

13/12/2008



RAP/RCha/Norway/5(2008)1

REVISED EUROPEAN SOCIAL CHARTER

5th report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF NORWAY

(FOR THE PERIOD 1ST JANUARY 2005 – 31ST DECEMBER 2006

:

Articles 1, 9, 10, 15, 18, 20, 24, 25)

Report registered at the Secretariat on 13/02/2008

CYCLE 2008

Oslo, 12/02/2008

5th NORWEGIAN REPORT ON THE IMPLEMENTATION OF THE REVISED EUROPEAN SOCIAL CHARTER

Reference period: 01/01/2005 to 31/12/2006

Introduction – general comments

Several of the questions concerning this report are connected to employment. The main legislation concerning employment, can be found in Act of 17 June 2005 No. 62 relating to working environment, working hours and employment protection, etc. (from now on referred to as WEA 2005) which entered into force 1 January 2006 and replaced the previous Norwegian Working Environment Act from 1977 (hereby referred to as WEA 1977). When it comes to the legislation, we mainly will give an account for the prevailing Act, i.e. WEA 2005.

The ECSR's questions and requests for further information are partly answered concretely and partly integrated in the text under the relevant article.

Article 1

Article 1 para. 1

Question A

Reference is made to the report under Art. 9, 10 and 15.

Regarding measures taken in order to favour access to employment for groups most exposed to or affected by unemployment, we can inform on some of the issues in the Norwegian Plan of Action for Integration and Social Inclusion of the Immigrant Population.

As a response to the challenges in the area of labour, welfare and social inclusion linked to some groups and sections of the immigrant population, the Government presented a Plan of Action for Integration and Social Inclusion of the Immigrant Population in 2007 together with the State budget proposal. The Government also presented a follow up plan for 2008. The Action plan for 2008 includes measures for more than 500 million NOK.

The goals of the action plans are to prevent immigrants from having poorer living conditions and a lower degree of participation in society than the population as a whole, and to ensure equal opportunities for immigrants and their descendants.

The Action plans address four fields that are important for successful inclusion. These are Employment, Childhood, education and language, Gender Equality and Participation. The Action plans are coordinated by the Ministry of Labour and Social Inclusion, but the measures presented in the plans are on several ministries' areas of responsibility.

For the year 2008 the Government has given priority to measures for better Norwegian language instruction for newly arrived immigrants, combating forced marriages, and free core time in day-care centres for four- and five years olds in areas with a high proportion of minority-language children.

Examples of measures are:

- *Continuing the qualification programme «Ny sjanse» (New Chance)*

The Government shall be continuing the qualification programme New Chance by funding it with NOK 20 million in 2008. New Chance is a programme featuring paid qualification based on the model of the introductory programme for immigrants who after several years in Norway have no permanent ties to the labour market and thus depend on social benefits. This programme shall contribute to giving more immigrants a permanent contact with the labour market. A survey in the project-municipalities performed by Directorate of Integration and Diversity (IMDi) shows that some 40 per cent of the participants are included in working life or further education after two years in the programme.

- *Continued focus on immigrants' entrepreneurship activities*

Immigrants founding new enterprises in Norway are a positive contribution to value creation in society. NOK 2 million was allocated in the national budget for 2005 for pilot projects involving entrepreneurship among immigrants. In 2007 the Government shall continue to fund these pilot projects by the amount of NOK 2 million to obtain more knowledge on how to facilitate entrepreneurship activities among immigrants.

- *Active recruitment of persons with immigrant backgrounds to state administration and health authorities*

Through its allotment letters the Government shall call on all agencies within the state administration and the health authorities, based on their current condition and abilities, to draw up concrete plans aimed at increasing the recruitment of persons with immigrant backgrounds. These agencies' annual reports shall include results from implementing this measure and achievement of objectives. Management training in diversity in these agencies will also be given.

- *Pilot project with moderate affirmative action for persons with immigrant backgrounds to state administration positions*

Moderate affirmative action for persons with immigrant background to public administration positions will be tried out in a 2-year-project, starting in 2008. Moderate affirmative action means that if candidates have equal or approximately equal qualifications, a candidate with an immigrant background is to be chosen.

- *Pilot projects to strengthen the connection between employers in need of working labour and unemployed immigrants ("Mangfoldsløft")*

The Government funds NOK 5 million to strengthen the connection between employers in need of working labour and unemployed immigrants.

The aim is to start up pilot projects in chosen municipalities, and that the Labour and Welfare Service (LWS), the Directorate of Integration and Diversity (IMDi), local employers and the union enter into co-operation.

- *The introduction programme (the Introductory Act) for newly arrived immigrants*

The programme includes refugees and family members reunited with them, in addition to persons granted residence on humanitarian grounds and family members reunited with them. The individual right and obligation only apply to immigrants who require basic qualifications. Women participate on an equal footing with men. The scheme combines an Introduction programme with an economic benefit which participants are eligible for. The aim of the programme, which will be adapted to individual needs and abilities, is to provide basic skills in the Norwegian language, insight into the Norwegian society and to prepare for participation in working life and/or further education. The duration of the programmes are to be adjusted to the needs of each individual, and may run for up to two years with additional periods for approved leaves of absence. The municipalities shall provide programmes for newly arrived immigrants who are resident in the municipality as soon as possible and no later than within three months after a person is placed in the municipality, cf. chapter 3.4. Participation in the programme is both a right and an obligation for persons between 18 and 55 years within the target groups.

Municipalities receive an integration grant from the central government authorities. An effective transition to working life is dependent on close, binding cooperation between individual municipalities and the local Labour and Welfare Service (LWS). A special circular has been issued which describes the minimum elements that such cooperation comprises. Effects of the Introduction Programme will be monitored. So far there are indications of positive effects. Two years after implementation of the programme, a survey in the municipalities performed by Directorate of Integration and Diversity (IMDi) shows that in the end of the programme approximately 53 per cent of the participants are included in working life or further education. A paper from Statistics Norway in July 2007, shows that approximately 8800 persons, about 4 600 men and 4 200 women, have participated in the programme in 2006. Most of the participants are between the ages 26 and 35. The share of women is reduced as the participants get older. A large evaluation of the implementation of the act and the effects is performed by the Norwegian research institute Fafo. Their findings are expected late November 2007.

Further questions from the ECSR

The Committee has requested precise figures on the unemployment rate among persons with disabilities.

In Norway the labour market agencies do not register disabled people as such, but only persons who get a disability (mental or physical), which makes them unable to manage the tasks of their current jobs. They will then be registered as vocational disabled. In the end of November this year 80960 persons were registered as vocational disabled. This amounts to 3,3 per cent of the total labour force.

The Committee has also requested updated information on the average number of participants in active measures, the activation rate and the average duration of the period from the time a person registers as unemployed until he or she receives an offer of participation in an active measure.

The number of people on active measures was (the aggregate of ordinary active measures and vocational disabled people on active measures) 67.462 on average from January until November, 10.119 on ordinary active measures and 57.343 on schemes for vocational disabled.

Activation rates:

- ordinary active measures (participants on ordinary active measures divided by the sum of participants on ordinary active measures and registered unemployed): 17,8%
- vocational disabled people on active measures: 68,7%

We do not have statistics regarding average duration of the period from the time a person registers as unemployed until he or she receives an offer of participation in an active measure.

Regarding the inquiry concerning the results of the various measures taken in favour of the groups identified as the most disadvantaged, we refer to the account given under question A above.

Question B

The average unemployment rate of the labour force was 4,6 per cent in 2005 and 3,4 per cent in 2006 according to the Labour Force survey.

Question C

The Norwegian labour market is excellent at the moment. Employers report difficulties recruiting the necessary quantity of employees with the suitable competence. Although employers have a legislative obligation to notify their vacancies, not all are public notified. Because of this, there is no complete overview of the vacancies.

Article 1 para. 2

Question A

Protection against discrimination can be found in WEA 1977 sections 54 A – 54 L and in WEA 2005 chapter 13. The “new” regulations mainly resemble the previous. An English version of the new WEA is enclosed as appendix 1.

Section 13-1 stipulates that all forms of discrimination, both direct and indirect, on the basis of political view, membership of a trade union, sexual orientation, disability or age are prohibited. Harassment or instructions to discriminate persons for the same reasons are considered as discrimination.

The prohibition applies to all aspects of the employment relationship, including advertising of posts, appointments, training, pay and working conditions and termination, cf. Section 13-2.

Exemptions from the principal rule are accepted where the discrimination has a just cause, not involve excessive interventions and is necessary for the performance of work or profession, see section 13-3.

When advertising for new employees, the employer may not in any manner request information from the applicants about their sexual orientation, their political opinions or whether they are members of workers organisations. The employer is also prohibited from applying other measures to obtain such information, cf. section 13-4.

Regarding the burden of proof where an employee or a job applicant submits information which gives reason to believe that the provisions of chapter 13 in the WEA are breached, it is up to the employer to substantiate that such discrimination has not taken place. See section 13-8 of the WEA.

The Act on Prohibition of Discrimination on the basis of ethnicity, religion etc. of 3 June 2005 No. 33 (The Discrimination Act) applies to discrimination on the grounds of ethnicity, religion, origin, decent, colour, language or philosophy. The Gender Equality Act of 9 June 1978 No. 45, applies to discrimination on the basis of gender. We will give a more detailed account of The Gender Equality Act under article 20.

A legal act which provides for a common instrument of enforcement, covering all cases based on all grounds of discrimination, came into force on 1 January 2006. With this act, the Equality-and anti-discrimination Ombud was established. The Ombud enforces the provisions regarding discrimination in the abovementioned acts.

A person who claims to have been discriminated, may file a complaint, whereupon the Ombud will render a decision. The Ombud also provides for general legal counselling and guidance regarding matters of discrimination. Decisions by the Ombud may be appealed to the Equality and Anti-discrimination Board of Appeals. The Board may impose moratorium fines to those who do not abide by the Boards decision.

Further questions from the ECSR

The Committee has asked for information on how the concept of indirect discrimination has been interpreted as well as information on how the concept of age discrimination has been interpreted.

In the preparatory works to the new WEA, Ot.prp. no. 49 (2004-2005) pg. 325, indirect discrimination is defined “as any apparently neutral provision, condition, praxis, act or omission which in fact leads to a person being in a poorer situation than others on the grounds mentioned in section 13-1”. Age discrimination is prohibited in working life according to the WEA, chapter 13. This means that all types of age discrimination of employees are illegal – direct discrimination, indirect discrimination and discrimination in the form of harassment, performed by colleagues, employers or clients. Age discrimination covers all types of ages, and does not only concern seniors. The provisions of the age discrimination ban applies to all aspects of employment, including advertising of posts, appointment, relocation and promotion, training and other forms of competence development, pay and working conditions and termination of employment. Discrimination that is necessary to the achievement of a just cause and not involves disproportionate intervention in relation to the person or persons so treated, is not in contravention of the prohibition against discrimination on the basis of age.

The age discrimination regulation came into force in May 2004, and as yet, Norway has had very few trials regarding age discrimination. The Norwegian age discrimination regulation however, represents an implementation of the EU-directive on discrimination in working life (2000/78/EC), and is to be interpreted accordingly. Case law from the Court of Justice of the European Communities regarding this subject will therefore be of interest also in Norwegian Labour law.

The Committee asks for confirmation that there are no upper limits to the amount of compensation that may be awarded in discrimination cases.

The WEA section 13-9 states that anyone who has been discriminated against in breach of the regulations in chapter 13, may demand compensation without regard to the fault of the employer. This compensation shall be fixed at the amount the courts deems reasonable in view of the circumstances of the parties and other facts of the case.

The Committee has asked whether associations, organisations or other legal entities, which have, in accordance with the criteria laid down by national law, a legitimate interest in ensuring that equal treatment within the meaning of Article 1§2 of the Charter is respected, have the right to obtain a ruling that a prohibition of discrimination has been violated.

According to the Norwegian Civil Procedure Act, organisations, associations etc may have the right to obtain a ruling if the organisation concerned is considered to have a legal interest. Whether the organisation has such legal interest, must be decided in the concrete case based upon for instance number of members and the objective of the organisation.

The Committee asks whether nationals of other States Parties to the Charter and to the Revised Charter not citizens of EEA/EU member states can be employed in the civil service, local government etc, where such positions are not concerned with national security, exercise of public authority to guarantee public order and security.

Certain positions have a demand for Norwegian citizenship. The Norwegian Constitution states that only Norwegian citizens may be appointed to senior official posts in the State. Positions which are regarded as senior official posts are i.e. The Prime Minister, other Members of the Council of State, the State Secretaries, senior officials employed in the diplomatic or consular service, the highest-ranking civil and ecclesiastical officials, commanders of regiments and other military formations, commandants of forts and officers commanding warships, judges, the Attorney-General, the public prosecutors, senior employees in the Ministries (i.e. Director Generals, Deputy Director Generals, Assistant Director Generals, Principal Officers) bishops, ambassadors, chief constables and certain other positions in the police force and county governors.

In the shipping sector there are also some positions which are reserved to nationals. Citizens of non EEA-countries may not service as captain of NOR flag ships. This also applies for Norwegian fishing vessels. On NIS flag ships citizens outside EEA may service as captain after exemption.

The Committee has also asked whether legislation against terrorism precludes persons from taking up certain employment.

Norway has no legislation which directly precludes persons from taking up certain employment as a precautionary measure against terrorism. However, certain positions demand for security clearance. Further on, a convicted person may lose the right to be employed in certain positions etc.

Question B

Regarding participation of the organisations concerning anti-discrimination, the Norwegian labour organisations and employers' organisations participate actively in the on-going work against discrimination in working life, both through their own internal awareness-raising activities, and also as a participant and interlocutor in various anti-discrimination activities initiated by the Government. The Norwegian Anti-discrimination Ombud also has frequent meetings and close contact with the employers' and labour organisations in connection with the Ombud's awareness-raising activities.

Concerning education on anti-discrimination, human rights, anti-discrimination and equality among the sexes are important areas of learning in both primary and secondary education. This is for example evident in the subjects "Social Science" and "Christianity, Religion and Ethics Education" This educational effort for all pupils contributes to the acceptance of the policy of elimination of all discrimination in employment which may be based on sex, social or national origin, religion, race, colour or age, and contributes to the acceptance of promotion of effectively equal opportunities in seeking employment and in taking up an occupation.

Question C

The protection against discrimination which is stipulated in WEA chapter 13 also applies to discrimination on the basis of membership of a trade union, and reference is made to the account given above.

Question D - F

Reference is made to previous reports.

Question G

Prisoners are considered as employees when they carry out work in undertakings subject to the WEA. As a consequence, the WEA's provisions regarding occupational safety and health apply. According to The Execution of Sentences Act § 3, section three a convicted person has a duty to take an active part during the execution of a sentence and special criminal sanctions. The duty to take an active part may include work, service beneficial to the community, training, programmes or other measures that are likely to counteract new criminality. In the event of illness or disability the duty to take an active part may cease. According to The Execution of Sentence § 49 prisoners are, in so far it is practically possible, entitled to participate in work, training, programmes or other measures. The Correctional Services may not order persons remanded in custody to take part in such activities. They may, however, be ordered to help with necessary cleaning and other housework in prison.

Inmates can be required for private undertaking/enterprise both within and outside prison under supervision of prison officers. The leader of the prison has the authority to make deals with private undertaking/enterprise. Inmates can be required for public/state undertaking/enterprise both within and outside prison under supervision of prison officers/staff. The leader of the prison has the authority to make deals with public/state undertaking/enterprise. A prisoner may be obliged to perform a lot of different types of work, for instance making different things made of wood or metal material, cutting grass, trees, knitting, painting, making food, washing clothes etc.

According to Norwegian working standards, the conditions for the prisoners are acceptable. Before starting to use a machine, the prisoners get an introduction or education. Both education and the work are performed under supervision of special educated prison officers/staff. The legislation for security in ordinary working life/workers protection, in the society shall be followed inside prisons as well. The inmates get a salary, 51 NOK pr. day. In a prison there are many different kind of work a prisoner can be offered. The prison officers try to take into consideration the prisoners' wishes/desires.

Article 1 para. 3

Question A-D

We refer to our comments to article 9, 10 and 15 below.

Question E

The rights are established by law according to the Norwegian Social Insurance Act, the Act of Labour Market Measures, and an act concerning the Employment and Welfare Organisation.

Further questions from the ECSR

The Committee has requested information on:

- placement rate, i.e. the number of Aetat placements in relation to the number of reported vacancies
- the market share of the services, i.e. the number of placements as a share of total hirings in the labour market.

The Norwegian Labour and Welfare administration does not have statistics on placement rates. We publish, though, figures based on a form filled in by persons who exit from unemployment or vocational disability. The former unemployed or vocationally disabled write down his or her main activity the actual week. The activities are subdivided into these groups: Full time work, part time work, education, unemployed and other activities.

From January until November 2007 these are the average figures for persons who have just exited from unemployment:

- Full time work (>30hours): 56%
- Part time work: 17%
- Education: 6%
- Unemployment: 6%
- Other: 16%

For disabled persons:

- Full time work(>30hours): 34%
- Part time work: 13%
- Education: 3%
- Unemployment: 4%
- Long term disease: 16%
- Retirement due to disease or age: 14%
- Other: 13%

Article 1 para. 4

We refer to the comments to article 9, 10 and 15 below.

On the subject of equal access, we can report that a Norwegian official report with a proposal for a new Anti-Discrimination and Accessibility Act, NOU 2005:8, was in 2005 subject to a public hearing. The report proposes that the principle of universal design shall apply to all areas of society, including education. The report also proposes that non-compliance with the principle shall be regarded as discrimination. The government is at the present working on the new Anti-Discrimination and Accessibility Act. The act will according to plan be presented to the parliament in the turn of the year 2007/2008.

Article 7

Further information requested by the ECSR

Reference is made to conclusions 2006 where the Committee has reiterated its request for an estimate of the number of young persons working at night in the occupations concerned.

According to the National Bureau of Statistics, about 8,000 people between the age of 15 to 18 years work at night, and that about 4,000 of these are shop assistants. Approximately 3,000 work nights regularly. Regarded as night work is work between 9 p.m. and 11 p.m., cf. WEA 2005 section 11-3. Due to lack of statistics we are not able to give more precise information concerning the different occupations.

