to paragraph 34 of the list of issues

(See annex for a translation of section 261)

129. Pursuant to section 261, first paragraph of the Penal Code, an unlawful removal of a minor from care is subject to a penalty of a fine or imprisonment for a term not exceeding two years, whilst an aggravated removal from care is punishable for a term not exceeding six years, see second paragraph thereof. Depending on the circumstances, section 261 could, in principle, be applied together with section 254 of the Penal Code (deprivation of liberty).

130. The first paragraph of section 261 lays down various modes of the offence, which, among others, encompasses the act of seriously or repeatedly removing or withholding a minor from someone with whom, pursuant to statute, agreement or court decision, the minor lives on a permanent basis. Normally a child lives on a permanent basis with one or both parents. Unlawfully removing a child in a manner similar to that described in Article 25, first paragraph, letter a of the Convention could be characterised as serious and thus covered by section 261, first paragraph. The assessment of whether the removal is serious shall be based on a number of different factors, such as the duration of the removal, the situation of the minor and the consequences of the removal for the minor involved.

131. Moreover, the same penalty applies when the minor is illegally withheld from someone having parental responsibility pursuant to statute, agreement or a court decision by way of taking the minor out of the country or keeping the minor abroad, cf. section 261, first paragraph. As such, the acts defined in Article 25, first paragraph, letter a could also be covered by section 261, first paragraph insofar as the child is taken abroad.

132. Sections 361 to 363 of the Penal Code apply respectively to the acts of document forgery, minor document forgery and that of illicitly destroying or suppressing a document or part of a document. These provisions will correspond to the acts mentioned under Article 25, first paragraph, letter b of the Convention (See annex for a translation of sections 361–363).

Reply to paragraph 35 of the list of issues

133. Any disappearance suspected to be a wrongful removal as describes in article 25 (1) (a) would result in a police investigation.

134. Children placed in child welfare institutions due to behavioural problems, or subject to trafficking, enjoy procedural rights by law. Pursuant to Section 12-3 of the Child Welfare Act, children who have reached the age of 15 are parties to the child welfare case. In cases concerning measures for children with behavioural problems or measures for children who are victims of human trafficking, the child is always a party, regardless of the child's age. The fact that the child is a party also means, as a general rule, that the child has full party rights and can exercise party rights himself or herself (that the child is not represented by a guardian, but that the child himself or herself is capable of litigating). Party rights trigger procedural rights under the Public Administration Act and the Child Welfare Act. Pursuant to the Public Administration Act, parties are entitled to advance notice, the right to access documents and the right to be notified of the decision and its justification, and the right to

appeal. These provisions are relevant, among other things, when the child welfare service makes decisions on assistance measures and emergency decisions.

135. Unaccompanied minor asylum seekers under the age of 15 are offered accommodation at a care centre, while those between 15 and 18 years of age are offered a place in a reception centre. The housing and care offer applies from the time the children apply for protection and until they become residents in a municipality or leave Norway.

136. Although the responsibility for care is limited by law to the period the child is at the centre and the stay is voluntary, as long as it is a minor, there will always be a search for and an attempt to bring a child who disappears from a centre back. The internal procedures for care centres are based on the Guidelines on responsibility when children and young people run away from child welfare institutions. In September 2023, the procedures for when children leave a care centre without permission were updated. Actions that must be taken are described step by step: who is responsible, who must be informed, requirements for documentation, etc. If the whereabouts of the child are unknown and there is a suspicion that the child is missing, the care centre must submit a formal report to the police to ensure that the child is reported missing nationally and potentially also internationally. The care centre must provide the police with the information in order to assess the need to implement measures.

137. The authorities have procedures for dealing with the disappearance of unaccompanied minors from reception centres. This includes reporting the matter to the child welfare services, the child's representative (guardian), lawyer, and the police. In many cases, there are grounds for believing that children leave reception centres voluntarily. However, the possibility that some may be victims of human trafficking, exploitation or other crimes cannot be excluded. In the past year, a thorough process has been carried out to improve the relevant procedures for interaction between the police, the immigration authorities, and the child welfare services.

Adoption

138. As stated earlier, no case of enforced disappearance, as defined in article 2, has been reported in Norway. Moreover, no cases of enforced disappearances in other states conducted by agents of the Norwegian state or by persons or groups of persons acting with the authorisation, support or acquiescence of the Norwegian state, have been reported.

139. Norway has taken several steps to address the general risk of breaches of due process in the field of intercountry adoptions worldwide. In June 2023, the Norwegian government established an investigation committee with the mandate to investigate whether Norwegian authorities have exercised sufficient control in intercountry adoption cases, and to uncover whether illegal or unethical circumstances have occurred in intercountry adoptions to Norway. The committee is scheduled to complete its work by December 2025. Furthermore, the Directorate for Children, Youth and Family Affairs, which functions as the Norwegian central authority in intercountry adoption cases in accordance with the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption (1993) article 6 (1), has strengthened its document control routines in cases of intercountry adoptions to Norway. In accordance with the Convention on the Rights of the Child article 21, all decisions undertaken by Norway concerning the adoption of minors are made ensuring that the best interests of the child is the paramount consideration.

