



CPT/Inf (2000) 15

**Report to the Norwegian Government
on the visit to Norway
carried out by the European Committee
for the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment (CPT)**

from 13 to 23 September 1999

The Norwegian Government has requested the publication of this report and of its response. The Government's response is set out in document CPT/Inf (2000) 16.

Strasbourg, 9 October 2000

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Copy of the letter transmitting the CPT's report

Strasbourg, 29 March 2000

Dear Sirs,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I have the honour to enclose herewith the report to the Government of Norway drawn up by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) following its visit to Norway from 13 to 23 September 1999. The report was adopted by the CPT at its 41st meeting, held from 7 to 10 March 2000.

I would like to draw your attention to paragraph 104 of the report, in which the CPT requests the Norwegian authorities to provide within six months a report on the measures taken upon its report. It would also be most helpful if the Norwegian authorities could provide a copy of the report in a computer-readable form.

I am at your entire disposal if you have any questions concerning either the CPT's report or the future procedure.

Finally, I would be grateful if you could acknowledge receipt of this letter.

Yours faithfully,

Silvia CASALE
President of the European Committee for
the Prevention of Torture and Inhuman
or Degrading Treatment or Punishment

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I. INTRODUCTION

A. Dates of the visit and composition of the delegation

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Norway from 13 to 23 September 1999.

The visit formed part of the Committee's programme of periodic visits for 1999 and was the CPT's second periodic visit to Norway; the Committee also carried out an ad hoc visit to Norway in March 1997.

2. The visit was carried out by the following members of the CPT:

- Jón BJARMAN (Head of Delegation)
- Aleš BUTALA
- Renate KICKER
- Maria SCIBERRAS
- Demetrios STYLIANIDES.

They were assisted by:

- Enda DOOLEY (Director of Prison Medical Services, Department of Justice, Ireland) (expert)
- Marianne KASTRUP (Medical Director of the Centre for the Rehabilitation of Torture Victims, Denmark) (expert)
- Gordon LAKES (former Deputy Director General of the Prison Service of England and Wales) (expert)
- Anne Eitzen BRYN (interpreter)
- Karin HENDERSON (interpreter)
- Maidie KLOSTER (interpreter)
- Virginia SIGER (interpreter)
- Linda SIVESIND (interpreter)

and were accompanied by the following members of the CPT's Secretariat:

- Mark KELLY
- Bojana URUMOVA.

B. Establishments visited

3. The delegation visited the following places:

Police establishments

Asker and Bærum Police District

- Police Headquarters, Sandvika

Bergen Police District

- Police Headquarters
- Nesttun Police Station
- Ulset Police Station
- Fana District Sheriff's Office
- Laksevåg District Sheriff's Office

Oslo Police District

- Police Headquarters
- Majorstuen Police Station
- Manglerud Police Station

Romerike Police District

- Gardermoen Police Station, Oslo International Airport

Holding Centres for Aliens

- Snarøya Aliens Holding Centre

Prisons

- Bergen Prison (Landsfengsel)
- Oslo Prison (Kretsfengsel)

Psychiatric facilities

- Dikemark Hospital
- Aker Hospital, Oslo
- Gaustad Hospital, Oslo

Establishments for young persons

- Øvsttun Centre, Nesttun
- BUS Acute Institution, Oslo
- Fossum Collective, Spydeberg.

C. Consultations held by the delegation

4. The delegation held consultations with the national authorities and with representatives of non-governmental organisations and other persons active in areas of concern to the CPT. In addition, numerous meetings were held with local officials in charge of the places visited.

A list of the authorities and non-governmental organisations with which the delegation held talks is set out in Appendix II to this report.

D. Cooperation between the CPT and the Norwegian authorities

5. The CPT wishes at the outset to underline that the degree of cooperation demonstrated by the Norwegian authorities at national level was excellent.

At the Ministry of Justice and the Police, the delegation was received by the Minister for Justice, Mr Odd Einar Dørum, the State Secretary, Mr Bjørn Solbakken, the Secretary General, Mr Sven Ole Fagernæs and other senior officials. The delegation also met the State Secretary for Foreign Affairs, Ms Janne H. Matlary, and the State Secretary for Health and Social Affairs, Mr Idar Magne Holme, together with certain of their senior officials.