Article 9

Question A

Introduction

In 2006, a new Employment and Welfare Administration was established by merging the Public Employment Services, the National Insurance Services and the municipal social assistance services (EWA or NAV). 'One stop shop' services will be set up in all (431) municipalities and (19) counties to provide for co-ordinated services for the public with a staff amounted to 14-16 000 employees. Through the establishment of new, local Employment and welfare offices we enhance the basis for better coordination and interaction of the local public administrations, their services and benefits provided, and the enterprises and workplaces. The main aim is better connecting of job seekers and enterprises, and also more effective use of available resources and measures than today. Another aim is to further an administration that is better able to contribute to better inclusion, participation, welfare and social security among persons who have problems in relation to the labour market. (We recommend Report to the Storting No. 9 (2006-2007) Work, welfare and Inclusion for further overview of new outlines and strategies in the policy.)

The overall goals of the NAV-reform are (among others):

- more people into work and activity, less on economic benefits
- simpler services for the users, more adopted to their individual needs
- a cohesive and effective labour- and welfare administration

Within this new paradigm and frame of organisation, there has been worked out a complete new strategy of follow-up to be applied for all users who are to receive services from the new labour- and welfare administration.

This strategy applies to unemployed, job-seekers, disabled, immigrants, laid offs, off sick etc. We don't include schoolchildren and youth here, since the educational authorities in the counties are in charge of providing them with adequate information and guidance when it comes to future choices of education, and possible vocations as well. A big reform is these days also being carried out in the school-system, named "The Promotion of knowledge", including a new emphasis also of guidance as mentioned. An exception is however that NAV is to cooperate with follow-up-services in the county-educational administration, addressing particularly drop-outs from upper secondary school. This implies a special youth-guarantee for those below 20- and those 20-24 years as well. (relevant measures from NAV mostly are work-training combined with follow-up).

Guidance is an essential and vital main element in all follow-up of NAV-users aiming at clarifying user's needs of assistance, and to give assistance to get work. New roles and staff-positions in the new NAV therefore have been named "guiders".

The NAV-reform generates expectations from the world around that better guidance and follow-up should be provided, with better competence in front as well, than what was given in the previous administrations. NAV will meet users with a comprehensive diversity of needs. On the basis of a common model of follow-up, the different phases outlined in the model will be used according to individual needs aiming at work, activity or education.

The model consists of; "ordering" (bestilling), "mapping" (kartlegging), "work-potential-assessment" (arbeidsevne-/funksjonsevnevurdering), "plan" "accomplishing the plan" (gjennomføring), and "evaluation of completed measure" (evaluering), ref. model below. These phases are as mentioned, being dynamically applied either way. The division in phases is meant to ensure a systematically and targeted follow-up of the user. The dialogue /sequence of conversation, (also electronic,-) is the ground element in all interaction between NAV-guiders and users and in other words the ground element in all follow-up of users, containing information and guidance.

Error! Objects cannot be created from editing field codes.

As follows from above and also reported previous years, vocational and (after the reform) other addressed guidance provided from NAV is free of charge in Norway. NAV is run by public sector and a part of the public welfare system. There are freely established private companies in the market offering guidance and advices to people that might seek these services at a certain expenditure. It's not part of NAV/Directorate of Labour and welfare to keep overview of volume or costs of these companies, or to what extent these companies serves enterprises (Ref our comments to Art 9 in Conclusions 2006).

Concerning measures taken to supply all persons with adequate information on the choice of employment, we refer to the information above.

When it comes to measures taken to ensure a close link between vocational guidance and training on the one hand and employment on the other, we refer to article 10.

Measures in hand for improving the services is mentioned in our answer to question B below.

Concerning measures to assist disabled persons, all guidance-services are available for all groups of users needing assistance in relation to work, activity or education. When it comes to special measures to be carried out (training, work-placement etc) see Article 10.

Question B

Supplementary to the above descriptions of the new follow-up model we may add the ongoing work of further concretizing the model into a work plan for realization of the model, which outlines among others, methodological implications on how staff should practise a professional guidance involving users actively in their own processes towards their goals (the principle of user involvement).

To be able to accomplish goals in the labour- and welfare policy (se above) NAV is heavily depending on systematic cooperation with other crucial actors, like health, education and other public authorities and especially private and public enterprises/employers and their social partners. Several steps have been taken by the Directorate towards other ministries/policy areas after the reform, covering health, social, training and other means and measures to improve and offer comprehensive services, and to be offered rather parallel than sequently when needed. All together this aims at promoting occupational and social advancement for users outside labour market, being at risk of exclusion from working life and depending on public subsistence benefits.

Here we find it relevant in particular to point at cooperation with the educational system on both; national (policy-making) regional and local level (running training programs). Within the frames of measures provided by NAV also labour-market training courses are offered to users who need qualifications to better their position in the labour market. This may be a supplement to education which counties are in charge of providing (up to upper secondary level) and sometimes object to cooperation combining training at school and training in enterprises.

Particular arenas for cooperation at current are trial projects within career-guidance, training of basic skills and increased availability of recognition and validation of informal competence for NAV-users. Last spring an agreement between the government (Ministry of Labour and Social Inclusion) and the Norwegian Association of regional and local authorities aiming at enhancing the cooperation on regional and local level was signed, as to bring more users at a risk of exclusion into work or education (completing upper sec school). This provides the options for the regional authorities to systemize and improve the targeting of means and measures by combining and coordinating them and confirms plans of actions in regional agreements.

By combining competencies from NAV and regional educational authorities the aim is to improve career guidance in a life- long perspective addressing young people and adults in different phases of their working life (having to change, or wanting to change jobs). Many counties therefore have realized, or are planning to, establish career-guidance-centres, currently still being on trial and project level including labour market- and educational administrations, social partners and others in cooperating partnership.

Question C

Supplementary to the above given information, electronic services should be mentioned. www.nav.no is a central source of information, both for employers (registering vacant jobs) and for job-seekers who may register themselves in a self-register-system, open to employers. Further there is a self-register-system for job-seekers addressing the local office as to application for benefits, and others. To assist young people, special electronic programs for testing interests as to make choices for upper secondary education (“Veivalg”) and higher education (Academia), are available. www.nav.no also contains information of all services, measures, programs and all the types of benefits provided by NAV. This information applies to all groups of the population, inside and outside the labour market (including such as social security benefits, pensions, childcare benefits etc).

Question D

Reference is made to the Committees request for a clarification to which extent expenditure on ordinary labour market measures relates to guidance and, if necessary, what proportion of expenditure the latter represents. Vocational guidance services are part of different services provided by NAV and is not separated from other administrative expenditures. This also applies for the amount of staff.

When it comes to persons benefiting from guidance by age, sex and educational background, these are at current not separated from other services that may be provided. This however could be changed when the reform is completed and the tasks of the new NAV-offices have been settled in the new organisation.

Within the end of 2009 there will be a NAV-office in every 431 municipalities in Norway. This is now being implemented according to a time schedule (currently, 3 new merged offices are being established pr week)

Article 10

Article 10, para. 1

NAV (The Norwegian Labour and Welfare administration) is the public service which is responsible for vocational training of people who are registered as unemployed. Labour market measures are important to get unemployed people back to work. The provisions of labour market measures are regulated in “Regulation regarding labour market schemes”, laid down by the Ministry of Government Administration and Reform on 20 December 2001 pursuant to Act no. 76 of 10 December 2004 concerning labour market services (the Employment Act) § 12 and § 13 and Act no. 62 of 17 June 2005 relating to working environment, working hours and employment protection, etc. (Working Environment Act) § 20-2. Amended 25 Jan 2002 no. 99, 26 June 2002 no. 863, 20 Dec. 2002 no. 1797, 5 March 2004 no. 501, 2 Feb. 2005 no. 76, 10 Feb. 2005 no. 134, 12 Aug. 2005 no. 892 (authorising), 10 Oct 2005 no. 1194, 20 Dec. 2005 no. 1655.

In 2005 and 2006 the target groups who had a priority in participating in labour market measures are; persons who have been unemployed for more than 6 months, young people (under 20 years of age), immigrants and people who are occupationally handicapped. These priorities are given by the Ministry of Labour and Inclusion. Some labour market measures

are reserved by regulations for people who are occupationally handicapped. Target groups are also defined in the regulations regarding labour market measures.

For further descriptions of the available labour market measures for unemployed and occupationally handicapped job-seekers, reference is made to article 10 paragraph 3 and Article 15 paragraph 2.

The objectives of the labour market measures are to help to:

- Improve the participants competence and working ability
- Increase the participants chances of obtaining ordinary work
- Make available qualified labour
- Prevent and lessen the harmful effects of unemployment
- Prevent the exclusion of employees who are in danger of dropping out of working life

Article 10, para. 2

Question A – F

Reference is made to previous reports.

Access to apprenticeships is part of the educational system at the level of secondary education. Those aiming at becoming craftsmen/skilled labour, may finalize the theoretical as well as practical training within the secondary educational system. Skills are acquired both through training at school plants and/or with companies offering apprenticeships. The supply of apprenticeships from companies may vary from region to region and between various sectors. Financial incentives are available for companies offering apprenticeships.

The main model for vocational education and training is 2+2, but if wanted the whole period can be accomplished as an apprenticeship in an enterprise. Training establishments that provide training receive government's grants. 88 000 NOK per apprentice is given for one year of full-time training.

Article 10, para. 3

A more inclusive working life

The Norwegian Government and the major labour market partners (employers and workers organisations) signed the initial Agreement on a more inclusive working life (IW) in October 2001. The Agreement intends to create a more inclusive workplace for the benefit of the individual, the enterprise and society.

The specific objectives of the agreement are to:

- Reduce sick leave
- Secure employment for a far greater number of employees with impaired capacity
- Increase the average age of retirement from working life

An "IW enterprise" is an enterprise that has signed an agreement with NAV, and thereby committed itself to work for the fulfilment of the agreement within the enterprise.

The responsibilities of the employer in an IW Enterprise are to:

- Put IW on the enterprise’s agenda, and establish goals for the IW work in the enterprise
- Work systematically to improve the work environment
- Initiate a good and open dialogue at the workplace
- Develop good routines for following up sick-leave in cooperation with workers’ representatives
- Make necessary adjustments at work as far as possible when a worker becomes sick, or can no longer master his or her tasks at work
- Set up a follow-up plan for sick leave in cooperation with the employee

NAV has established one IW centre in each county. These centres assist each single IW enterprise through advice, guidance and various measures (see below). The local NAV offices and the National Insurance centre for technical aid are also part of the IW network.

In order to support IW activities, IW enterprises have access to special supportive measures from NAV. We have already mentioned the liaison from the IW Centre, who helps enterprises work more efficiently and goal-oriented towards a more inclusive workplace.

Other measures:

- Extended use of self-report (egenmelding) in case of sickness. This means the employee can report sick up to 8 calendar days. The upper limit is a total of 24 days within a 12 month period.
- The enterprise may initiate an ”active sick-leave”, without prior consent from NAV. Active sick leave should, however, be goal-oriented and is restricted to a limited period of time. Partial sick leave must be considered before an active sick leave.
- Occupational health services might receive a special remuneration for efforts in order to bring people on sick leave and/or people with a disability back to work
- IW enterprises can apply for economic support (Tilretteleggingstilskudd) in order to adjust the workplace to prevent sickness, bring a sick employee back to work, or to provide training for people with reduced functional capacity.

Labour market measures

Labour market measures are important to get the unemployed back to work. The budgetary allocations for labour market measures fluctuate according to the situation on the labour market (table below).

Number of participants in labour market measures

	2001	2002	2003	2004	2005	2006
Labour market courses (AMO) Number of participants for each year	28 382	25 196	38 854	46 829	42 021	30 977
Number of participants in ordinary labour market measures for each year	41 329	37 706	56 206	69 388	59 622	47 847

Number of occupationally handicapped job seekers in labour market measures for each year	79 598	82 225	91 014	98 202	97 143	95 620
--	--------	--------	--------	--------	--------	--------

In total allocations for ordinary labour market measures have sunk by approx. 30% from 2004 to 2006. This is related to the fact that the labour market has been improving throughout the period. The number of vacancies has increased considerably whilst the number of jobseekers has been decreasing sharply. A major part of ordinary labour market measures is constituted by labour market courses – 30 977 participants (row 1). The allocations for labour market measures for the occupationally handicapped have been stable, because its numbers have not decreased parallel to the decreasing level of unemployment. Amended regulations for access to rehabilitation grants led to an increase in the number of occupationally handicapped.

The main focus of target groups in Norway is directed towards groups at risk in the labour market; persons who have been unemployed for more than 6 months, young people (under 20 years of age), immigrants and people who are occupationally handicapped. These priorities are given by the Ministry of Labour and Inclusion.

Labour market courses

A major part of ordinary labour market measures is constituted by labour market courses.

Labour market courses (or labour market training – LMT) are considered to be the most important measure as to qualify and update competence among unemployed, to strengthen their possibilities of getting new jobs. The aim of LMT is to facilitate the labour market integration through vocational training adapted to the needs of employers.

Labour market training (LMT) shall help the vocationally handicapped and ordinary job seekers to be qualified for vacant jobs and prevent the exclusion of employees who are in danger of dropping out of working life. Training is to be given as a labour market course organised in collaboration with the Norwegian Labour and Welfare service (NAV) for NAVs user groups.

The duration of the scheme is to be adapted to the participant's individual needs depending on his/her opportunities in the labour market. Labour market courses have a maximum duration of up to ten months.

Work experience in the open labour market

Work experience in ordinary enterprises is to provide adapted job training and follow-up. It is aimed at helping to try out the individual's opportunities in the labour market and to improve the participants' chances of finding work or starting an education. A plan must be prepared for each individual participant.

Work experience in an ordinary enterprise may be offered to ordinary job-seekers that need adapted job training and follow-up.

The duration of this scheme is to be adapted to suit a participant's individual needs conditional on his/her opportunities in the labour market, within the maximum limit of ten months. The

participants in the scheme are not to be employed by the scheme arranger and are thus not to be regarded as employees (subject to the exceptions).

Wage subsidies to employers

Wage subsidies are intended to help vulnerable groups of job seekers to be employed on ordinary wage and employment conditions. This is achieved by providing a time-limited wage subsidy to employers that employ persons in the target group on ordinary wage and employment conditions with the aim of establishing a permanent employment relationship. Participants in the schemes are to carry out ordinary tasks in a public-sector or private-sector company.

Participants on labour market measures receive financial compensation paid by NAV in accordance with the rules and regulations for each programme. The subsistence benefits are meant to help defray the living costs of the participants in the scheme. The benefits are also to compensate, in whole or in part, for specific expenses in connection with qualifying and job-training. An ordinary wage subsidy equals 50 per cent of wages for 12 months.

Temporary employment schemes

Temporary employment schemes are intended to provide work experience to those who are in danger of being permanently excluded from working life or who have problems becoming established in the labour market. Other labour market schemes must have been considered before a person can be admitted to an employment scheme. The scheme may be provided as an employment scheme for the long-term unemployed or the vocationally handicapped or as a temporary job.

Employment schemes for the long-term unemployed are to give the long-term unemployed work experience and training. The employer is responsible for the participant receiving suitable training during the duration of the scheme. The scope of the training must equal 15 per cent of the scheme's duration. The training plan must be approved by NAV's local office.

Temporary jobs are to give the unemployed work experience while also giving an employee a leave of absence to take higher or further education and thus help to increase the level of expertise in the workplace.

Local authority, county authority and state-owned companies can implement employment schemes for the long-term unemployed and the vocationally handicapped provided the public-sector owns more than 50 per cent of the enterprise, or covers more than 50 per cent of the enterprise's operating expenses. The scheme can also be implemented in organisations run for the public good or non-profit organisations.

In-house training

The subsidy for in-house training is to help to;

- prevent employees from being excluded from working life during major reorganisations,
- maintain and improve the competence of employees in companies who have problems reorganising or structuring, which are particularly serious for the labour market, or
- recruit employees to vacant positions that are difficult to fill.

In-house training must include theory, possibly combined with practical training. The target group of this measure is employees, preferably in small and medium-sized companies, and

unemployed people. The purpose of the measure is to help businesses with restructuring and new recruitment. Subsidies may be granted to companies that:

- a) provide training to their own employees,
- b) hire persons who are registered as unemployed by NAV and who must undergo a training programme in order to take up vacant jobs in the enterprise that have been difficult to fill.

The total training period must, in general, not exceed 13 weeks.

Different employment services

In Norway all labour market measures are purchased from and implemented by private or non-profit enterprises/organisations in close cooperation with NAV. There are a lot of different arrangers of labour market schemes in the Norwegian market. We also refer to our account above and below when it comes to vocational training, guidance and rehabilitation and concerning disabled persons.

Measures to assist adult women workers

Several new rules have been incorporated into the WEA which may help to strengthen the position of women on the labour market. One of the goals is to reduce underemployment among part-time workers. As a means of reducing under-employment, part-time workers now have a statutory right to increase their working hours before employers appoint new staff. The New Labour and Welfare Service (NAV), which is responsible for the official employment agencies, is also required to assist the partially unemployed on a par with the fully unemployed. Part-time workers who wish to work more and who register as partially unemployed with NAV have access to NAV's services.

The WEA also includes a new chapter on equal treatment in working life. The main provision in this chapter is a prohibition against discrimination on the grounds of gender, etc. A more detailed account for this can be found under our answer to article 20.

Further questions from the ECSR

When it comes to the Committee's request for the precise figures of the percentage of the participants in labour market measures out of the total number of unemployed, reference is made to the statistics given above.

The Committee has also asked how the financial burden is shared among public bodies, employers and households.

Participants on labour market measures receive financial compensation paid by NAV in accordance with the rules and regulations for each programme. The subsistence benefits are to help defray the living costs of the participants in the scheme. The benefits are also to compensate, in whole or in part, for specific expenses in connection with qualifying and job-training. Participants are entitled to these benefits for the duration of the measure. Participants in labour market measures for the occupationally disabled receive rehabilitation allowance and financial compensation for expenses regarding daily travelling, boarding, child care and supplement to cover school materials etc if they are studying. Some participants receive subsistence benefits from the municipal social welfare in combination with the benefits described above.

For some of the measures, like wage subsidies to employers, the subsidy do not cover the whole wage of the employee, and thus the employer pays a percentage of the salary.

The Committee has also asked for information on the application on educational leave.

According to the WEA section 12-11, an employee who has worked for at least three years and who has worked for the same employer for the last two years shall be entitled to full or partial leave for up to three years in order to attend organized courses of education. This however, may not be demanded when it would constitute an obstacle to the employer's responsible planning of operations and personnel assignments. Disputes concerning educational leave shall be resolved by a dispute resolution board, called the Dispute Resolution Board. The Dispute Resolution Board has since the establishment in 2006 resolved three disputes on this matter. Before the establishment of The Dispute Resolution Board, there was a similar committee, which in 2005 resolved 28 disputes similar matters.