Annexes

Annex I

A. Legislation

Act. No 7 of 15. December 1950 relating to special measures in time of war, threat of war and similar circumstances. (State of Emergency Act)

1. **Section 3, first paragraph** reads as follows:

> "If the realm is at war or war is threatening or the independence or security of the realm is in danger, and delay for these reasons would be dangerous, the King may issue provisions of a legislative nature to ensure the security of the realm, public order, public health and the country's supplies, to promote and safeguard military measures and measures for the protection of the civilian population and property, and to utilize the country's facilities for the furthering of the objectives. This includes the issuing of provisions for the drafting of manpower for military and civilian purposes. If necessary, the provisions may derogate from applicable statutory law."

Civil Penal Code of 20 May 2005 No. 28

2. **Section 143** of the Penal Code reads as follows:

> "A penalty of imprisonment for a term not exceeding 12 years shall be applied to any person who deprives another person of his or her liberty and who threatens to kill or injure the hostage or to continue the deprivation of liberty with intent to force another person to perform, endure or omit to do something."

3. **Section 261** of the Penal Code reads as follows:

> "Any person who seriously or repeatedly removes or withholds a minor from someone with whom, pursuant to statute, agreement or court decision, the minor lives on a permanent basis, or who wrongfully removes the minor from someone who has responsibility of care pursuant to the Child Welfare Act, shall be subject to a penalty of a fine or imprisonment for a term not exceeding two years. The same penalty shall be applied to any person who takes a minor out of the country or keeps a minor abroad and thereby illegally withholds the minor from someone who pursuant to statute, agreement or court decision has parental responsibility. The same applies where a care order, relocation ban or order for placement in an institution has been issued pursuant to sections 5-1, 4-3, 6-2 or 6-6 of the Child Welfare Act, or where an application for such measures has been made to the Child Welfare Tribunal pursuant to section 14-9 of the Child Welfare Act, or where an interim order has been issued in an emergency pursuant to sections 4-2, 4-4 or 4-5 of the Child Welfare Act.
>
> Aggravated removal from care is punishable by imprisonment for a term not exceeding six years. In determining whether the removal from care is aggravated, particular weight shall be given to the strain it placed on the child."

4. **Sections 361–363** of the Penal Code read as follows:

> **"Section 361 Document forgery**
>
> A penalty of a fine or imprisonment for a term not exceeding two years shall be applied to any person who:
>
> a) forges or falsifies a document, or acquires a forged or falsified document with intent to use it or let it appear genuine and unfalsified,
>
> b) illegally makes use of a document as specified in a) and lets it appear genuine and unfalsified, or
>
> c) issues a document and falsely attributes to himself/herself a position that is of significant importance for the evidential value of the document, and lets the document appear correct.

A document in this chapter means an information carrier relating to a legal matter or which is suitable as evidence for a legal matter.

Section 362 Minor document forgery

When the punishability of the act is minor, document forgery is subject to a penalty of a fine. In making this determination, particular weight shall be given to

a) the value involved,

b) whether it led to harm or inconvenience for any person,

c) to what extent it was the result of planning.

Section 363 Destruction of a document, etc.

A penalty of a fine or imprisonment for a term not exceeding two years shall be applied to any person who illicitly destroys or suppresses a document or part of it."

Military Penal Code of 22 May 1902 No. 13

5. **Section 24** of the Military Penal Code reads as follows:

"The command of a superior in service-matters exempts the subordinate from punishment, except insofar that he acts beyond the contents of the command, or he knows or should have known, that carrying out the command is contributing to an illegal act. In any case, the Court can reduce the punishment below the stated minimum and to a milder punishment."

Execution of Sentences Act of 18 May 2001 No. 21

6. As stated in the guidelines no.11.6.1 on record keeping and registration:

"A record must be kept in which the inmate's data is entered. The record must contain information about the inmate's personal details and description, as well as information about the legal basis for the imprisonment.

Information must be recorded about the date on which the sentence has been completed, ordinary parole after 2/3 of the sentence has been served, when ½ of the sentence has been served, and the date and time of any leave.

Record keeping begins with the imprisonment and ends with the release.

If an inmate is transferred to another prison, the record is updated by the prison in question.

The journal must chronologically describe the completion of the imprisonment, including an overview of progress in the execution of the sentence, and any incidents and decisions."

B. Other

Conclusions of the recommendations of the Truth and Reconciliation Commission set up by the Parliament

7. The Truth and Reconciliation Commission proposes a number of measures for further reconciliation between the authorities and the Sami people, Kven/Norwegian Finns and Forest Finns within five different pillars:

- Knowledge and communication;
- Languages;
- Culture;
- Prevention of conflicts;
- Implementation of regulations.