Further, the delegation had interesting discussions with the Ombudsman, Mr Arne Fliflet, with representatives of the Office of the Director General of Public Prosecutions and with members of one of the Special Enquiry Boards (SEFOs) for the Oslo Police District.

The Committee also wishes to acknowledge the valuable assistance provided to its delegation by the Government's liaison officer, Ms Anne Brodtkorb.

6. However, in a number of establishments visited, including certain police stations, Oslo Prison, and Gaustad Psychiatric Hospital, it was evident that information regarding the Committee's visit and the mandate of the CPT had been received by senior management, but had not been effectively transmitted to other members of staff. Given the general goodwill of the staff members with whom the CPT's delegation had contact, this did not hamper its work in any significant way; nevertheless, **this highlights the importance of detailed information regarding the CPT's terms of reference being made available to all staff working in places which fall within the Committee's mandate.**

7. It should be added that, taken as a whole, the content of the CPT's ongoing dialogue with the Norwegian authorities and its delegation's findings during the 1999 visit clearly indicate that those authorities are committed to taking positive action to implement its recommendations.

In short, co-operation between the CPT and the Norwegian authorities has to date been in compliance with Article 3 of the Convention.

II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

A. Police forces

1. Preliminary remarks

8. The CPT's delegation visited eight police establishments (three headquarters and five police stations). In addition, it visited two District Sheriff's offices ("Lensmanskontor"), which are responsible for police functions in rural areas.

9. The legal framework governing the treatment of persons detained by the police was outlined in the CPT's report on its first visit to Norway (cf. paragraphs 8 to 12 of document CPT/Inf (94) 11). It should be recalled that when persons are deprived of their liberty by the police, they must appear before a court no later than the day following deprivation of liberty.

10. Reference should also be made to the fact that it remains the case that persons remanded in custody by the courts may be returned to police establishments pending their transfer to prison (cf. paragraphs 13 and 14).

2. Ill-treatment

11. As during the CPT's previous visits to Norway, the delegation received no allegations of torture or other forms of ill-treatment of persons held in police establishments. However, a small number of allegations were heard of the use of excessive force by police officers at the time of apprehension.

The CPT recognises that the apprehension of a criminal suspect is often a hazardous task, in particular if the person concerned resists and/or is someone whom the police have good reason to believe may be armed and dangerous. The circumstances of an apprehension may be such that injuries are sustained by the person concerned (and by police officers) without this being the result of an intention to inflict ill-treatment. However, **no more force than is reasonably necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can be no justification for them being struck by police officers.**

12. Reference should also be made to certain unlabelled items - a baseball bat and nunchaku sticks¹ - found in a room used for questioning detained persons at Laksevåg District Sheriff's Office. The senior officer accompanying the delegation accepted that it was inappropriate that such objects should be visible to detained persons in a room used for questioning. **The CPT recommends that:**

- **all such items held on police premises as items of evidence be properly labelled and kept in a secure location designated for that purpose;**
- **no other non-standard issue weapons be held on police premises.**

¹ Originally used as a Japanese martial arts weapon, nunchaku sticks consist of two rounded rods of equal length, joined by a chain or strap.

3. Detention in police establishments of persons remanded in custody

13. In terms of Section 9, subsection 4, of the Prison Act, a prisoner may "if urgently necessary, for a short period of time" be placed in police cells or some other police facility instead of in prison.

At the time of the CPT's 1997 ad hoc visit to Norway, its delegation found that, at Oslo and Bergen Police Headquarters, persons were being held for up to five days or more after having been remanded in custody by a court. The CPT's report made clear that neither establishment offered appropriate conditions in which to hold persons for such extended periods of time.

On 3 March 1998, the Director General of Public Prosecutions issued new guidelines on this matter, in which he emphasised that "the rule is now that remand inmates **shall** be transferred to an ordinary prison within 24 hours after a court has ordered their remand in custody", and that "the public prosecutor responsible for the case **must** check that the prisoner is transferred to an ordinary prison within the above-mentioned time limit"².