We guess that in most cases the employer and the employee resolve this matter themselves, and therefore we unfortunately do not have information concerning the application on educational leave.

Article 10, para. 4

In Norway a person is considered long-term unemployed when he/she has been unemployed for over 6 months. Long-term unemployed have a priority regarding participating in labour market measures. Long-term unemployed can participate in different labour market measures; wage subsidies to employers, labour market courses, work experience in the open labour market, temporary employment schemes and in-house training. These measures are described in this report, article 10 paragraph 3.

In 2005 and 2006 the target groups which have a priority in participating in labour market measures are; persons who have been unemployed for more than 6 months, young people (under 20 years of age), immigrants and people who are occupationally handicapped. These priorities are given by the government.

Few studies have recently been done in Norway about the effects of labour market measures on the activation rate long-term unemployed. There is one recent study:

Ines Hardoy, Knut Røed, Hege Torp, and Thao Zhang "Ungdomsgarantien for 20 – 24 åringer: Har den satt spor?" ISF rapport 2006:004.

This is a study of the strengthened effort aimed to help long-termed unemployed youth to get work or further education. The study shows that labour market measures had positive effects on the youths work possibilities, but no impact on the possibility to take further education.

It is the person's individual needs and abilities, and the demands in the open labour market, which is the basis of participation in labour market measures. The measures are thus adapted to the individual needs of the participant. At the same time it is experienced that some target groups face similar challenges regarding obtaining a suitable job. Thus some counties/local offices choose to purchase special labour market courses for special target groups. An example is special labour market courses, with elements of training in the Norwegian language, arranged for immigrants.

All labour market measures are purchased from and implemented by private or non-profit enterprises/organisations in close cooperation with the employment and welfare service. The intermediate and local level act as purchasers of the labour market measures inside the counties allotted budgets. On this background it is difficult to say how many institutions/agencies/companies NAV purchases labour market measures from.

In accordance to regulations regarding labour market measures, participants in measures undertake to end their participation in a scheme if they are offered suitable work or an alternative labour market scheme.

Article 10, para. 5

Question A

Vocational training is mainly free of charge. In respect of vocational training through labour market measures for unemployed people and occupationally handicapped people, charges or fees as daily travelling, boarding, childcare and school materials are to be paid by the participants in the measures. NAV compensate most of these expenses according to annually revised support levels.

Question B

General description of the student financial support system

Norwegian students get public financial support through the State Educational Loan Fund. The State Educational Loan Fund provides grants and loans to pupils in upper secondary education and to students in higher education. The support is meant to cover living expenses and the costs of studying, and the objective is to give everyone in Norway equal right to education. Their website is <http://www.lanekassen.no>.

Students may receive basic support of NOK 8 140 per month as a loan (for up to ten months a year, NOK 81 400 a year): 40 % of this amount can be given as educational grant, but the grant is dependent upon completion of exams (This is valid from the academic year 2004-2005.).

The grant also depends on the students' income and assets. Students living with their parents may also receive the total amount of NOK 8 140 per month, but even though they may complete their exams as scheduled, they do not obtain the 40 % educational grant. Students studying far away from their domicile might receive financial aid to cover travel expenses up to a maximum of NOK 7 000 per year. The travel aid is supposed to cover three return trips from the educational institution to the domicile and depends on the distance. Students are supposed to cover NOK 2 010 themselves, and travel aid is given to students up to the age of 25. For students studying abroad, travel aid is also given for two journeys from the home country's border to the educational institutions abroad and is divided between a grant (70 percent) and a loan (30 percent). They must cover an amount of NOK 2 010 per year themselves.

An additional loan may be given to students who attend private educational institutions

with tuition fees. Childcare grant is given to students who support children under the age of 16. This grant is dependent upon the spouse's income. Childcare grant is means-tested in regard to the student's income and assets.

Students in higher education may receive financial support up to eight years provided that they do not fall more than one year behind on their scheduled academic progression.

Students that completed their higher education in 2003, had an average student loan amounting to about NOK 170 000. In order to receive financial support, the applicants must be enrolled at an officially approved educational institutions, and the course(s) must be approved for support. Support might be given to both full-time students and part-time students (at least 50 % of full-time studies).

All Norwegian students have a statutory right to financial aid through the State Educational Loan Fund. During the academic year of 2003-2004, 79 percent of the students eligible for financial support applied for support through the State Educational Loan Fund.

Exceptions

In accordance with special rules, the State Educational Loan Fund can give financial support to

- Pupils and students from any country if they:
 - are under 19 years old and arrived in Norway with their parents. The parents must live and work in Norway
 - are married to a Norwegian citizens and have lived in Norway for at least two years or
 - have been employed in Norway continuously for at least two years just before the beginning of the academic year and have paid taxes to Norway during this period,
 - have studied in Norway for the last three years with satisfactory academic progression without receiving student support from the State Educational Loan Fund
- Pupils and students from EEA countries if they:
 - have accrued social benefits in Norway due to work, see regulation (EEC) No1612168 of the Council of 15 October 1968 on the freedom of movement for workers within the Community
 - are married to or are the child of a citizen of the EEA who is entitled to social benefits in Norway
- Students from Central and Eastern Europe, Central Asia and from developing countries (Quota Programmes)
 - Each year Norwegian universities and colleges admit a certain number of students from Central and Eastern Europe and Central Asia, from developing countries, and from certain Palestinian universities under special quota programmes. Normally, the programmes include courses at master's or

doctorate level, and certain professional studies. Two years of prior higher education are required to be admitted to such a programme, but exemptions from this requirement may be made for certain programmes. The teaching language is either Norwegian or English.

- According to special rules, financial support can also be given to political refugees and immigrants.

Financial support from NAV etc.

Participants on labour market measures receive financial compensation paid by NAV in accordance with the rules and regulations for each programme. The subsistence benefits are meant to help defraying the living costs of the participants in the scheme. The benefits are also to compensate, in whole or in part, for specific expenses in connection with qualifying and job-training.

Participants in labour market training programmes and work experience receive subsistence benefits by NAV. This benefit is a fixed support which includes compensation for expenses regarding daily travelling, boarding and childcare. Participants with a right to obtain unemployment benefits may choose whether to receive their unemployment benefit or to receive the fixed support.

Participants in wage subsidies to employers receive wages from the employer in accordance with the agreements that apply to the enterprise. A wage subsidy is to be given to the employer in the form of a percentage wage refund for a limited part of the employment period.

Participants in temporary employment schemes receive a normal salary from their employer during the period of the program. NAV pays a fixed grant to the employer.

Participants in in-company training receive their ordinary salary paid by their employer. During the training period the company may be granted up to 50% of the wage costs, and in addition the cost for training will be refunded according to fixed rates.

Participants in labour market measures for vocationally disabled receive rehabilitation allowance and financial compensation for expenses regarding daily travelling, boarding and child care.

People who have obtained a valid residence permit and work permit from the Norwegian government, are entitled to equal treatment as Norwegian citizens regarding possibilities to participate in labour market programmes. This is also applicable for nationals of other contracting parties.

Question C

Training on the request of an employer will normally be counted as ordinary working hours if the training is held during the ordinary working time. In some cases, the training may be held during what normally is considered as the employees' off-duty time. Whether this is considered as working time in connection to salary etc, is not regulated in the WEA. In some cases this is regulated in the employment contracts or in the wage agreements.

Question D

NAV cooperates with the local Social Insurance offices, Municipal social welfare offices and community follow-up services, to ensure that young job-seekers are subject to appropriate services.

People younger than 20 years of age who do not have a job or attend school, are entitled to receive labour market measures. NAV can offer information, guidance and counselling to find a job or grant access to a labour market measure. Young people as from the age of 19 can join labour market measures such as job clubs, in which the purpose is to help job seekers to find a job and other labour market courses. Another measure which is widely applied for young job-seekers who do not attend have a job or attend school, from the age of 16, is work experience in ordinary enterprises. The purpose of this measure is to try out the individual's opportunities in the labour market and to improve the participants' chances of finding work or starting an education. A plan must be prepared for each individual participant.

The general endeavour of NAV is to motivate young people to continue education.

Question E

The sub-paragraphs a and b of Article 10 paragraph 4 are applicable to the great majority of the persons concerned.

Article 15

Article 15 para. 1

Question A

The government has an understanding of the "disability concept" as something that "occurs when a gap exists between the capabilities of the individual and the functional requirements of his or her surroundings" (Government White Paper 40 (2002-2003)). As a consequence people with reduced functional abilities do not necessarily become disabled. Such an approach is in accordance with the ICF.

The number of persons with disabilities registered with the Employment Service was 89 500 on average in 2006, a decrease by 3 800 from 2005.

Question B and C

Persons with disabilities are primarily educated within the general school system.

When a person meets the requirements for undergoing vocational rehabilitation, the local Public Employment Service will take the needs of the labour market as well as the wishes and abilities of the person in question into account in their counselling and search for solutions. It is, however, difficult to see how the needs of the labour market affect the chosen methods of vocational rehabilitation to any considerable extent.

Individuals undergoing vocational rehabilitation can undertake **formal education** while they receive a rehabilitation benefit. In addition, the Norwegian Employment Service may provide

financial support to cover school fees etc. The regulations concerning this scheme have been modified in several ways over the past years. In January 2004, the age limit for participating in ordinary education under the vocational rehabilitation scheme was raised from 22 to 26 years. The rationale behind raising the age limit was the principle that youths in this age group are normally undergoing education, and they should not get their education financed by the Employment Service. There are, however, exceptions to the age limit for persons with special needs for being qualified through formal education. This may apply when a young person is in a particularly different education situation from other youths, and this is due to illness, injury or defect.

Occupational disabled job seekers receive the same offers from NAV as other jobseekers. The service rendered is when taking into account the possibilities and demands of the labour market, based on an individual assessment of the job-seekers wishes, qualification and opportunities.

The type and degree of occupational disability (which has a limited duration pending future clarification on working capability/needs to be granted the status of disability pensioner) decides what kind of measures that may be offered. Some labour market measures are reserved occupationally disabled persons. If vocational rehabilitation is appropriate, an individual action plan is set up, and the job-seeker is followed up during the rehabilitation period.

Occupationally disabled people job-seekers with special and complex needs, may also be referred to an Employment counselling office by the local NAV-office. These units are located in all counties and are staffed by rehabilitation specialists, including psychologists. In addition, The Centre for Vocational rehabilitation in Oslo has special offers for job-seekers having impaired sight or hearing, or who have suffered head injuries.

In Norway all labour market measures are purchased from and implemented by private or non-profit enterprises/organisations in close cooperation with the employment and welfare service. There are a lot of different arrangers of labour market schemes in the Norwegian market.

Labour market measures are purchased from:

- Private enterprises which provide for example labour market training courses. This is done according to the rules of public tenders.
- Public and private schools
- Labour market enterprises and Employment cooperatives which provides e.g. work experience in sheltered enterprises, permanently adapted work, supported employment, clarification for occupationally handicapped people and increased actual and formal competence through adapted training and work training. Only people who are occupationally handicapped can participate in these schemes. The enterprises/cooperatives receive a subsidy from the employment and welfare service depending on the numbers of participant in the scheme. Any profit must remain in the enterprise and benefit the rehabilitation work and the participants.
- Employers in the open labour market which provides e.g.. employment through wage subsidies and work experience for unemployed people. The employers receive a subsidy from the employment and welfare service for a limited period of time.

Participants in labour market measures for occupationally disabled receive rehabilitation allowance or subsistence benefits and financial compensation for expenses such as daily travelling, boarding and child care from NAV.

Vocational rehabilitation is granted to insured persons between 19 and 67 years, whose ability to obtain employment income or possibility to choose occupation is permanently reduced by at least 50 per cent due to illness, injury or defect. Furthermore, it is a condition that it is considered necessary that the person undergoes vocational measures before he/she can get or keep suitable work.

The calculation of rehabilitation allowance is based on pensionable income. The calculation is based on the highest of the income of the preceding calendar year or the average over the three preceding calendar years before the working capacity was reduced at least 50 per cent. The benefit rate per year is 66 per cent of the calculation basis and is paid five days a week. A person with low, or no, pensionable income is guaranteed a minimal yearly benefit of 1,8 of the basic amount (NOK 113 206).

Persons undergoing education as a method of vocational rehabilitation may be provided financial support to cover school fees etc.

In addition, technical aids, interpretation services, guide dogs etc. may be supplied if deemed necessary and appropriate for the employment of his/her ability to manage the situation of daily life, or undergo vocational measures.

Question D

In 2006, 95,620 occupationally handicapped people participated in labour market measures.

Vocationally disabled jobseekers participate, in cooperation with NAV, in an information and guidance process to elaborate an individual plan of action. In this process the qualifications and vocational opportunities of the jobseekers are considered before the jobseekers and the staffs of NAV agree about the choice of measures to be granted.

Vocational rehabilitation covers a diversity of issues. It involves stages of information, guidance and gaining qualifications for the job applicant, in addition to arranging work placement. The trainers and advisers are responsible for arranging the rehabilitation and ensuring the qualification process, in such a way that the trainee-participants are enabled to have a positive experience of their work situation. This means that trainers and advisers must take into account the capabilities of the individual as well as the changing interaction between the job seeker, the rehabilitation measures and the labour market. To present realistic and effective offers of rehabilitation requires both good organisation as well as specific training competence.

There is also a specific labour market scheme which provides clarification, motivation, counselling, mapping and trying out the participant's work-capacity in order to clarify needs of measures which can contribute to getting a job. The clarification programmes in general takes place in sheltered workshops.

In Norway all labour market measures are purchased from and implemented by private or non-profit enterprises/organisations in close cooperation with NAV. As already informed, there are a lot of different arrangers of labour market schemes in the Norwegian market.

Concerning subparagraphs c and d, reference is made to the information given about NAV in several other paragraphs above.

Further questions asked by the ECSR

The Committee has asked for information on the number of disabled children.

The Norwegian National Census Bureau does not have any official statistics or survey that shows the prevalence of disability in general among children in the age group 0 to 18 years. However, based on research, as well as on aggregate figures on how many children with disabilities receive specific measures, services and benefits, an unofficial estimation done in 2005 showed that 2.7 per cent (approx. 33.000 children) out of all children up to 18 years (approx. 1.300.000) have been registered with some type of disability.

The Committee has asked for more information on the proposed act for non-discrimination. With reference to Norway's fourth report of 12 June 2006 under Article 15 paragraph 3 the Government is currently following up the proposal by the Committee (hereinafter referred to as "the Committee") in May 2005 on an antidiscrimination and Accessibility Act. Due to further detailed statement the Government will submit its proposal to the Parliament in 2007/2008.

The proposal of the Committee consists of two parts; provisions concerning prohibition to discriminate persons with disabilities and provisions regarding general accommodation/universal design and individual accommodation. According to the proposal, the act applies in all areas of society, except for family life and personal relationships, and include i.e. housing, labour market and cultural and leisure activities. The Committee proposes to extent the prohibition to discriminate persons with disability in the housing legislation.

The Committee has proposed a time limit for universal design of new and existing buildings, constructions and developed outdoor areas intended for the use of the general public. The time limit for new buildings etc. to be universal designed is 1 January 2009, whilst for existing buildings etc. to be universal designed is 1 January 2019. These proposals are under consideration in connection with the amendments to the Planning and Building Act. The minority of the Committee proposed provisions regarding deadlines for universal design of transport, means of transport and Information, Communication and Telecommunication (ICT), both intended for the use of the general Public, within the same deadlines as for buildings. The Government has engaged the Norwegian University of Science and Technology ("hereinafter referred to as "the NUST") to follow up the minority of the Committee's proposals regarding ICT. According to the NUST's definition cash machines and ticket machines will be included in the definition of the ICT. The proposals from the minority of the Committee and the fact findings of the NUST have been elucidated by the Government in July 2007. Based on the minority of the Committee's proposals and the findings of the NUST, the Government sent an additional proposal to public hearing. The Government is currently working on the outcome of the public hearing.

According to the proposal, the new Act will be enforced by the Equality and Anti-Discrimination Ombud (hereinafter referred to as "the Ombud") and the Equality and Anti-Discrimination Tribunal (hereinafter referred to as "the Tribunal"), and these bodies will have both proactive and supervisory functions. The Ombud and the Tribunal will have powers to

make decisions on individual cases concerning discrimination, and the Tribunal will be empowered to order an injunction to stop or to remedy or other measures that are necessary to ensure that discrimination cease and to prevent their repetition. If an order is not complied with, the Tribunal may also impose a coercive fine until the condition in question has been rectified. In this way, a simple, easily accessible system for complaints will be established, to which persons who consider themselves discriminated against.

The proposed Act by the Committee has also provisions regarding a shared burden of proof, meaning if there are circumstances that give reason to believe that there has been a breach of any of the certain provisions under the Act, such a breach shall be assumed to have taken place unless the person responsible for the act, omission or remark process evidence showing that no such breach has taken place.

Due process requires that compensation must be brought before the courts. The Committee has therefore proposed that the right to claim compensatory damages and remedy for non-economic loss must be brought before the courts.

In its conclusions 2007, the Committee considers that the situation is not in conformity with the Revised Charter on the ground that during the reference period, there was no legislation prohibiting discrimination on the grounds of disability. As stated in our previous reports, the Government started in 2001 a comprehensive revision of the existing housing acts, in order to include i.e. articles on discrimination in housing. In the revised acts discrimination in housing is explicitly prohibited. It is illegal to include any restriction on tenure or ownership due to religion, skin color, language skills, national or ethnic origin, homophile predilection, way of living or orientation, as reported in our last report. The amendments include both private and public owners as well as the executive committees in joint ownerships or in housing co-operatives. These acts were put into force 22 May 2003.

The Committee has also asked whether the legislative proposal is the outcome of the White Paper on “Dismantling disabling barriers: Strategies, aims and measures in the policy for people with impairments” or if other implementing measures are foreseen and how the various measures are coordinated.

The Committee has based their proposals on the White Paper on “Dismantling disabling barrier: Strategies, aims and measures in the policy for people with impairments” (White paper no. 40 (2002-2003)).

The Government refers to the White Paper on “Dismantling disabling barrier: Strategies, aims and measures in the policy for people with impairments” (White paper no. 40 (2002-2003)) regarding the implementing measures enshrined in it. The Government is currently assessing the Committee’s proposal. Moreover, the Government is currently working with the continuation of a new action plan regarding accessibility for persons with disabilities. The current action plan on accessibility for persons with disabilities is to be end by 2009.

The Committee of State Secretaries and the Ministry of Labour and Social Inclusion are coordinating the various measures described in the White Paper.