Annex II

Statistical Data

Ordinary asylum seekers between 21 September 2019–17 July 2024

Citizenship	*Men*	*Women*	*Child*	*Total*
Syrian (SY)	3 275	880	1 099	5 254
Ukraine (UA)	1 288	772	278	2 338
Eritrea (ER)	430	521	272	1 223
Turkey (TR)	622	278	280	1 180
Afghanistan (AF)	222	186	770	1 178
Russian Fed. (RU)	295	162	126	583
Colombia (CO)	194	178	131	503
Stateless	211	100	81	392
Iran (IR)	143	113	46	302
Venezuela (VE)	128	101	59	288
Iraq (IQ)	121	49	45	215
Ethiopia (ET)	86	62	49	197
China (CN)	102	55	26	183
Somalia (SO)	56	44	72	172
Georgia (GE)	84	17	14	115
Yemen (YE)	69	19	25	113
Albania (AL)	50	26	33	109
Sudan (SD)	53	25	26	104
Pakistan (PK)	53	14	13	80
Other	1 002	436	311	1 749
Totalsum	**8 484**	**4 038**	**3 756**	**16 278**

1. Regarding returns etc. the wording “subjected to” is unclear whether it refers to a *decision* or an *executed* return/expulsion. For the execution of a voluntary return or a return involving the police, for 2022 the return numbers are:

Return by Country	*Number*
Turkey	14
Somalia	10
Ethiopia	9
Iraq	7
Kenya	7
Iran	4
Viet Nam	4
Cameroon	3
Palestine	3
Other	28
Total	**89**

2. For statistics, see Statistics and analysis: Statistics on immigration – UDI.

3. For the decisions regarding expulsion, the 2023 numbers are:

Citizenship	*Penal expulsion*	*Immigration Act*	*EEA-regulation*	*Other reasons*	*In total*
Afghanistan	3	21	0	1	25
Albania	16	34	1	0	51
Algerie	3	8	0	0	11
Argentina	2	4	0	0	6
Australia	3	3	1	0	7
Bangladesh	1	24	0	0	25
Belarus	6	3	1	0	10
Bosnia-Hercegovina	1	5	0	0	6
Brazil	9	11	0	0	20
Burundi	0	14	0	0	14
Canada	5	5	0	0	10
Chile	4	8	1	0	13
Colombia	1	14	0	0	15
Cuba	4	1	0	0	5
Denmark	0	0	6	0	6
Dem. Rep. Congo	0	7	0	0	7
Egypt	2	10	0	0	12
Côte D’Ivoire	0	8	0	0	8
Eritrea	3	25	0	0	28
Ethiopia	4	34	0	0	38
Philippines	4	76	0	0	80
Gambia	4	8	0	0	12
Georgia	10	26	0	0	36
Ghana	1	65	0	0	66
India	2	442	0	0	444
Indonesia	1	10	0	0	11
Iraq	9	31	0	2	42
Iran	7	24	0	0	31
Cameroon	1	17	0	0	18
Kenya	0	9	0	0	9
China	20	112	0	0	132
Kosovo	3	238	0	0	241
Latvia	0	0	8	0	8
Liberia	0	13	0	0	13
Libya	5	1	0	0	6
Lithuania	0	0	68	0	68
Malawi	1	40	0	0	41
Morocco	5	21	0	0	26
Mexico	4	5	0	0	9
Moldova	3	12	0	0	15
Mongolia	0	12	0	0	12
Myanmar	0	5	0	0	5
Netherlands	0	0	10	0	10
Nepal	0	38	0	0	38

Citizenship	*Penal expulsion*	*Immigration Act*	*EEA-regulation*	*Other reasons*	*In total*
Nigeria	3	72	1	0	76
North-Macedonia	5	4	0	0	9
Pakistan	4	163	1	0	168
Poland	0	0	53	0	53
Romania	0	0	87	0	87
Russian fed.	15	15	0	0	30
Senegal	0	16	0	0	16
Serbia	9	11	0	2	22
Somalia	8	41	0	0	49
Sri Lanka	2	109	0	0	111
Stateless	3	14	1	2	20
United Kingdom	29	36	1	0	66
Sudan	1	4	0	0	5
Sweden	0	0	29	0	29
Syria	3	12	0	4	19
South-Africa	0	6	0	0	6
Thailand	4	30	0	0	34
Tunisia	1	5	0	0	6
Turkey	8	93	0	2	103
Germany	0	0	5	0	5
Uganda	2	15	0	0	17
Ukraine	10	8	1	0	19
USA	14	17	0	0	31
Uzbekistan	0	10	0	2	12
Viet Nam	5	108	0	0	113
Other	9	67	21	0	97
Total	**282**	**2 300**	**296**	**15**	**2 893**