14. The delegation which carried out the 1999 visit found that, in most cases, the Norwegian authorities were meeting the target of transferring remand prisoners to prison within 24 hours.

At Oslo Police Headquarters, according to official figures covering the first half of 1999, the average total period between a person's arrival in the establishment and their transfer to a prison was some 2.1 days, of which the average time between a court's decision to remand a person in custody and that person's transfer from the Headquarters to a prison was 0.96 days. A similar trend was observed at Bergen Police Headquarters; however, according to records held at that establishment (covering the period from January to August 1999), some 15% (34 out of 228) of remand prisoners had remained there for periods of 3 to 4 days. In this connection, **the CPT must reiterate that detainees held for prolonged periods are entitled to expect a better physical environment and regime than that which is available at Bergen Police Headquarters.**

This significant reduction in the average length of time which remand prisoners spend on police premises is a positive development. However, the CPT tends to agree with the view expressed by the Parliamentary Ombudsman on this issue, namely that "there is every reason why police cells should not be used for detention at all after a remand order has been made".³ Holding persons on police premises after they have been remanded in custody should be the exception and not the rule. In those cases where it is unavoidable, **the CPT recommends that the Norwegian authorities continue to make efforts to ensure that such persons are held on police premises for the shortest possible period of time.**

² cf. Circular Ra 97-309 TGM/GMC 632.1.

³ cf. the Ombudsman's opinion on the use of police cells for remand prisoners (case 96-0700 E).

4. Material conditions of detention

15. The Committee wishes to recall the general criteria which it uses when assessing conditions of detention in police establishments.

All police cells should be clean, of a reasonable size for the number of persons they are used to accommodate, and have adequate lighting (i.e. sufficient to read by, sleeping periods excluded) and ventilation; preferably, cells should enjoy natural light. Further, cells should be equipped with a means of rest (e.g. a fixed chair or bench), and persons obliged to stay overnight in custody should be provided with a clean mattress and clean blankets.

Persons in police custody should be allowed to comply with the needs of nature when necessary, in clean and decent conditions, and be offered adequate washing facilities. They should have ready access to drinking water and be given food at appropriate times, including at least one full meal (i.e. something more substantial than a sandwich) every day. Persons held for extended periods (24 hours or more) should be provided with appropriate personal hygiene items and, as far as possible, be offered outdoor exercise every day.

16. Virtually all of the police establishments seen during the 1999 visit complied with the criteria set out above. However, the CPT's delegation found that the quality of ventilation in the cells at Bergen Police Headquarters left something to be desired. The Norwegian authorities have since informed the Committee that this matter is being reviewed; **the CPT would like to be informed of the findings of that review.**

17. In the reports on its 1993 and 1997 visits, the CPT stressed that all persons obliged to spend the night on police premises should be provided with a clean mattress and blankets. In the course of the 1999 visit, it emerged that this was still not happening in every police establishment, at least as regards certain categories of detained person.

In a letter dated 6 December 1999, the Norwegian authorities clarified that they "distinguish between those being apprehended and taken to a police station pursuant to Sections 8 and 9 of the Police Act and those being arrested and possibly remanded in custody. We have been under the impression that the CPT's requirement for mattresses pertained to the latter category".

In this respect, the Committee wishes to state unequivocally that all persons obliged to remain on police premises overnight - regardless of their condition or the legal basis on which they are being held – should be provided with a mattress and clean blankets. **It recommends that immediate action be taken to ensure that this is the case.**

18. Reference should also be made to the metal bars and / or rings which were fixed to the walls beside benches in the reception areas of certain of the police holding facilities visited. These fixtures - which were found in recently-constructed premises such as the police stations at Gardermoen International Airport, and at Majorstuen in Oslo - were designed to enable police officers to handcuff detained persons to a wall.

Police officers with whom the delegation spoke provided a variety of accounts of the use which they made of this possibility: some suggested that the bars / rings were never used, while others indicated that detainees might be secured to them for short periods of time whilst awaiting placement in a cell; another explanation offered was that detainees would only be handcuffed to a wall if they behaved in a particularly agitated / aggressive manner.