The Committee has also recalled it regards vocational training as encompassing all types of higher education including university education. It considers that this interpretation applies *mutatis mutandis* to Article 15. The Committee have asked to be kept informed about the

improvements made by higher education institutions in order to implement the action plan for the disabled and higher education (1998-2002) and whether any follow-up is foreseen.

As a follow up to the action plan for the disabled and higher education (1998-2002), the higher education institutions have each been given the responsibility to draw up action plan-documents to ensure a satisfactory working environment for the disabled at the local level.

Article 15 para. 2

Question A

Over the last few years, Norway has actuated several measures to promote employment and integration of persons with disabilities. Many of these measures are connected with the welfare system and regulations on non-discrimination. In the following we will give an account for these arrangements both in connection with the concrete questions and in general.

Adaptation for employees with reduced capacity for work

In accordance with the WEA §§4-1 and 4-6, employers are responsible for ensuring that the workplace is adapted for disabled employees. Nevertheless, support can be provided by the national health insurance scheme to allow disabled employees to keep suitable jobs. If support is provided to place disabled people in a position to acquire suitable jobs, this is often part of vocational rehabilitation. In this instance, a rehabilitation action plan must exist which has been prepared by the rehabilitation applicant and the local labour office. Support can be given for assistive devices that disabled people need for education at college or university level, even if the education is not part of vocational rehabilitation. Support can also be given for assistive devices for self-employment if this is necessary for the disabled person in question to be able to continue to trade.

Preferably, shall the employee be given the opportunity to continue his normal work, possibly after special adaptation of the work, working hours, alteration of work equipment, rehabilitation or the like.

The Labour Inspection Authority may issue orders if the employer fails to make the necessary adaptations pursuant to this provision.

The employers' duty for adaptation is wide but not absolutely. An overall evaluation of the undertaking's character, size and economy shall be weighed against the consideration from the employee's condition. The duty for adaptation does not include creating a new position, but to offer the employee a suitable position if one becomes vacant.

The WEA chapter 15 governs the termination of the employment relationship. An employee who is wholly or partly absent from work owing to accident or illness may not be dismissed for that reason during the first 12 months after becoming unable to work, cf. § 15-8.

Labour market measures

Labour market measures to encourage employment for occupationally handicapped jobseekers on the open labour market are an important part of active labour market policies in Norway. There are several labour market measures designed for this target group aimed at reintegration in the open labour market.

Wage subsidies to employers

Wage subsidies are intended to help vulnerable groups of job seekers to be employed on ordinary wage and employment conditions. This is achieved by providing a time-limited wage subsidy to employers that employ persons in the target group on ordinary wage and employment conditions with the aim of establishing a permanent employment relationship. Participants in the schemes are to carry out ordinary tasks in a public-sector or private-sector company.

Participants on labour market measures receive financial compensation paid by NAV in accordance with the rules and regulations for each programme. The benefits are also to compensate, in whole or in part, for specific expenses in connection with qualifying and job-training.

An ordinary wage subsidy equals 50 per cent of wages for 12 months. In addition, established 01.01.2006, occupationally handicapped with a variable and reduced work-capacity can participate in a wage subsidy where the subsidy equals 60 per cent of wages for 36 months.

Work experience in the open labour market

Work experience in ordinary enterprises is to provide adapted job training and follow-up. It is aimed at helping to try out the individual's opportunities in the labour market and to improve the participants' chances of finding work or starting an education. A plan must be prepared for each individual participant.

Work experience in an ordinary enterprise may be offered to occupationally disabled who need adapted job training and follow-up.

The duration of this scheme is to be adapted to suit a participant's individual needs conditional on his/her opportunities in the labour market, within the maximum limit of three years. The participants in the scheme are not to be employed by the scheme arranger and are thus not to be regarded as employees (subject to the exceptions).

Temporary employment measures

Temporary employment schemes are intended to provide work experience to those who are in danger of being permanently excluded from working life or who have problems becoming established in the labour market. Other labour market schemes must have been considered before a person can be admitted to an employment scheme. The scheme may be provided as an employment scheme for the long-term unemployed or the vocationally handicapped or as a temporary job.

Employment schemes for the long-term unemployed are to give the long-term unemployed work experience and training. The employer is responsible for the participant receiving suitable training during the duration of the scheme. The scope of the training must equal 15 per cent of the scheme's duration. The training plan must be approved by NAV's local office.

Temporary jobs are to give the unemployed work experience while also giving an employee a leave of absence to take higher or further education and thus help to increase the level of expertise in the workplace.

Local authority, county authority and state-owned companies can implement employment schemes for the long-term unemployed and the vocationally handicapped provided the public-

sector owns more than 50 per cent of the enterprise, or covers more than 50 per cent of the enterprise's operating expenses. The scheme can also be implemented in organisations run for the public good or non-profit organisations.

Supported employment

Supported employment is aimed at providing suitable and necessary assistance with the objective of integrating the occupationally disabled into normal working life. Assistance may be given in the form of charting the person's competence, assistance in finding a suitable workplace, the adaptation of the workplace, training in work-related and social skills as well as advice and guidance to the employer/scheme arranger.

Vocationally handicapped people who have a need of adaptation of the workplace and follow-up can participate in supported employment.

Supported employment can be used in connection with vocational rehabilitation in ordinary enterprises, including in combination with other labour market schemes if suitable. Supported employment can also be used in connection with the transition from school or the serving of a sentence in an institution to work. Participants receive wages, rehabilitation benefits or subsistence benefits.

The duration of the scheme shall in each case be adapted to the participant's individual needs based on his/her opportunities in the labour market. The maximum duration is three years. If the scheme is used in the case of a transition from school or serving of a sentence in an institution, the duration may be extended by up to six months.

Other measures

Other measures as Job preparation measures (often in sheltered workshops), Labour Market training and Education are to strengthen the possibilities to obtain a job in the ordinary labour market.

A more inclusive working life

The Agreement on a more inclusive working life (IW), which has been accounted for under article 10 para 3, is also a measure to promote employment and integration of disabled persons

Over the last years, the primary goal for the Norwegian Government has been to prefer and promote work and activity instead of leaving people with disabilities to a situation where they passively receive benefits. The most important and recent tools in the struggle to obtain this are:

The IW agreement aims at reducing absence due to sickness by 20%, retain and recruit people with a reduced work capacity and to retain and recruit people with disabilities in work. As the overall percentage of people with disabilities who earn an income from work has been relatively stable over the last years (45%), it seems like the positive effects of the IW agreement are inconclusive at the national level. However, among young people between 16 – 25 years of age the rate of employment is the same as with non-disabled in the same age group. Furthermore, in some individual, larger enterprises the experiences are reported to be good, both in terms of a raised awareness of problems and solutions concerning these issues. To provide a stronger incentive to increase the rate of employment among people with

disabilities the Ministry for Administration and Reform has set the target that five per cent of all new staff should be disabled.

As part of the IW agreement the Government has as of beginning of 2007 initiated a pilot program in five regions called “Adaptation Guarantee”, which means that individuals and enterprises will receive a special guarantee issued by the local public employment and welfare office that ensures that the necessary technical aid and support, need of adaptation and follow-up will be provided within due time.

To provide a broader picture of what is going on in Norway at the moment, it is important to again mention that the employment and welfare sectors are currently undergoing a major reorganisation (NAV, ref. article 9). At the national level the goal is a coordinated approach and implementation of policies aiming at ensuring the rights of persons with disabilities access to employment and other work-related measures, as well for other people in need of assistance for seeking work. NAV is a new, public service reform born on July 1. 2006, which will be implemented over a period of four years. There is of course, no way of knowing the effects yet. However, research clearly indicates that to ensure simplification of administration, better co-ordination of a multiple set of measures, as well as better use of existing resources, is a necessary reform to remove the barriers preventing people with disabilities from participating according to their potentials in the job market.

Pending reforms:

To ensure that the NAV is equipped with the necessary tools for an improved inclusion in working life for persons of working age who have problems gaining a foothold in the labour market, or who are in risk of dropping out of the labour market, the Norwegian Government has in the spring of 2007 presented a white paper on “Welfare, Work and Inclusion” (St. meld no. 9 – 2006 – 2007). This white paper primarily relates to the policy instruments managed by the new, merged employment and welfare administration, but also relevant instruments in the education and health sectors. Together with the change in how the labour and welfare services are organised, the proposals presented in this Report constitute a comprehensive reform in labour and social welfare policy. Through the changes entailed by the proposed individual measures and schemes, the aim is to change the approach, moving away from a focus based on the individual's limitations to a focus on the individual's abilities and opportunities. The main strategies outlined in this white paper are:

- Better work-oriented measures and services to lower the threshold for gaining access to employment and raising the threshold for exclusion from working life, including adapted measures for persons with functional disabilities and immigrants.
- More flexible and better coordinated use of policy measures based on the individual's situation and need for help to promote employment.
- A new, merged temporary income security benefit within the public National Insurance Scheme (NIS). This will replace the present medical and vocational rehabilitation benefits and invalidity benefits of limited duration within the NIS. The transition shall also contribute to diverting resources away from the mere administration of benefit payments and towards active measures and follow-up.
- A new qualification program with associated qualification benefits for persons with significantly reduced working and earning ability, and with no or very limited subsistence benefits in the National Insurance Scheme.

- Welfare contracts used to implement consistent and systematic principles for defining and following up mutual expectations, requirements and obligations in the interaction between the individual and the public administration.

Protection against discrimination

As mentioned under article 1 para 2, WEA section 13-1, which prohibits direct and indirect discrimination, also applies to discrimination on the basis of disability. Harassment and instruction to discriminate persons for the same reason are regarded as discrimination. The provisions apply to all aspects of employment, i.e. advertising, appointment, promotion and termination.

Section 13-5 states that the employer, as far as possible, shall implement necessary measures to enable employees with disabilities to obtain or retain employment, perform and make progress in the work and have access to training and other forms for competence development. The Equality and Anti-discrimination Ombud enforces the provisions in WEA chapter 13.

WEA has several provisions designed to secure employees with disabilities access to the working life. Section 4-1 subsection 4 states that passageways, sanitary facilities, work equipment etc. shall to the extent possible and reasonable, be designed and arranged so that employees with disabilities may work at the undertaking.

Question B

In 2006, an average of 45 % of disabled participants in labour market measures progressed to work.

Question C

In Norway there are approximately 230 sheltered enterprises which organize different labour market measures. Some of these measures may be regarded as Job preparation measures, and are used as the initial measure in a process involving several individual measures available for occupationally handicapped people in ordinary companies, such as Supported employment and wage subsidies to employers. In permanently adapted work the relevance of transferring the person to other labour market schemes or to some form of education or of trying to get the person a normal job must be assessed at regular intervals.

Work experience in sheltered workshops

Work experience in sheltered enterprises is to provide adapted job training and follow-up. It is aimed at helping to try out the individual's opportunities in the labour market and to improve the participants' chances of finding work or starting an education. A plan must be prepared for each individual participant. Work experience in a sheltered enterprise may be offered to occupationally handicapped job-seekers that need adapted job training and follow-up.

The duration of this scheme is to be adapted to suit a participant's individual needs conditional on his/her opportunities in the labour market, within the maximum limit of ten months with the opportunity for a further ten-month extension. The participants in the scheme are not to be employed by the scheme arranger and are thus not to be regarded as employees (subject to the exceptions).

Clarification programmes

Clarification programmes are to provide the vocationally handicapped with clarification, motivation, counselling, mapping and trying out the participant's work-capacity in order to clarify needs of measures which can contribute to getting a job. The scheme is to be carried out in actual company environments. The duration of the scheme is to be adapted to the participants' individual needs based on the participant's opportunities in the labour market, within the maximum limit of 12 weeks. Participants receive rehabilitation benefits or subsistence benefits. The labour market enterprises receive a rehabilitation subsidy according to fixed rates.

Qualification programmes

Qualification programmes is to provide the vocationally handicapped with increased actual and formal competence through adapted training and work training. The scheme is to be carried out in actual company environments. The objective of the scheme is to help the employee obtain a normal job or a self-financed education.

The duration of the scheme is to be adapted to the participants' individual needs based on the participant's opportunities in the labour market, within the maximum limit of two years. The period can be extended if necessary in order for the participant to achieve a professional/trade certificate. Its duration must agree with the individual participant's rehabilitation plan.

Participants in Qualification programmes in a sheltered enterprise are temporarily employed by the enterprise as employees, with employment contracts that reflect the duration of the scheme. Participants receive wages. The wages are to be determined following negotiations, as in other companies. The wage determined must promote the rehabilitation.

The labour market enterprises receive a wage subsidy and rehabilitation subsidy according to fixed rates. The wage subsidy is given to partly cover the wage costs and is intended to compensate for the employee's reduced ability to work. The rehabilitation subsidy is given to cover expenses in relation to the rehabilitation activities.

Permanently adapted work in labour market enterprises (AMB)

The scheme is to provide the vocationally handicapped who have little chance of getting a job in normal working life the opportunity to obtain permanently adapted work.

There is no time limit for the measure. However, finding the participant a job in normal working life must be considered at regular intervals. Participants are permanent employees of the enterprise and receive wages. The wages are to be determined following negotiations, as in other companies. The wage determined must promote the rehabilitation.

The labour market enterprises receive a wage subsidy and rehabilitation subsidy according to fixed rates. The wage subsidy is given to partly cover the wage costs and is intended to compensate for the employee's reduced ability to work. A rehabilitation subsidy is given to cover expenses in relation to the rehabilitation activities.

Permanently adapted work in employment cooperatives

The participants in the scheme are employed by an employment cooperative that manufactures and sells goods and services. The scheme is aimed at providing people who cannot obtain jobs in the ordinary labour market with work adapted to their individual ability

to perform. The work for the enterprise must help to develop the participants' resources by qualifying the participants for work and by providing them with tasks adapted to suit them.

The scheme is intended for people who have been granted a disability pension, or who are expected to be granted this in the near future, and who require special adaptation and close follow-up. Other labour market schemes must have been considered and judged unsuitable.

The scheme is not time-limited. However, the relevance of transferring the person to other labour market schemes or to some form of education or of trying to get the person a normal job must be assessed at regular intervals.

The participant in the scheme is an employee of the enterprise. Participants receive a disability pension in accordance with the National Insurance Act. Participants who are expected to be granted a disability pension in the near future retain the benefit they are receiving until the disability pension is granted. Wages are to be co-ordinated with the benefits stated above according to the rules applicable to the benefit in question.

The scheme arranger receives an operating subsidy from the state. This operating subsidy comprises a fixed, monthly rate for each approved job under the scheme. The scheme arranger also receives a subsidy from the local authority/county council in accordance with a co-financing agreement.

Requirements regarding the sheltered enterprises

The enterprise where the schemes are to be implemented must be organised as a private limited company in which a local authority/county council holds a shareholding majority, or as a separate professional and financial unit linked to the scheme arranger that also organises other labour market schemes. NAV can approve some other organisation of the work if this is regarded as suitable for the implementation of the scheme.

In order to be approved as a scheme arranger, the enterprise must also meet the following requirements:

- 1) The arranger's primary business must be rehabilitation activities.
- 2) Any profit must remain in the enterprise and benefit the rehabilitation work and the participants
- 3) No dividend is to be paid.
- 4) The scheme arranger cannot own or control any other commercial operations.
However, this limitation does not apply to the creation and running of sales operations to promote the sale of the enterprises' products.

Capacity

In the year 2006 there were an average of approximately 17,500 individual measure facilities in sheltered enterprises.

Further questions asked by the ECSR

The Committee has asked that Norway in the next report shall indicate how reasonable accommodation is implemented in practice, whether there is case law on the issue and

whether it has prompted an increase in employment of persons with disabilities in the open labour market.

The Labour Inspection Authority carries out inspections and handles applications for consent for erection, construction and restructuring of buildings used by undertakings subject to the WEA. These instruments are important contributions in the Government's aim at recruiting more employees with disabilities.

Section 4-1 subsection 4 states that passageways, sanitary facilities, work equipment etc, shall to the extent possible and reasonable be designed and arranged so that employees with disabilities can work at the undertaking. With regard to the exception "to the extent possible and reasonable", the preparatory work for the act (Ot. prp. nr. 49 2004-2005) underlines that the exception shall be strictly interpreted.

The Labour Inspection Authority complies with these guidelines from the legislator. When dealing with applications for consent for erection or re-construction of buildings, necessary terms are laid down in order for employees with disabilities to access the building and as so included in the working life. Examples for such terms can be arrangements for access within the building, i.e. passenger elevator, ensuring that corridors and doors are sufficiently wide or that accommodation rooms for staff are adapted so that persons with disabilities can access them. In the prolongation of these terms being complied with, it will be easier for employers to adapt the work place and situation for employees with reduces capacity for work. This synergy may contribute to an increase of employment for persons with disabilities.

The Committee has asked for information on the procedure for taking a case to court or to the Equality and Anti-Discrimination Ombud or Board of Appeals, as well as example of case law on discrimination against persons with disabilities. Concerning the procedure, we have made an account for this under article 1 para. 2 question A – C, and we therefore refer to this answer.

The Committee has asked whether people working in sheltered employment where production is the main activity enjoy the usual benefits of labour law.

The WEA has no specific regulations concerning sheltered employment, but the act in general applies to all undertakings that engage employees. Also, some persons, who normally are not regarded as employees, are however regarded as employees in relation to the Act's provisions concerning health, environment and safety when performing work in undertakings subject to the Act. This i.e. applies to patients in health institutions, rehabilitation institutions and the like, and persons who for training or rehabilitation purposes are placed in undertakings without being employees.

Article 15 para 3

Question A

Organisation and distribution of responsibilities

A number of Government departments and sectors have to work together to bring about a consistent assistive technology solution. Users have to consult a lot of different people and

bodies. These bodies have to work together with users and aim for shared objectives if the solutions they provide are to turn out well.

The provision of assistive technology requires skills from various sectors and at various levels. It is important to involve all the sectors concerned. Both simple and more complex problems can be resolved at front-line level if the municipality has its own experience of similar problems. Rare and more complex problems often require specialist skills from a higher level of competence. People are encouraged to ask for advice and guidance from the Assistive Technology centres if their own skills are insufficient.

Municipalities are responsible for health and rehabilitation for all their citizens. The provision of assistive technology is part of that responsibility. The Assistive Technology centres are a second-line service and a resources and competence centre as regards the provision of assistive technology for the entire local council. There are 19 Assistive Technology centres in Norway, one in each county. These centres are all a part of a national system run by NAV.

Provision of assistive technology

If assistive devices are to be provided, there has to be a practical problem for a user as a consequence of disability, be it physical or intellectual. This requires an investigation of the overall situation for the user and a target for the provision of assistive devices. This should be included in a treatment plan, care plan, training plan, rehabilitation plan or vocational rehabilitation plan. One or more assistive devices are selected once various possibilities have been tested and assessed. Specialists can consult their Assistive Technology centres in order to borrow assistive devices for testing.

An application (requirement form) is then drawn up and submitted to the Assistive Technology centre for assessment and a decision. It is important for the application to be sufficiently detailed and justified on the basis of relevant information. This helps to speed up the process. If the Assistive Technology centre approves the application, the assistive device is sent to the user. The assistive device often has to be adapted and adjusted, and more major adaptations may sometimes be required. The Assistive Technology centres deal with this.

Reasonable guidance, training and practice on the use of the assistive device are just as important as the assistive device itself. The assistant who recommended the assistive device must also stand responsible for following up and working together with the user to assess whether the device does actually solve the user's problems, and whether further training or adaptation is required. The user must receive both verbal and written information on who to contact, and where, if the device needs servicing or repairs.

The process must be evaluated in order to check that the user has received useful assistance and the right assistive device within an expected time frame.

Funding

Assistive devices are financed by State funding – the Storting (Norwegian parliament) grants money to the “Assistance budget”. The budgets are prepared for each of the 19 Assistive Technology centres on an annual basis. The National Insurance Administration is responsible for the budget. The allocation of assistive devices is based on individual rights for the user. This means that if the users meet the criteria enabling them to receive assistive devices, the devices must be acquired even if the budget is exceeded.

For some assistive devices, such as hearing aids, there is a user's co-payment.

Administrative regulations

Users and especially children who have/are to be provided with an individual plan can opt to use this instead of normal application for aids when the need can be taken from the plan. The use of individual plans has laid the foundation for significant simplification of the provision of assistive devices to users with such plans. Throughout the entire plan period, users are able to receive loans of assistive devices covered by the plan without having to apply for them in the usual way. All they have to do is tell a contact within the municipality that they need a new assistive device, and the national health insurance scheme will lend it to them.

Users who need long-term, complex services from the public sector are entitled to such plans, and a corresponding obligation rests with the health service to prepare such plans for these users. It must be emphasised that responsibility for preparing such plans often rests with the municipal health service, and even if the national health insurance scheme is unable to initiate or prepare individual plans, the national health insurance scheme could use such plans as a foundation for the lending of assistive devices.

As of 1.7.2006 all the assistive technology centres offer a contact for children/young people with disabilities and their parents/guardians. This contact shall help ensure the child/young person and his/her parents receive the best possible coordinated options.

Appeals and complaints, etc.

If users feel that their requests have not been granted fully, they can appeal against the decision to an appeals authority within six weeks. If the appeal to this authority is not successful, a further appeal on the decision of the appeals authority can be submitted to the National Insurance Court of Appeal. The National Insurance Court of Appeal is an administrative body and not a regular court, and a decision made by this body can be brought before the regular court.

Question B

- Subsection a

Measures to overcome barriers to communication

The Ministry of Transport and Communications finds accessible electronic communication services an important topic. The rapid technological development in this market, for instance regarding broadband communication and IP-telephony, makes it challenging to avoid a digital separation. This is underlined in the governmental action plan "eNorge 2009" from June 2005. In this action plan, accessible public electronic communication is especially mentioned. The Ministry can also inform that synthetic language is an available function on the Ministry's web site.

Communication assistive devices are provided in accordance with the regulation on assistive devices for use in day-to-day life, and the assessments for this will be the same as for the assessment of other assistive devices for this purpose. In other words, the user must be unable to communicate in other ways, and the assistive device must be the most reasonable option to alleviate the difficulties with communication. It should be mentioned that computer

equipment – including digital photographic equipment – is provided in accordance with special guidelines set by the NAV, and as far as assessing digital photographic equipment for use in communication is concerned, the guidelines state that the user must have severe communication problems before aid can be given.

The electronic communications act of July 2003 (The Ecom Act) includes a general authorization which implies that requirements concerning services for disabled people (and others with special needs) are to be laid down in regulations. Detailed requirements are specified in secondary legislation and in the agreement signed September 1th 2004 by the government and the SMP-operator (Telenor ASA). The services include inter alia access to public pay phones, discount or refund for blind and visually-impaired people as regards directory enquiry services and access to text-telephony for speech impaired people and people with hearing damage. Telenor, as the USO provider, is obliged to continue the established level of research and development activity on the needs of the disabled, elderly and other users with special needs.

The Ministry of Transport and Communications will implement the new regulatory framework for electronic communications. The last part of the new regulatory framework (The Telecom Package) is related to consumer protection in the EU, where the Commission has stated that the emergency number 112 should be accessible to everybody. In addition the EU executive wants to improve access to telecoms for disabled people, by replacing the current "possibility" for member states to take action in favour of disabled people with an explicit "obligation" to take action. Hence, the national regulators will have more power to demand the publication of information on the quality of services and access for the disabled from operators.

Assistive devices for exercise, stimulation and encouragement of activity

The national health insurance scheme can provide assistive devices for exercise, stimulation and to encouragement of activity among children and young people. From January 2003 people with disabilities aged up to 26 receive this kind of support. Special and additional equipment is also provided for games and sport, but this equipment has to be specially designed for disabled people or necessary for them to carry out the activity in question. Examples of this equipment include switches for games, skis for the disabled and the like. No assistive devices are provided for competitive sports or ordinary games, or sports equipment.

Measures taken to overcome barriers to mobility

The Ministry of Transport and Communication has, in co-operation with the Ministry of Labour and Social Inclusion, since 2001 administrated an experimental scheme to ensure disabled people transport to work and education, and to compensate extra costs in regard to transport. The object is to make sure that disabled people do not have to refuse education or employment because of lack of accessible transport. Transport to work and education for disabled people is a supplement to the established transport accessibility arrangements. The discussed measure is under evaluation and may become permanent.

- Subsection b

Measures taken to improve access to transport

To ensure a high-quality, efficient and sustainable transport system, accessibility is increasingly recognized as a key element, and is an important topic for the Ministry of Transport and Communications. In order to obtain accessible public transport, the

Government presented an action plan for universal design and accessibility in 2006. The main goal for the action plan is increased accessibility for everyone to public transport, with special focus on disabled persons. The programme focuses on the principles of universal design throughout the travel chain, and to apply the principals in all relevant sectors at all levels, in all planning activities concerning both infrastructure and transport means. Strong coordination is conclusive, both between:

- The different transport sectors
- Transport means and infrastructure
- National and local authorities

The following initiatives have been carried out:

- New granting arrangement for local governments

A new granting arrangement of 50 million NOK per year was established in 2006 in the budget of the Ministry of Transport and Communication. The objective of this granting arrangement is to stimulate local governments to give priority to universal design and accessibility for all passengers in public transport, by financing parts of local initiatives. The initiatives may for instance be information, planning, initiative on infrastructure or transport means of the local councils. Simple and cost effective initiatives that are concentrated to heavily trafficked areas and junctions are some of the criterions for applying for grants.

To ensure optimal coordination of the total contribution for increased accessibility, the National Road administration is responsibly for administrating the grant. A share of 25 percent is required from the local councils and county municipals to receive grants from the Ministry.

- Indicators of accessibility

Indicators for accessibility at all stages of the travel chain are being developed. The indicators may be used to examine the status of accessibility and make remedial actions where necessary. Related to this work, Norway has initiated a co-operation on the further work with indicators as a common project among the Nordic countries.

- Legislation

A non discrimination act is in progress: "Equality and accessibility. Judicial protection against discrimination based on disability. Improved access for everyone". The purpose of this act is to promote equality, ensure equal opportunities and rights and prevent discrimination based on disabilities. The Government bases its efforts in this field on the principles of social equality and universal design. Universal design and accessibility to public transport sector is one of the fields in focus.

- Action programmes

The most important measure for increased accessibility is financed from the budgets of the national road and rail administration. The action programmes within the road- and rail administrations, are compiled on the basis of instructions from the Ministry of Transport and Communications, where the conditions are universal design as a through-going premise, as well as cooperation with the organisations for disabled people.

- Universal design of the National rail administrations infrastructure

The National rail administration was in the autumn 2006 asked by the Ministry of transport and communications to compile a long term plan on how the principles of universal design of the infrastructure can be obtained. The plan was presented for the ministry in June 2007.

- Public purchase of passenger transport services

In the existing agreement between NSB AS and the Ministry of transport and communications for the period of 2007-2010, one of the main conditions is that as many people as possible is to be able to travel by train in an ordinary and equal way. The agreement contains amongst other detailed demands concerning places for wheelchairs, contrast marking, remedies for entering and alighting with a wheelchair and HC-toilets. The same demands are also in force in the agreement between NSB Anbud AS and the Ministry of transport and communications.

Housing

Under current Norwegian law, there are no legal provisions laying down the right to housing, but reference is made to the fact that the International Covenant on Economic, Social and Cultural Rights applies as Norwegian law. In principle, all adult persons in the country are assumed to be capable of acquiring a suitable dwelling for themselves and their family. Parents have a duty to provide their children with a suitable dwelling for as long as they are minors. Apart from this, pursuant to the Social Services Act, it is the duty of the municipal authority to help those who are unable to acquire a dwelling for themselves. The Norwegian housing standard is generally high and has increased steadily for many years. The principal goal of Norwegian housing policy is for everyone to have an adequate and secure dwelling. The greatest possible number of inhabitants shall, to the greatest possible extent, enjoy direct access to the housing market and be able to provide for them self. The Government's primary strategy for realising its main objective is to stimulate to a well functioning housing market. Its second main objective is to provide housing for groups that are disadvantaged on the housing market. A third strategy is to create a framework for increasing the number of dwellings and residential areas that are environment-friendly and incorporate the principles of universal design. These are the main strategies which were confirmed in a White Paper approved by Parliament (14 June 2004).

One of the main aims of housing policy is that disabled shall be able to secure and retain adequate housing. In addition to the provision of purely financial support to households in this group with poor finances, a highly prioritized objective is to increase the number of homes and residential areas that are accessible to the disabled.

The State helps to provide housing for disadvantaged persons through the Norwegian State Housing Bank, which provides loans and grants to individuals and to municipal authorities, organisations and institutions that provide housing for low-income groups. A combination of loan and grant facilities from the State Housing Bank and state housing benefits/social welfare benefits enable low-income groups to acquire and retain suitable dwellings.

The Housing Bank currently has separate grants for design, adaptation and improvement of homes for the elderly and disabled. House building based on good accessibility principles will, however, reduce the need for subsequent rebuilds and adaptations. This was an important basis for universal design and good accessibility being included as key application criteria in the Housing Bank's new foundation loan, which was introduced in 2005.

The municipal authorities are responsible for providing housing for disadvantaged persons. Different municipalities apply different strategies to fulfill this responsibility. The Housing

Bank gives grants to municipalities that want to draw up coordinated plans for disadvantaged households. In 2006, 13 municipalities received support to compile social housing action plans. 242 municipalities have received a total of NOK 19.4 million in such support since the start of 1999. Many of these municipalities will further develop the plans. Regular mapping of the housing needs in municipalities are an important tool in the further development of this work.

The Housing Bank and the National Insurance Service established a co-operation in 2005 to improve the adaptation of homes for the disabled. In 2006 they presented the final report from "Project housing adaptations", a pilot project conducted in 15 municipalities in Hordaland and Sør-Trøndelag. The purpose of the project was to set up a housing advisory service in municipalities and to examine how coordinating government funds can result in better housing solutions for the disabled. Experiences from this work have been positive, and plans have been made to continue the project in other municipalities.

Indicators for accessibility for wheelchair users were in 2006 incorporated in the official statistic from the municipalities (Municipality-State-Reporting, a national information system that provides information on municipal and county municipal activities in Norway). The indicator shows that 37 percent of the municipal rental housing stocks (social housing) have full access for a wheelchair user. In ordinary residential buildings living conditions surveys from 2004 shows that only 7 percent have the same.

Assistive technology in the home

A number of ministries are responsible for providing assistive devices for people with disabilities. The Ministry of Labour and Social Inclusion has overall responsibility for assistive technology and accessibility which is covered by the *National Insurance Act. Section 10* of this act regulates financial support for assistive technology. Assistive technology and accessibility work help compensate for the disabilities and include many groups of assistive technology for different life phases, such as aids for everyday life, employment and schooling. Grants are provided, for example, for communication aids, vision aids, aids to assist movement, aids for the adaptation of homes, hearing aids, cognitive aids, aids to assist in training and stimulation, IT aids and custom-built vehicles, plus such measures as providing a functional assistant at the workplace. Other ministries also have a role to play in the provision of assistive technology, such as the Ministry of Transport and Communications and the Ministry of Education and Research. The former is responsible for transport and telecommunications services, while the latter is responsible for education, training and research. Both of them are responsible for preparation and information for the public areas with which they are concerned. Assistive devices must be part of a holistic plan and contribute to:

- greater functionality
- enhancing self-sufficiency
- facilitating the care of disabled people

People suffering from a long-term disability (more than 2-3 years) and significantly impaired abilities due to illness, injury or physical defects can receive grants for assistive devices from the national health insurance scheme.

People who temporarily need assistive devices can loan these from their municipalities. In addition, the assistive devices must be *necessary and appropriate* for enhancing disabled people's abilities to solve practical problems in their day-to-day lives, or for ensuring their

care at home. The national health insurance scheme usually provides support for the most reasonable of the types of assistive device that meet the needs of the user in question. Grants are not provided for assistive technology for the home also normally used by "non-disabled" persons, such as white goods and brown goods, and general kitchen equipment. However, support is provided for extra equipment used to adapt such equipment.

The term "assistive devices" include "any assistive devices and any ergonomic solution that can reduce the disability".

Assistive devices help to compensate for disabilities and include many groups of assistive devices such as tools to assist communication and movement, low vision aids, hearing aids, cognitive aids, devices to stimulate and encourage activity, ICT-related devices and specially adapted cars.

Treatment devices also used to be the responsibility of the national health insurance scheme, but this responsibility was essentially transferred to health organisations (hospitals) from 1 January 2003.

Assistive devices must be part of a rehabilitation plan and help to:

- Enhance the capabilities of people with disabilities
- Enhance the self-sufficiency of people with disabilities
- Facilitate the care of people with disabilities

People suffering from a long-term disability (more than 2-3 years) and significantly impaired abilities due to illness, injury or physical defects can receive support for assistive devices from the national health insurance scheme. People who temporarily need assistive devices have to apply for support from their municipalities.

In addition, the assistive devices must be necessary and appropriate for enhancing disabled people's abilities to solve practical problems in their day-to-day lives, or for ensuring their care at home. The national health insurance scheme usually provides support for the most reasonable of the types of assistive device that meet the needs of the user in question.

No support is provided for assistive devices that are normally used by non-disabled people examples are washing machines, televisions and general kitchen equipment. However, support is given for additional equipment required to adapt such equipment.

Assistive devices for use in primary and lower secondary schools and upper secondary schools (assistive devices at school)

Users in compulsory education can receive aid from the national health insurance scheme for assistive devices that alleviate practical difficulties in the school environment, while schools provide aid for assistive devices linked with individual subjects. Aid for computer equipment is given to users suffering from disabilities that such equipment could directly help to alleviate, as well as providing such equipment in cases in which it is necessary so as to allow users to benefit from educational programmes provided by their schools.

Assistive devices and technology for work and education

The national health insurance scheme can provide support for assistive devices, converting machinery and adapting the physical environment in the workplace. Grants are provided if such are appropriate and necessary to allow disabled persons to find work (usually as a part of

vocational rehabilitation) or to keep a suitable job. By “a suitable job”, we mean a job which the user is capable of mastering, given his or her physical and intellectual capabilities.

Furthermore, support can be given for reading and secretarial help for the blind and partially sighted in cases where assistive aids alone cannot meet the need. Support for this kind of need is granted in relation to work, education, organisational work and for everyday life. As a starting point the user shall choose appropriate reading and secretarial help him/herself.

For employees with severe physical disability who require adaptation of the workplace, grants are given for the hiring of a *functional assistant*. This person’s task is to support the employee in practical tasks in the workplace which cannot be carried out by the use of assistive technology. The scheme is not a right under the terms of the National Insurance Act, but an adjustable grant provided via the central government budget. The accessibility grant is a device intended to contribute to the prevention of sick leave and counteract displacement from the labour market. It may be granted for the procurement of objects and equipment for the workplace as a supplement to the scheme for individual workplace aids.

Administrative schemes are in place and give workplaces with many hard of hearing employee’s permission to hire interpreters who are available to such employees at any time. The costs are covered by national insurance scheme.

A certificate of guarantee is an offer to jobseekers with requirements on the adaptation of a workplace. It documents that a jobseeker has a right to have the workplace adapted with support from the national insurance scheme provided that the requirements in the WEA are met. The aim of the certificate is to support rapid assistance from the aid mechanism and inform employers of the available opportunities.

Assistive devices/technology for other purposes/in other areas

The national health insurance scheme provides assistive devices and other measures for other purposes. However, there are a number of conditions attached to several of the areas, such as limits on the amount of aid that can be given or the number of hours over a year. Special rules apply to the following areas:

- Hearing aids and interpreters for people with hearing impairments:
- Interpreters and escorts for deaf-blind people
- Guide dogs and assistance with reading and secretarial services for visually impaired people
- Basic pattern for seams of clothing
- Computer equipment
- Assistive devices at school
- Motor vehicles and other modes of transport
- Standard computer equipment
- Adaptation courses for the partially sighted, hard of hearing and deaf-blind
- Orthopaedic aids

Subsidies for standard computer equipment

As far as support for standard computer equipment is concerned, the rules were amended as of 1 January 2003, from a loan arrangement to a subsidy arrangement. This means that a fixed subsidy is granted to buy a standard computer from the Assistive Technology centre. Equipment provided subject to the subsidy system becomes the personal property of the individual concerned. The user may choose where to buy the equipment as long as the

supplier is able to offer 4-year contracts for servicing, support and insurance. Applications for new equipment can only be submitted every four years.

The target group is users who do not have complex problems or progressive illnesses and who need standard computer equipment for use in their day-to-day lives – including at school – for more than a year. The users entitled to computer equipment who do not fall under the auspices of the subsidy system receive aid for their computer equipment in the form of a loan from the national health insurance scheme.

Companion programme

All state funded cultural institutions are instructed to take part in the companion programme. This means that persons with disabilities holding a companion pass may bring one companion for free to numerous cultural institutions such as theatres, museums and concert halls.

Access to exhibitions and activities within the archives libra and museum sector

Through several projects, both exhibitions and activities within archives, libraries and museums have been made accessible to persons with disabilities. Universal design is a major strategy for this sector, and services and activities should be inclusive and open for all. In addition, some institutions have developed targeted exhibitions approaching groups with special needs in new ways.

The public library and city archives of Tromsø have been chosen to establish the first Norwegian "Apple Library". The aim of this project is to create a model library which will offer good services to children with disabilities while at the same time inspiring others to do the same. The project will run for two years from August 2007.

Last April The Norwegian Archive, Library and Museum Authority invited libraries to develop a model library by creating library services and environments suited to the needs of disabled children. The strategy will be a combination of universal design and specific arrangements to meet special needs, and the aim is to ensure that all children have equal access to their local public library, whether alone or with friends, family or schoolmates. The training of staff and the cooperation of various user groups will be vital to achieving the aims of the project. Inspiration can be drawn from the Swedish Apple Library established ten years ago.

Promotion, organisation and funding of activities and services to persons with disabilities have been supported by the Norwegian archive, library and museum authority, as well as by the Ministry of Environmental Affairs. A major contribution to promoting access for all in the alm-sector has been the establishment of a national network of archives, libraries and museums in the field of universal design and accessibility for all. The aim of the network is to promote awareness regarding these issues.

Norway has one public library for the blind and the visually impaired. The library is located in Oslo, but supplies services country-wide. Its function is to provide library services to the blind, the partially sighted, the visually impaired and others with reading disabilities. Other user categories include persons who cannot hold a book or turn pages due to a physical disability and persons with illnesses that prevent them from reading standard prints.

The services are intended for children, adults and senior citizens. Hospitals, libraries, nursing homes, day care facilities, schools and other agencies serving individuals who qualify may also apply for Braille and talking book services. All services are free of charge.

Theatre in sign language

Norway has one sign language theatre called Teater Manu. The theatre is based in Oslo, but tours to other parts of Norway as well. All performances are interpreted to spoken language, and are therefore also accessible for spectators who do not understand sign language.

Norwegian authorities also ensure a special scheme for interpretation into sign language of performances in the ordinary theatres.

Sporting activities

Sport and physical activity for all is the primary purpose of the Norwegian sports policy. The Ministry of Culture and Church Affairs takes specific measures to ensure that persons with disabilities have the opportunity to participate in sporting activities. In order to receive financial support from the Ministry when building sports facilities, the facilities have to be accessible to persons with disabilities.

Through the funding of the Norwegian Olympic Committee and Confederation of Sports (NOC), the Ministry supports NOC in their effort to integrate persons with disabilities. The sports federations are responsible for ensuring that the disabled may participate actively in Norwegian sports.

Furthermore, the Ministry of Culture and Church Affairs gives an annual grant to sports activities specifically directed towards the disabled. In 2006 the Ministry allocated NOK 2 million to this purpose, and the recipients of the grant are both non governmental organisations and municipalities. The purpose of this funding is to give persons with disabilities the opportunity to participate in sport and physical activity in their local environment.

Assistive devices for treatment and training

Treatment devices such as oxygen equipment, respirators and inhalers for medicine intake were also the responsibility of the national insurance scheme in times past. This responsibility was essentially transferred to the health organisations (hospitals) from 1 January 2003. *The national insurance scheme* can provide assistive technology for training and stimulation of children and young people up to the age of 26. Special and additional equipment is also provided for games and sport, but this equipment has to be specially designed for disabled people or necessary for them to carry out the activity in question. Examples of this equipment include switches for games, skis for the disabled and the like. No assistive devices are provided for competitive sports, and neither is ordinary games and sports equipment provided.

Question C

The user organisations are invited into reference groups and/or project groups in all development projects which aim to develop the provision system.

The Division of Assistive Technology Supply Contracts is under the control of the National Administration. This division is responsible for entering into contracts with suppliers of assistive devices in Norway. It is mainly when the major assistive device groups such as manual and electric wheelchairs are involved that the Division of Assistive Technology Supply Contracts enters into framework agreements with individual suppliers. Assistive devices subject to framework agreements make up a national standard. The intention behind framework agreements is to ensure that a national range of good quality devices is available at a reasonable price.

The Assistive Technology centres select their local ranges from the national range. Reference groups have been set up for the various product areas. These reference groups consist of staff from the specialists from the Assistive Technology centres and users themselves, who represents the most important user-organisations. The role of the reference groups is to recommend relevant products for which price negotiations would be desirable.

With reference to question C and the Committee's concrete question on how organisations representing the interests of people with disabilities are consulted in the design, review and implementation of measures for persons with disabilities, the following can be reported:

The Governments vision is that persons with disabilities are to have the opportunities, to develop personally, participate in society, and to enjoy life in the same way as other citizens.

Users experience sometimes among others too little information, poor service, that errors are made in service provision, that services are difficult to get hold of, that services are poorly organized and coordinated and that services are not very flexible.

User participation can contribute to the services being better adapted to the users' wishes and needs. In general, the Government wants an open public administration and user participation is part of it.

In order to promote user participation the Government gives a general operating subsidy to organisations representing persons with disabilities. A total of NOK 138,5 million was granted for this purpose in 2007. The Government has its own State Council on Disability that is an advisory body for the Government in disability issues. Members of this body are among others organisations representing persons with disabilities. On county level and local level there are also similar councils. They were made mandatory as of September 10th, 2007. There are also user participation in the various sector areas, e.g. in the education sector and in the health sector.

The Ministry has annual meetings with the organisations representing various groups of disabled persons.

The Housing bank has developed a close collaboration / dialog with organisations, which often contributes in planning and participation in various projects.

The Housing Bank's regional offices have close contact with the local authorities in their region through meetings, courses, the ongoing executive work and setting up of municipal networks. In 2006, there was also a great demand for courses and specialist seminars organized by the regional offices, with the focus on promoting good examples and work methods. These events are important arenas for municipalities, government departments,

voluntary organisations, users and other parties, and help to promote collaboration and understanding across the different administrative levels and to increase the social housing expertise of the participants.

Further questions asked by the ECSR

The Committee asks for information on the forms of economic assistance available for persons with disabilities.

The following describes allowances available to cover **living costs** when persons with disabilities are not employed:

Welfare benefits within the Norwegian Social Insurance Scheme

All persons resident or working as employees in Norway are compulsory insured under the Norwegian Social Insurance Scheme. Persons insured under this scheme are entitled to a range of pensions and grants, such as for instance benefits in the case of sickness, disability and when in need of rehabilitation. Prior earnings are often a condition for receiving the mentioned benefits and also influence the amounts given, so that persons without work experience or with an unstable employment history may receive low benefits. However, certain legal measures have been introduced to reduce this adverse effect for young recipients (e.g. for the young disabled).

An insured person between the age of 18 and 67 may be entitled to **rehabilitation allowance** if he or she is resident in Norway and has been insured for three years immediately prior to claiming the benefits.

When the period of entitlement to daily cash benefits in case of sickness has expired, an insured person may be granted a rehabilitation allowance, provided that his or her working capacity is still reduced by at least 50 per cent. It is a requirement that he or she is undergoing active treatment with a view to improving his or her working ability. Rehabilitation allowance may also be granted to insured persons who have not been entitled to cash benefits in case of sickness, when the incapacity to work has lasted one year. Rehabilitation allowance is generally only granted for a period of 52 weeks. Exceptions can be made from this time limitation.

The calculation of rehabilitation allowance is based on the pensionable income. The calculation is based on the highest of the income of the preceding calendar year or the average over the three preceding calendar years before the working capacity was reduced no less than 50 per cent. The benefit rate per year is 66 per cent of the calculation basis and is paid five days a week. A person with low, or no, pensionable income is guaranteed a minimal yearly benefit of 1.8 of the basic amount (NOK 113 206).

Expenses for technical aids and for the purchasing of cars may be covered. Technical aids, interpretation services, guide dogs etc. may be covered if deemed necessary and appropriate for the employment of his/ her ability to manage the situation of the daily life, or undergo vocational measures.

Vocational rehabilitation is granted to insured persons between 19 and 67 years, whose ability to obtain employment income or possibility to choose occupation is permanently reduced by at least 50 per cent due to illness, injury or defect. Furthermore, it is a condition that it is

considered necessary that the person undergoes vocational measures before he/ she can get or keep suitable work.

The calculation of vocational rehabilitation allowance is based on pensionable income and calculated similarly to that of rehabilitation allowance described above.

Education may also be a form of vocational rehabilitation, see above.

Social assistance

Social assistance is a subsidiary allowance with the general objective of securing the subsistence of persons who do not have sufficient economic means to cover basic needs through work or other means of self support or by filing economic claims in the social security system (described below as the Norwegian Social Insurance Scheme). Municipalities are legally obliged to provide social financial assistance, in principle on an individual basis. There is no age condition. In practice, however, allowance is seldom given individually to children under 18 years of age due to the parents' responsibility for fostering their children. Each person who claims social financial assistance is obliged to support him-/herself by work if work is available and the person in question is able to work. Social services may set conditions for receiving financial assistance. The terms must be linked to the claimants need for help, and be aimed at making him or her become self-sufficient. No fixed amount of the minimum level of the benefit is set by law. Central guidelines are provided on how to interpret the Social Services Act with respect to the term "secure subsistence". The Ministry of Labour and Social Inclusion gives guidelines on reasonable amounts. The monthly amount presently recommended is NOK 4,600, excluding housing allowance, electricity, housing insurance etc. There is no set duration of receipt, but assistance is in principle given on a short term basis.

Among pending reforms in the social assistance area is the proposed new qualification program. This was first proposed in connection with the state budget for 2007, where the Government presented an action plan aimed at combating poverty. The qualification program with associated qualification benefits for persons with significantly reduced working and earning ability, and with no or very limited subsistence benefits in the National Insurance Scheme is basically a municipal scheme. An individual qualification program will be part of a "welfare contract", used to implement consistent and systematic principles for defining and following up mutual expectations, requirements and obligations in the interaction between the individual and the public administration. The concept emphasises the clear connection between rights and obligations. The aim is that close and binding follow-up over a period of time should lead to better opportunities to secure a job. Benefits will be higher than social assistance benefits, and will be given as a standard amount, twice the basic amount (G) in the national insurance system. Persons below the age of 25 will qualify for two thirds of this amount.

Also described above is the proposal for a new merged temporary income security benefit replacing the present medical and vocational rehabilitation benefits and temporary invalidity benefit within the National Insurance Scheme (NIS). The ultimate aim is a more work-oriented, comprehensive and effective income security system. An important side of this reform is also to break the formal and informal links between the different income schemes and corresponding vocational, social and medical measures and activities. The new merged, local public employment and welfare offices, which are being implemented, will in the future be given a much more liberal access to a wider range of active vocational, social and medical

measures. The assessment will be more based on the local officers' professional judgement and on a broad "workability" concept and approach. Active user participation, a more coordinated individual plan and close follow-up, will at the same time be important elements of this reform.

The Committee wishes to know whether technical aids for the disabled are available, whether such aids are free of charge and what the conditions are for their receipt. It also would like to receive information on any support services, provided by the State or by other organisations, such as home help, personal assistance programmes, etc. in order to enable persons to live in their own homes. The Committee also wishes to know what the costs are for such support services, if any, to be borne by the disabled.

The Norwegian government's policies in the field of technical aid rest on the fundamental value that people with disabilities are full citizens of the society and shall have the opportunity to perceive themselves as such. The aim of the government is to place the individual citizen in the centre when it comes to policy planning, implementation and service delivery. This aim requires the realization of such values as:

- **Non-discrimination** (The adaptation of the public sphere so that everyone, based on their own abilities, has an equal opportunity to acquire the same living conditions and enjoy and discharge their rights and responsibilities as members of civil society).
- **Self-determination** (The freedom of the individual and equal opportunities to determine one's own life direction and be respected for one's choices).
- **Active participation** (Work towards a society in which everyone has the opportunity to participate actively based on their abilities).
- **An independent life** (Having a life that is lived at a place of your own choice.)

The government has an understanding of the "disability concept" as something that "occurs when a gap exists between the capabilities of the individual and the functional requirements of his or her surroundings" (Government White Paper 40 (2002-2003)). In line with such a definition a disabled person encounters obstacles created by society.

Assistive devices, accessible environments, technical measures or personal assistance can all help lessen society's demands in terms of function, thereby allowing people to live more independent lives. The more accessible the surroundings are, the less people need special solutions. The effects of disabilities can also be reduced both by making people more capable and doing something about society's demands. People can be made more capable by giving them training, education, care and support.

The Committee has previously asked on the legal status of sign language. Sign language does not have status as an official Norwegian language. However, according to legislation, sign language is accepted as a language. One example is that according to the Act relating to Primary, Lower Secondary and Upper Secondary Education (the Education Act), pupils are entitled to training in sign language.

Article 20

Question A

The Norwegian Gender Equality Act entered into force in 1979 and has subsequently been amended several times, most recently in 2005.

The Act applies to all areas of society, but includes a general exception for the internal affairs of religious communities. The exception is limited only to cases closely tied to religious practices. The General clause in section 3 is the main anti-discrimination provision of the Act, and prohibits direct or indirect differential treatment of men and women. The section defines the terms direct and indirect discrimination. The Act also includes Section 4 on Gender equality in connection with employment, etc, Section 5 on equal pay for work of equal value, Section 6 on equal right to education, Section 7 on teaching aids, Section 8 on associations, Section 8 a on gender-based harassment and sexual harassment, Section 16 on burden of proof and section 17 on liability for damages.

Regarding article 20 letter c – arrangements of the work place:

The WEA section 4-1 subs. 3 states that undertakings shall be arranged for employees of both sexes. Detailed requirements are set out in Regulations on the arrangements of the work place, regulation no. 170 of 16 February 1995. The regulation specifies that accommodation rooms for employees shall be dimensioned so that both sexes may take up work in the undertaking. Regarding wardrobes and toilets, the regulation states that the undertakings shall have separate wardrobes and toilets for men and women. The Labour Inspection Authority carries out inspections and has the authority to issue orders if the employer fails to make these arrangements.

In addition, consent from the Labour Inspection Authority shall be obtained prior to erection or construction work is being carried out on buildings which will or may foreseeable be used by an undertaking subject to the WEA, cf, WEA section 18-9.

When dealing with such cases, the Labour Inspection Authority has specific focus on arrangement of the work place so that both sexes may take up work for the undertaking.

Question B

Until the end of 2005, the Gender Equality Act was enforced by the Gender Equality Ombud and the Gender Equality Board of Appeals. As from 1 January 2006, this responsibility was transferred to the new Equality and Anti-Discrimination Ombud and the Equality and Anti-Discrimination Tribunal, which also enforce prohibition of discrimination based on other grounds.

The Equality and Anti-Discrimination Ombud and Tribunal are central government bodies that are professionally independent. They deal with complaints free of charge. Their activities and organisation are regulated by a statute passed by the Storting.

The Equality and Anti- Discrimination Ombud has a dual role, enforcing the law and proactively promoting equality and combating discrimination. As law enforcer, the Ombud give opinions on complaints concerning breaches of statutes and provisions within the Ombud's sphere of activity, and provides advice and guidance with regard to this legislation. A person who believes that he or she has been subjected to discrimination may submit the matter to the Ombud, who will request information from both parties, carry out an objective assessment of the case and issue an opinion as to whether discrimination has taken place.

The Ombud's opinion may be passed to the Equality and Anti-Discrimination Tribunal. The Ombud has the authority to for binding administrative decisions (urgent decisions) in cases where it would cause inconvenience to wait for the decision of the Tribunal.

The Equality and Anti-Discrimination Tribunal deals with any opinions issued by the Ombud that is brought before it or which the tribunal itself requests be brought before it. The Tribunal's decisions are binding for all parts. The Tribunal has the authority to impose a coercive fine on the discriminating party until the discriminating act ceases.

Question C

If a case, pursuant to the Gender Equality Act, that indirectly raises a question about the validity, interpretation or continued existence of a collective wage agreement is brought before the Equality and Anti-discrimination Tribunal, each of the parties to the wage agreement may have this question decided by the Labour Disputes Court with suspensive effect.

The tribunal may not make decisions which lie within the exclusive competence of the Labour Disputes Court pursuant to the Act of 5 May 1927 relating to Labour Disputes and the Act of 18 June 1958 No. 2 relating to Public Service Disputes.

Question D

With reference to the answer to question A, the Gender Equality Act also provides safeguards against retaliatory measures. According to section 3, it is not permitted to make use of reprisals against any person who has submitted a complaint regarding a breach of provisions of this Act, or who has stated that a complaint may be submitted. This shall not apply if the complainant has acted with gross negligence. The first and second sentences shall apply correspondingly to witnesses.

Furthermore, Section 17 establishes the principle of objective liability for damages in cases of infringement of the law in the workplace. This means that wilful or negligent violation is not a condition for proof of liability for damages. Nor is financial loss a condition. Thus, any job seeker or employee who has been subject to conduct contrary to the Act is entitled to compensation, even where the employer did not know of such conduct.

The Tribunal has the authority to impose a coercive fine on the discriminating party until the discriminating act ceases. The WEA regulates the possibility of reinstatement in cases of dismissal.

Question E

According to The Gender Equality Act Section 16, it is a shared burden of proof in cases regarding violation of the Act.

In cases where the circumstances give grounds for believing that discrimination has occurred, such discrimination will be regarded as proven, unless the person who committed the act can prove that discrimination did not occur.

Question F

Pregnant women are well protected under Norwegian legislation. The WEA, the National Insurance Act and the Gender Quality Act all safeguard the rights of this group. Pursuant to the WEA, employers have a duty to adapt work to the needs of pregnant women, and employees are protected against dismissal and have extensive rights to leave of absence from work.

According to the WEA section 3-1, the employer is obliged to ensure that systematic health, environment and safety work is carried out at all levels of the undertaking. In addition, each employee's working situation shall be organised and arranged with regard for the individual employee's capacity for work, proficiency, age and other conditions. The obligation to organise and individually adapt the working situation will also apply for women in cases of pregnancy, confinement and during the post-natal period.

According to section 3-1 subs. 2 litra c, the employer shall make a survey of hazards and problems and, on this basis, assess risk factors in the undertaking, prepare plans and implement measures in order to reduce the risks. Regarding pregnant women the employer has a specific duty to carry out risk assessments related to the working environment and hazards for reproductive damages, cf. Regulation on reproductive damages and the working environment. First and foremost the employer shall ensure that employees will not be exposed to hazards for reproductive damages in the working environment. If this is not possible, necessary protective measures need to be implemented. Pregnant and nursing mothers must under no circumstances be put to work in an environment which includes hazards for reproductive damages. If the hazards can not be avoided, the employer has an obligation to consider redeployment.

As mentioned, the work place shall be arranged so that both genders may work there. In addition, the regulations specifically state that pregnant and nursing employees shall have the opportunity to rest in a suitable place.

The WEA chapter 12 regulates an employee's entitlement to leave of absence and includes specific provisions regarding woman in cases of pregnancy and maternity. According to section 12-1, a pregnant employee is entitled to leave of absence with pay in connection with prenatal examinations if such examinations cannot reasonably take place outside working hours. According to section 12-2, a pregnant employee is entitled to leave of absence for up to twelve weeks during pregnancy. The National Insurance Act entitles women to financial compensation in the form of sickness benefit, pregnancy benefit and maternity benefit while absent from work during pregnancy or on maternity leave.

Section 12-4 states that after giving birth, the mother shall have leave of absence for the first six weeks unless she produces a medical certificate stating that it is better for her to resume work, and section 12-8 states that a nursing mother is entitled to request the amount of time off necessary for breastfeeding. At least 30 minutes time off may for example be taken twice daily or as a reduction in working hours by up to 1 hour per day.

Disputes concerning the entitlement to leave of absence pursuant to these provisions shall be resolved by the Dispute Resolution Board, cf. section 17-2. The Board is an independent board which handles disputes regarding working hours and entitlement to leave of absence. The Ministry has issued a regulation which covers provisions concerning appointment of the

Board's members, its composition and procedures. The regulation is enclosed as Appendix 2. Unfortunately it only exists in Norwegian.

Further on, the Gender Equality Act prohibits differential treatment on account of pregnancy, breastfeeding and use of rights to leave that are reserved for one of the sexes. The prohibition against pregnancy-based discrimination was reinforced by a legislative amendment in 2002 and now also applies to fathers who take the father's quota of parental leave.

Question G

There are no occupations in Norway which are reserved exclusively for one or other sex. However, due to for instance modesty, it may be justified to apply for and hire a person of one sex.

Question H

Section 3 of the Gender Equality Act *also* authorises differential treatment of one of the sexes, if this can help to promote gender equality. However, differential treatment of men or women is seldom used. In working life, a moderate form of positive differential treatment is primarily the norm. All other conditions being equal, the under-represented sex may be preferred. In the education sector, there have been sporadic cases of more radical differential treatment, such as when girls are given extra points when seeking admission to fields of study where they are heavily under-represented.

Section 3 litra a has been interpreted in the light of the objects clause which states that the primary aim of the Act is to improve the position of women. In 1998, however, regulations appurtenant to the Act were adopted that provided for moderate forms of positive differential treatment in favour of men in a limited range of occupations and positions in day care centres, primary and lower secondary school and child welfare services. This was intended to encourage the greater presence of men in children's everyday life and child care. Section 3 a has been practiced most radically in higher education and research. In 2002, however, the EFTA Court handed down a judgment against Norway for breaching the EU's equal treatment directive of 1976. The Court ruled that earmarking a limited number of places for women at a higher academic level was in violation of EU rules. The case had been considered by the Gender Equality Ombud and the Gender Equality Appeals Board, which found that the measure was not contrary to the principle of equal treatment laid down in the Act, because it would obviously contribute towards promoting gender equality in a field in which women are heavily underrepresented.

Question I and J

<i>Employment</i>	<i>Women</i>	<i>Men</i>
Workforce - % of population aged 16-		

74	69	76
Unemployed - % of workforce	4.4	4.8
Average hours per week	31	38.1
Full-time work - % of workforce	57 (2004)	87 (2004)
Under-employed part-time workers, % of all part-time workers	16,9	16,3
Employed in public sector	47	18

Several new rules have been incorporated into the new WEA (2005) which may help to strengthen the position of women on the labour market. One of the goals is to reduce underemployment among part-time workers. As a means of reducing under-employment, part-time workers now have a statutory right to increase their working hours before employers appoint new staff. The New Labour and Welfare Service (NAV), which is responsible for the official employment agencies, is also required to assist the partially unemployed on a par with the fully unemployed. Part-time workers who wish to work more and who register as partially unemployed with NAV have access to NAV's services.

The new WEA also includes a new chapter on equal treatment in working life. This chapter prohibits discrimination on the grounds of age, union membership, sexual orientation, political views and handicap.

The Act contains a special reference to the Gender Equality Act, which will help make it clear that the Gender Equality Act sets provisions against gender discrimination in working life. Another new provision in the WEA is the right to flexible working hours provided that this can be achieved without significant disadvantage to the enterprise concerned. "Flexible working hours" can for instance mean that the employee may, within certain limits, decide for himself/herself when to work. This will ensure greater flexibility in daily life and will be especially important for parents with small children and others with care responsibilities.

Although there has been an increase in the number of women and men with higher educational qualifications, most women and men make traditional career choices and the Norwegian labour market is one of the most gender-segregated in Europe. There is more or less a gender balance in some occupations, such as postal delivery or marketing and advertising. To the extent that changes happen, the tendency is for women to enter male-dominated professions rather than vice versa.

Women in management

Although women now account for 47 per cent of the labour force, they are still clearly in the minority in management positions. In 2004, 29 per cent of all managers were women, up from 26 per cent in 2001.

Private sector

In the private sector as a whole, 22 per cent of the people in senior management posts were women in 2005. This is decline of 1 per cent from the previous year. The proportion of women in middle management is 27 per cent, the same as in the previous two years. There are

relatively large differences in the distribution of female and male managers between the various industries. A significant proportion of women managers are found in the hotel and restaurant sector and the retail trade. There are also many women managers in social and private services. Figures from Statistics in Norway also show that there is a tendency for women managers to be concentrated in the smaller companies with the fewest employees and the lowest turnover.

Percentage of women managers in the private sector (2004-2005)

Women (per cent)	2004	2005
Senior managers in the private sector	23	22
Middle managers in the private sector	27	27
Members of boards of directors of PLCs		17
CEOs of all enterprises	16	17
Chairmen of boards of all enterprises	12	14

Public sector

With respect to the public sector, various governments have regarded it as unsatisfactory that the proportion of women in leading positions in the state sector has been too low. As a result of the fact that in 1997 there were only 22 per cent women in leading positions, a four-year project was established, entitled *Kvinner, kvalitet og kompetanse i staten* (Women, Quality and Competence in the State Sector). The goal was to increase the proportion of women in leading positions in the state sector to 30 per cent by the end of 2001. When the project ended, the proportion of women in management positions in the state sector was almost 28 per cent. In 2002 the Government adopted a resolution to increase the target figure for management positions in the state sector to 40 per cent for both sexes by 1 July 2006. At the end of 2004, 35 per cent of the 9,000 managers in the state sector were women. The gender distribution among senior managers is less satisfactory. At the end of 2004, only 23 per cent of the 300 senior managers in the state sector were women. In recent years, efforts have therefore been focused especially on increasing the proportion of women in these central positions.

	2002	2004	2005
Management group			
All managers in the state sector	28	34	35
Senior managers	21	23	23

Various centralised measures have been implemented to increase the proportion of women in management. Since 1999, Statskonsult has been heading a mentor programme for women managers in the state sector. A survey shows that mentoring increased participants' motivation to seek a future career in management. Furthermore, a network and a meeting place have been established for women in middle management in the ministries. New

procedures have also been established to recruit senior managers. In connection with each appointment of senior managers, as far as possible, at least three final candidates must be presented, at least one of whom is a woman. If external consultants are used in the recruitment process, the contract must stipulate that they must present final candidates of both sexes. In 2004 a two-year trial project was established with a view to promoting mobility among managers in the state administration. There is special emphasis on ensuring that women take part in this project.

In spring 2005 a survey was carried out of 1000 managers in the state sector concerning their motivation to seek a future career in management in the state sector and their experience of applying for leading positions. The findings of this survey showed that women wish to be senior managers to the same degree as men. 40 per cent of women and 43 per cent of men stated that they would like to be a senior manager in the state sector, now or at a later date. Women work just as hard as men and have just as much self-confidence. Among those who said that they did not wish to be senior managers, as many men as women stated that this was out of consideration for their family. The survey showed that more than two thirds of managers have been urged to apply for posts one or more times, and women are urged as often as men to apply for a post at a higher level. However, the survey showed an important difference between women's and men's career patterns. 32 per cent of women have never applied for a post without being urged to, compared with 24 per cent of men. 63 per cent of men, compared with 52 per cent of women, stated that they had applied for more than three management posts in the course of their career.

Women on boards of directors

There has been strong focus on increasing the number of women on boards of directors in recent years. In December 2003 the Storting adopted the proposal in Ot.prp.nr. 97 (2002-2003) to introduce rules for public limited companies with private owners requiring boards of directors to consist of a minimum of approximately 40 per cent of each sex.

The rules relating to gender representation on the boards of public limited companies (ASAs) entered into force on 1 January 2006. Public limited companies that were registered prior to this have two years to meet the requirement for gender representation. New PLCs must meet the gender representation requirement in order to qualify for registration.

Figures from Statistics Norway show that as of 1 January 2006, 19 per cent of board members of PLCs (including deputy members) were women. The statistics show that the largest companies, i.e. those with more than 100 employees, have the highest percentage of women. (the latest figures shows 28 per cent women as members of PLCs)

Equal pay

On average, women's monthly pay in 2005 was equivalent to 84.7 per cent of that of men (part time employees included). The Norwegian labour market is strongly segregated in terms of gender. The male-dominated sectors and occupations have on average higher pay levels than the female-dominated sectors and occupations. The Norwegian negotiation model is based on the principle that wage growth must be adapted to the competitive sector. This so-called *frontfagsmodell* has contributed to good economic growth and a low unemployment rate, but may also be part of the explanation of why some groups have greater negotiating power than others.

Part of the equal pay gap is due to the fact that women and men have different access to positions, and that women are often employed in lower paid positions than men. Different pay for the same type of work may also occur. The differences in pay between women and men are intensified by the fact that more men than women receive various forms of supplements and bonuses. In terms of contractual pay or basic pay alone, women's pay amounted to 85.9 per cent of men's pay. If irregular supplements and bonuses are included, the percentage drops to 84.7 per cent, and if overtime pay is also included the percentage drops even further, to 82.8 per cent.

The relative difference in pay between women and men in the private sector is greatest in the occupations with the highest pay levels, i.e. management, academic professions and college professions. In management, on average, women earn only 81 per cent of men's monthly earnings. One of the reasons for this may be that male managers are higher up the hierarchy, i.e. they have more senior management posts than women. There are also significant differences from one industry to the next in the management sector, and the finance industry is one example of an industry where there are relatively large differences in monthly pay for female and male managers, both in monetary and percentage terms. The difference between men's and women's pay increases with age. Part of the reason for this is the generation gap in men's and women's educational and career choices.

Further questions from the ECSR

The Committee has asked how gender equal treatment is guaranteed with respect to social security, in particular benefits related to employment.

The National Insurance Scheme, which covers the entire population, provides a minimum pension for all and a supplementary pension based on income from employment. It has a distribution profile that, to a certain extent, evens out differences in income. The National Insurance Scheme was introduced in 1967 and a full supplementary pension is paid after 40 years of employment. This means that the scheme will not have been fully developed until 2007.

In 2001 a Pensions Commission was established to consider fundamental changes to the pension scheme. One of the reasons for this was that forecasts gave grounds for a certain amount of concern about the financial sustainability of the national insurance system in a 30-50 year perspective. Another reason was that the National Insurance Scheme has developed a flatter distribution profile than was intended and that the growing number of work-related supplementary pension schemes and individual pension schemes necessitated an overall review of the system.

The Commission presented its report in 2004, and it led to a great deal of debate about employment and the distribution of finances between the generations. One of the main topics of this debate has been gender equality, with particular focus on the differences between men's and women's pensions. In 2005 the largest political parties in the Storting reached an accord on certain important guidelines for further work on changing the pension system, effective from 2010. Their agreement is based on the principle that the new pension system must reward economic activity more than the current system does. Work in the home and care of small children must be rewarded better than under the current system. Otherwise, however, it is important to note that with regard to most other topics that are highly relevant for gender equality, many issues have not yet been settled.

From 2007 it is compulsory for employers to establish supplementary pension schemes for their employees. These schemes are subject to a certain amount of statutory regulation. As reported in the sixth periodic report, gender neutrality in benefits and/or contributions has long been a topic in connection with these schemes. On 31 March 2006 the Ministry of Finance presented a proposal to permit gender and age-neutral calculation of contributions to defined benefit pension schemes in the private sector. This proposal is based on a system for calculating contributions that is already permitted for municipal pension schemes. The proposal entails an average calculation of the contribution over several pension schemes. The proposed rules will leave it to the pension providers and the enterprises, respectively, to decide whether they will make use of the possibility of using this type of contribution calculation.

The Committee has also asked for more information concerning the Norwegian legislation on gender representation in boards.

From 1 January 2004, the boards in all state owned companies are obliged to have a minimum of 40 percent representation of each gender. The Parliament has passed corresponding amendments regarding public limited companies in the private sector. For these companies, the regulations will be effective from 1 January 2006. This legislation will secure greater gender equality and democracy and will strengthen management in the business sector and boost the companies' competitive ability. No gender representation rules have been proposed for private limited liability companies. Most private limited liability companies in Norway are small family companies where the owners are physical person who personally attends the board. The legislation on gender representation does not fit very well for this kind of companies. In public limited companies, on the other hand, the shares are generally more widely spread, and the company's management has a less personal feature.

The previous report stated that the Ministry of Education and Research had decided to develop a strategy plan to counteract gender segregation in education, and the Committee therefore requested that this report shall indicate the measures taken on this issue. All girls and boys living in Norway have a right and an obligation to complete compulsory education. Young people, from 16 to 19 years, have a statutory right to three years of upper secondary education. Thus, the enrolment figures for girls and boys are more or less even.

Teaching in kindergarten and at primary school level is typically a female occupation. There are few male teachers at this level. At upper secondary school level, however, there is a drop in the number of female teachers and an increase in male teachers. Furthermore, the gender balance is reversed in higher education, where teachers are generally more likely to be men than women.

Sex differences in enrolment are more noticeable in higher education. There are now more women starting and completing higher education than men. This is in itself a historic shift. However, young women and men stereotypically study different subjects, and Norway has one of the most gender segregated workforces in Europe. (Especially when it comes to vocational education.) At the universities and university colleges men are dominant in technical and science subjects, while women are in the majority in teacher training, education, and health and social subjects. Since diversity is an important factor for creativity and growth this is a matter of concern.

On the basis of changing this, the Ministry of Education and Research is working on a Strategic Plan for Gender Equality 2007-2012. The plan will be presented to the public later this autumn.

The Strategic Plan for Gender Equality focus on boys and girls aged 0-19 in early childhood training and care (kindergarten), primary and secondary education and training establishments.

The Strategic Plan has four objectives:

- The first objective is to ensure that the care, learning and learning environment in kindergarten, primary and secondary education and training establishments, promote gender equality between boys and girls.
- The second is to reduce the differences between girls and boys performance in school.
- The learning process shall prepare boys and girls for education and a choice of profession according to ability and interests, irrespective of traditional gender expectations.
- The fourth objective is to promote a better gender balance amongst employees in kindergarten and school.

Article 24

Introduction

As regards the right to protection in cases of termination of employment, the regulations in WEA 2005 are mainly identical with the previous regulations in WEA 1977 concerning this matter. Reference is therefore made to our previous reports and annex' to these reports. We will however give an account for the prevailing regulations in WEA 2005 with reference to the previous regulations in WEA 1977. The regulations concerning termination of employment relationships are now to be found in the WEA 2005 chapter 15 and the regulations relating to proceedings concerning termination of employment etc. are to be found in chapter 17.

The central provisions concerning protection against unfair dismissal is now section 15-7 subsections 1 and 2, which replaced the former WEA's section 60 subsections 1 and 2.

Wording of the provisions:

WEA 1977:

- 1. Employees may not be dismissed unless this is objectively justified on the basis of matters connected with the establishment, the employer or the employee.*
- 2. Dismissal due to curtailed operations or rationalisation measures is not objectively justified if the employer has other suitable work to offer the employee in the establishment. When deciding whether a dismissal is objectively justified by curtailed operations or rationalisation measures, the needs of the establishment shall be weighed against the disadvantage caused by the dismissal for the individual employee.*

Dismissal owing to an employer's actual or planned contracting out of the

establishment's ordinary operations to a third party is not objectively justified unless it is absolutely essential in order to maintain the continued operations of the establishment.

WEA 2005:

(1) Employees may not be dismissed unless this is objectively justified on the basis of circumstances relating to the undertaking, the employer or the employee.

(2) Dismissal due to curtailed operations or rationalization measures is not objectively justified if the employer has other suitable work in the undertaking to offer the employee. When deciding whether a dismissal is objectively justified by curtailed operations or rationalization measures, the needs of the undertaking shall be weighed against the disadvantage caused by the dismissal for the individual employee.

(3) Dismissal owing to an employer's actual or planned contracting out of the undertaking's ordinary operations to a third party is not objectively justified unless it is absolutely essential in order to maintain the continued operation of the undertaking.

General comments

The only material change is in situations where the employer out-sources parts of the undertaking's operations. An account for the change will be given below.

The threshold for dismissing employees is still high, and the employer must show good cause for dismissal.

Three types of circumstances are taken into account when assessing whether the reasons for a dismissal are objectively justified: reasons connected with the employer, the establishment and the employee. Reasons connected with the employer rarely provide grounds for dismissal and will be confined to extraordinary situations where personal circumstances may put obstacles in the path of the management of operations, for example illness. This will only apply to small establishments.

In practice, dismissals may be divided into two main categories: dismissals due to circumstances connected with the employee and dismissals based in the needs of the establishment. The first category results from unacceptable behaviour on the part of the employee. Since this type of dismissal is defamatory, the requirements set by the courts are particularly strict. The second category affects the employee as a result of the establishment's need for reorganisation. Where the need for reorganisation is genuine and well-documented and provided the employer has otherwise preceded correctly, a court of law will as a rule accept this type of dismissal. Case law respecting this provision is ample. One of the High Courts has recently passed a judgement where the court found that the documentation showed that the establishment had to reduce its costs and therefore was entitled to make redundancies.¹

According to WEA 2005 section 15-7, subsection 2 (and 3, along with sections 15-8, 15-9 and 15-10) which replaced the former WEA 1977, section 60, subsection 2 (and 3, along with sections 64, 65 and 65A) further specifies the general objective-justification norm set out in

¹ Judgement by Eidsivating lagmannsrett 13 December 2006.

section 15-7 subsection 1 (former section 60, subsection 1). Protection against dismissal applies to all employees, and, in principle, to employees at all levels in fulltime and part-time positions alike. Requirements in respect of managers are more stringent, however, and it may be asserted that managers enjoy weaker protection against dismissal. The law courts' application of the objective-justification requirement set out in WEA 2005 section 15-7 subsection 1 (former WEA 1977 section 60 subsection 1) shows that the provision is a legal standard, and the courts' testing of this requirement has evolved since the principle was initially enshrined in the Worker Protection Act of 1936 section 33.

Rulings referred to below which are taken from Norwegian Supreme Court Reports (NSCR) have been handed down by the Supreme Court, while rulings taken from *Retters Gang* (RG) have been handed down by courts of appeal (High courts).

Dismissal based on reasons connected with the employee

Dismissal based on reasons connected with the employee himself should be viewed in light of the provisions on summary dismissal in WEA section 15-14, which replaced WEA 1977 section 66.

The rules address termination of employment where the employee is in breach of his obligations under the contract of employment. A serious breach may warrant summary dismissal under section 15-14 (previous section 66), while less serious breaches may warrant dismissal under section 15-7 (previous section 60). However, it is absolutely clear that transgressions of a less serious nature do not provide a basis for dismissal. The threshold for dismissal is high, and a lot is required for employment to be terminated on this basis.

Subjective factors of reasonableness, for example that dismissal will have a harsh effect on the employee, are given less weight in cases where dismissal is due to reasons connected with the employee than where dismissal is a result of operational curtailments, rationalisation measures etc. Behaviour outside the sphere of duty may also, depending on the circumstances, be relevant. The type of position held by the employee will be at issue here. In fact there are a number of reasons connected with the employee that may warrant dismissal.

- *Qualifications and professional capability*

In many cases it is asserted that the employee fails to meet professional requirements that may reasonably be imposed by the employer. In legal practice it is accepted that the employer alone decides what qualification requirements are to be set for the particular job. Even so, requirements as to effort and fitness cannot be set higher than is reasonable for the position, see Stein Evju: *Arbeidsrettslige emner* ("Employment Law Issues") page 272. Shortfalls in work performance, carelessness and indifference may, however, constitute an objectively justified reason for dismissal. What can be expected in terms of work effort will vary, but it must be appreciably below the normal level of expectation in order for the employer to resort to dismissals.

Case law shows that it is difficult for an employer to win through with an assertion of incompetence, and requirements as to documentation are stringent. It is generally speaking fairly difficult to terminate an employment contract in cases where the employer is not satisfied with the work performance delivered. This has to do with the institute of the trial (probationary) period and the employer's obligation to organise the work and to provide

training. The object of the probationary period is to clarify whether the employee has the qualifications needed to perform the work. If the employer is satisfied with the probationary period and allows the employment relationship to become permanent and indefinite, a lot will be required to remove an employee on grounds of unfitness.

Developments may also necessitate new requirements on a position, which employees will not invariably be able to meet. While this may, depending on the circumstances, provide objectively justified reasons for dismissal, weighty considerations call for the employer to seek other solutions such as retraining, relocation or the like. Not infrequently, collective agreements require the employer to initiate this type of action, which may well have a bearing on an assessment of objectivity. Moreover, the issue has a seniority aspect which, while not statutory, is typically set forth in collective agreements. Often the oldest workers with longest seniority have the greatest difficulties in meeting new requirements imposed on their jobs. Hence tension will often exist in such contexts between the establishment's needs for renewed expertise and the employee's rights under a traditional seniority-based selection system.

- *Disobeyal of orders, absenteeism and alcohol abuse – duty of obedience*

It follows from the employment contract that the employee is subordinate to the employer's leadership and right of instruction. The employee's breach of this duty of obedience could constitute an objectively justified reason for dismissal and, in serious cases, for summary dismissal. In some cases disagreement may arise on how far this duty of obedience extends, for example in terms of the obligation to work or to transfer to other work or other place of employment. The same may apply to the employee's right and duty to perform dangerous work. However, the point of departure is that the employee must respect, in the event under protest, the employer's decision to have the work performed. The disagreement must be addressed after the event. Not all disobeyal of orders provides a basis for dismissal. It is, however, clear that disobeying an order, especially after a warning has been given, could warrant dismissal or summary dismissal. One aspect of the duty of obedience concerns the observance of staff rules, i.e. use the employer's internet access for private purposes if staff rules have been set aside.

The duty of obedience also applies to observance of working time, so that absenteeism, repeated late arrival for work and other unjustified absence may, according to the circumstances, constitute an objectively justified reason for dismissal. The same issue arises in connection with absence due to intoxication or turning up for work under the influence of alcohol. In line with precedent, the law courts expect the employer to assist the employee in tackling his/her alcohol problem. Should treatment fail, the question of lawful dismissal may arise. Should the employee him/herself not be prepared to undergo treatment, or fails to recognise the problem, the employment relationship may reasonably be terminated.

- *Duty of loyalty*

The employment contract also imposes on the employee a duty of loyalty and secrecy which, if breached, may constitute an objectively justified reason for dismissal. Misconduct in financial matters is regarded as particularly serious. Similarly, errors in travel expenses or stealing from the till are in principle acceptable grounds for summary dismissal and will therefore often warrant dismissal. The same will often apply in cases where the employee has been involved in competitive enterprise during his employment, i. e. if the employee concerned founds a competing company while he is still engaged. This was a question in a decision from one of the High courts in 2006. The employer terminated the manager's

employment due to a suspicion that the manager was planning to start a competing company. The court, however, found that this was not the case, and that the termination therefore was unlawful.²

In special cases public statements may, depending on the circumstances, constitute a breach of the duty of loyalty.

- *Improper conduct*

Dismissal on grounds of improper conduct is related to the duty of loyalty.

- *Cooperation problems*

A frequent cause of dismissals is employees' lack of cooperativeness. Such cases are above all problematic on the level of proof. In legal terms, establishing that objectively justified reasons for dismissal are present is unproblematic provided it can be documented that the employee lacks sufficient ability to cooperate and otherwise causes problems for the work environment. The evidential difficulties are primarily related to the fact that it is not easy to separate the individual's behaviour from general cooperation problems at the workplace. Moreover, it is difficult to establish whether an employee is really to blame for what has happened. In such cases a statement from the working environment committee often clarifies matters, especially where work environment surveys are available. The ruling establishes that it is primarily the employer's responsibility to clear up this type of difficulty.

- *Discrimination*

It is absolutely clear that a court will not allow the employer to bring irrelevant considerations into play when an employee's circumstances are assessed. This means that putting emphasis on gender, race, religion, ethnic identity, political affiliation or other such factors are impermissible, cf. WEA 2005 section 13-1 and 13-2, which replace WEA 1977 Section 55 A.

- *Warning*

Advance warning is not a condition for lawful dismissal. No such condition is stipulated in the law, and the Supreme Court has moreover explicitly established that no such condition applies, cf. NSCR 1956 page 578.

Dismissal based on reasons connected with the establishment

Curtailed operations, rationalisation measures or other forms of reorganisation are the commonest reasons for dismissal grounded in the establishment's circumstances. Such measures will normally provide an objectively justified reason for dismissal provided that the establishment does not have other suitable work to offer the employee within the establishment.

However, the above rule does not mean that the employer is free to discharge the employee from a job and reassign him to another. In fact, should the job's basic character be altered, grounds for dismissal are also required for any reassignment, see the paragraph below concerning dismissal resulting from work content change. The point in this context is that once the conditions for dismissal are present, the employer has an obligation to consider alternative employment options.

² Judgement from Borgarting lagmannsrett 15 May 2006.

The fact that the situation is precarious does not justify dismissal under this alternative. Should the establishment – after objective, thorough deliberations – conclude that adjustments are necessary in the interest of the establishment’s further operation, this will as a rule be sufficient. Protection against unfair dismissal cannot be construed such that the establishment’s further operation must be under threat. Hence the point is to decide whether rationalisation is really necessary, or whether the adjustment issue can be met in another, more pro-active manner than by resorting to dismissal.

- *Section 15-7 subsection 2 (previous section 60, subsection 2, first paragraph) – “other suitable work”*

What is to be regarded as “suitable work” in this context depends on an overall assessment. In many cases the employee will, as mentioned, prefer a reduced offering rather than become entirely jobless. Hence the employer needs to conduct discussions with the employee to ascertain whether available work is suitable. If the employee refuses the offer of a job that is not significantly inferior, the establishment will as a rule run clear. The employee also has a duty to respond to the offer of another job within a reasonable period.

- *Section 15-7 subsection 2, second paragraph (previous section 60 subsection 2 second paragraph) – weighing up of interests*

Where the dismissal is due to operational curtailments, rationalisation or other circumstances connected with the establishment, the needs of the establishment must be weighed against the disadvantage caused by the dismissal for the individual employee. Case law put significant emphasis on the establishment’s interest in achieving a financial gain at the expense of the employees’ interest in retaining their work. The preparatory works to the previous WEA (which still has relevance since the new WEA is not meant to cause any material changes in this matter) premised that consideration for the employees should carry greater weight. The rules are intended to underscore that not all rationalisation gains justify dismissals and a weighing up must necessarily take place in relation to the employee who is actually dismissed. Age and length of service will be factors in this process, and the employee’s financial situation will also play a part. Importance may also be attached to the employee’s prospects on the labour market and social factors such as any maintenance burden. At the same time, the establishment’s need to carry through necessary curtailments to secure continued operations is to carry weight in relation to the employees, even if “dismissals will hit hard”.

The business-economic considerations underlying a reorganisation are not easy for the courts to assess. The court most likely will decline reviewing the commercial motives causing the rationalization, but may consider whether the measures appear to be adequately considered, and whether the measures are fulfilled. In one case before one of the high courts recently, the court reviewed whether the decision of termination was based upon correct and adequate facts.³ It is therefore important that the considerations that have been made, can be documented. The courts will also naturally put emphasis on whether the dismissals took place after discussions with the employees’ organisations. In a high court decision from 2005, the court found that even though the criteria for selecting redundant employees may have been

³ Judgement Borgarting lagmannsrett 20. November 2006

others, the actual criteria were made after consultations with the representatives, and were therefore appropriate.⁴

- *Section 15-7 subsection 3 (ref. previous section 60, second paragraph) – contracting out*

Some establishments have seen fit to outsource parts of their operations, above all cleaning and catering functions. A special rule has been laid down in section 15-7 subsection 3, which replaced WEA 1977 section 60, subsection 2, second paragraph. The regulations establish special protection against dismissal in such situations.

Please mark that this protection were more extensive in WEA 1977 than in WEA 2005. According to the previous regulation, such contracting out were only allowed unless the contracting out was absolutely necessary in the interest of the establishment's continued operation. The term "contracting out" denoted both the situation where a former employee took on work as an independent contractor and situations where other independent firms took over the work. The wording was general and therefore encompasses at the outset all forms of outsourcing of these activities.

The similar regulation in WEA 2005 (section 15-7 subsection 3) states that outsourcing to an independent contractor only is lawful if the outsourcing is absolutely necessary in the interest of the establishment's continued operation. The current regulation therefore only applies in situations where the establishment dismisses employees only to take on the same personnel as self-employed operatives. Dismissals caused by other types of contracting out, i.e. contracting out to an independent firm, must be considered under the general rule of just cause for dismissals.

- *Selection*

The selection of personnel for dismissal must also be properly founded. Unfair differential treatment must not take place, and consideration must be shown for particularly long service. This was the case in a judgement from one of the high courts in 2006. The termination of employment was found not to have just cause because the employer had not showed enough consideration to the actual employee's long service. The employment had lasted since 1970, and the employee was 59 years old.⁵

The most common selection criteria build on a combination of seniority and qualification principles. Further rules in this respect may be established by accord or in a staff reduction plan agreed between the parties. The courts may check to verify that the principles are adhered to, and that the principles themselves are objective. It is important to be aware that the principle of seniority is not statutory, and therefore not an obligatory criterion. However, the principle has a long tradition, and taking it as a basis will not as a rule be unfair. The point is that the employer – unless he is bound by the collective bargaining agreement – is legally free to choose criteria other than seniority provided they are objective, proper and show particular consideration for older employees.

The Basic Agreement between the Norwegian Confederation of Trade Unions (LO) and the Confederation of Norwegian Business and Industry (NHO) contains provisions permitting seniority to be waived in the event of dismissal due to curtailments or reorganisation where

⁴ Judgement Agder lagmannsrett 1. March 2005

⁵ Judgement from Borgarting lagmannsrett 30. January 2006.

“objective reasons” are present, such as the need for special qualifications. Besides seniority, it is clear that various selection principles can be applied, provided they are objective, proper and consistently applied. If these selection principles have been formed in cooperation with the elected representatives, the court will most likely accept the principles.

Dismissal based on work content change

WEA 2005 section 15-7 (previous section 60) sets limits on the employer’s right to unilaterally impose changes in work tasks. A basis must be taken in the contract of employment and how it is practised.

Where an employer imposes changes which alter the basic character of a job, it is in actuality a matter of “dismissal based on work content change”, cf. RG 1989 page 653 and NSCR 1995 page 227. Hence dismissal due to work content change will only be lawful provided it satisfies the general conditions for dismissal under section 60 of the Act. The same applies where an employee is dismissed and simultaneously offered a new position at the establishment. However, when objective justification is assessed, it will be relevant to take account of the fact that a new job has been offered.

Even so the employer has, by virtue of his right of control, a broad-based right to organize and arrange the work, and may reasonably impose changes in that connection. However, if the overall changes are so far-reaching as to alter a job’s basic character, either consent must be given or grounds for dismissal will necessarily be present.

Questions A – D

With reference to the Appendix to article 24 para. 3 litra f and question A, there has been one material change concerning protection against dismissal in the event of sickness, cfr. WEA 2005 section 15-8 (previous section 64). According to the previous Working Environment Act, an employee who was wholly or partly absent from work owing to accident or illness could not be dismissed for that reason during the first six months after becoming unable to work. If the employee had been continuously employed in the enterprise for more than five years, or if the incapacity for work was caused by injury or illness caught during work, the period of protection was extended to 12 months. In the new act, the period of protection (12 months) is extended for all employees.

Further questions asked by the ECSR

With reference to The Committee’s general introduction - conclusion on article 24, concerning protection against dismissal on grounds of age, WEA 2005 article 15-7 subsection 4 (which basically is identical to WEA 1977 article 60 subsection 3) states that dismissal before an employee reaches 70 years of age due solely to the fact that the employee reached retirement age pursuant to the National Insurance Act shall not be deemed to be objectively justified. Adversatively this means that dismissal may be just only caused by the fact that the employee has reached an age of 70 years or older. At the time being, The Ministry of Labour and Social Inclusion are evaluating this article, including whether it is in compliance with Council Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation.

Article 25

Questions A – C

Reference is made to previous reports. There have been no changes since the previous report.

Question D

As reported under question A in the previous report, disbursements from the wage guarantee scheme are linked to the privileged claims according to the bankruptcy legislation. As a result of changes in Directive 80/987/EEC, amended by Directive 2002/74/EC (concerning the protection of employees in the event of the insolvency of their employer), it has been necessary to make changes in the Wage Guarantee Act (No. 61 of 14.12.1973):

As of 01.01.06 claims from general managers and members of the board are covered by the wage guarantee, independent of whether their claims have a privileged status in the bankrupt estate.

Question E

Coverage is limited to a maximum amount, set in accordance with the social-security base amount which is regulated annually (1 May). At the time of the previous report maximum coverage was three times the social-security base amount. As of 01.01.05 this was reduced to two times the base amount.

For the period ending 31.12.2006 the maximum coverage was NOK 125 784,- (approx. € 15 700). As of 1 May 2007 maximum coverage is NOK 133 624,- (approx. € 16 700).

Costs' relating to the opening of bankruptcy proceedings is covered in addition to the above mentioned maximum amount.

Further questions from the ECSR

In Conclusions 2005, The Committee recalls that under the Appendix to the Revised Charter workers' claims for wages and workers' claims for amounts due in respect of paid absence other than holiday shall be covered by a guarantee system for a prescribed period, not less than eight weeks prior to the insolvency or to the termination of the employment, and asks whether the institution guarantees the claims for the minimum prescribed period.

Wage claims which fall due up to four months prior to the filing date of the insolvency proceedings are guaranteed by the wage guarantee institution. Holiday pay accrued up to 24 months prior to the filing date is also guaranteed independent of the due date. The minimum prescribed period is therefore guaranteed. In general the filing date is the date when a petition for insolvency proceedings is received by the court.

The Committee also asked for details on how the system is financed.

The wage guarantee is financed direct through the State Budget. Coverage from the wage guarantee is not dependent of whether the specific insolvent employer in fact has paid the contributions.

The Committee has asked whether the protection of workers claims extends to an enterprise being unable to honour its commitments, but where formal insolvency proceedings have not been opened.

The insolvency situations which fall within the scope of the wage guarantee, all require a formal insolvency proceeding. Thus, claims from workers in a situation as described by the Committee are not guaranteed. However, workers with privileged claims are not required to pay the usual fee to open bankruptcy proceedings, which will enable them to receive coverage of their claims from the wage guarantee.

The Committee has requested an estimate of the overall proportion of workers' claims which are satisfied by the guarantee system and of the normal or average duration of the period from a claim is lodged until the worker is paid.

Regrettably, this is an area where at present the statistical material is limited. Initially all claims are lodged with the specific administrators of the insolvent estates, who check the claims before forwarding the assumed privileged parts of the claims to the wage guarantee institution. In general we do not receive information about the division between the privileged and unprivileged parts of the total claim a worker may have against his or her employer. Judging from the limited information we have, it appears not to be any significant amount.

All applications to the wage guarantee are registered by the name of the employer's insolvent estate, not by the individual worker. We do not have exact figures for the total number of applications, or of how many of these applications which were wholly or partially denied. However, according to Statistics Norway approx. 6500 employees were affected by bankruptcy proceedings in 2006, and we estimate that a large majority of these file claims with the institution. As for the claims handled by the wage guarantee institution, figures for 2006 show that about 180 complaints over the institutions decisions were forwarded to the Ministry of Labour and Social Inclusion. In the same year an estimated 15% of complaints handled by the Ministry were decided in the applicants favour.

Statistics from the end of 2006 show that the average duration of the period from where a claim was lodged with the guarantee institution until the worker was paid was approx. 6 weeks.

Appendixes

1. WEA 2005
2. Regulations on The Dispute Resolution Board