In the view of the CPT, sufficient cellular accommodation was available in the establishments concerned to obviate the need to keep detained persons shackled to a wall. Moreover, as the Committee has already had occasion to stress (cf. paragraph 20 of CPT/Inf (94) 11), in cases where a detained person is, or becomes, highly agitated, the police should immediately contact a doctor and act in accordance with his or her opinion, rather than shackle the person concerned to a wall. **The CPT would like to receive the comments of the Norwegian authorities on this issue.**

5. Safeguards against the ill-treatment of detained persons

a. introduction

19. The CPT has been engaged, for a number of years, in a dialogue with the Norwegian authorities on the issue of the safeguards against ill-treatment to be offered to persons detained by the police. The Committee has placed particular emphasis on three fundamental rights, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, to have access to a lawyer, and to have access to a doctor.

b. notification of custody

20. The CPT's delegation found that there had been no change in the manner in which police officers handle the question of notifying a third party of the fact that a person has been detained. Although this was being done systematically if such persons were under 18, it remained the case that many other detained persons did not have the opportunity to have a third party informed until after questioning by a police officer, or even until a later stage.

21. On 10 November 1999, the Director General of Public Prosecutions issued new guidelines on notification of arrest to relatives and lawyers, which specify that "the accused must be asked if he wishes his household or another person named by him to be notified of his arrest. If so, notification must be given as soon as possible and in general no later than two hours after the person charged has been brought to the police station or Lensman's office."

However, it remains the case that, in accordance with Section 182 (2) of the Criminal Procedure Act, "notification may be dispensed with if it is deemed that it would be essentially detrimental to the investigation". On this subject, the Director General's Guidelines specify that "the chiefs of police must establish the routines needed to ensure that the officer who decides that notification is to take place also has the knowledge required to assess whether notification can be postponed for the sake of police investigations. In assessing whether to postpone investigations, consideration must be given, among other things, to: the extent of danger that evidence will be tampered with the need to give notification [and] ... the age and other personal attributes of the person charged."

22. The Committee fully recognises that it may exceptionally be necessary in the interests of justice to delay the exercise of a detained person's right to notify a third party of his situation. However, with reference to the above-mentioned provisions, the CPT wishes to stress that any possibility to delay the exercise of this right should be not only clearly circumscribed but also made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor). **The Committee recommends that appropriate steps be taken to ensure that this is the case.**

23. Further, the above-mentioned guidelines apply only to persons arrested pursuant to the Criminal Procedure Act, and not to persons apprehended under the Police Act, who fall outside the responsibilities of the Director General of Public Prosecutions. However, the CPT has been informed that the Ministry of Justice and the Police is giving consideration to producing guidelines on the rights of persons apprehended under the Police Act.

In the view of the Committee, all persons deprived of their liberty by the police, including those apprehended under the Police Act, should be guaranteed the right to inform a close relative or another third party of their detention, as from the moment when they are first obliged to remain with the police. **It recommends that appropriate steps be taken to ensure that this is the case.**

c. access to a lawyer

24. In a number of the police establishments visited, it was clear to the delegation that detained persons were only being placed in a position to exercise their right to have access to a lawyer as from the moment when they were first questioned by the police. Several relatively senior police officers with whom the delegation spoke admitted that a request from a detainee to have access to a lawyer at an earlier stage would not normally be granted. Moreover, in the course of the visit, the delegation itself observed police officers declining to act upon a request from a detained person to have access to a lawyer at the time of his reception in a police station.

25. In response to these findings, the above-mentioned Director General of Public Prosecution's Guidelines specify that:

- "1. A request to notify a lawyer must generally be granted as soon as possible and no later than two hours after the prisoner has been brought to the police station or the Lensman's office. If the prisoner is brought in after 22.00 hours, it will usually be sufficient to grant him the opportunity the following morning.
2. The main purpose of allowing the accused to contact a lawyer is to give him the opportunity to give notification of his arrest. The most practical procedure is probably generally for the police, after reassuring themselves that the desired lawyer answers the phone, to let the accused speak directly, and without supervision, with the lawyer. If necessary, the duration of the conversation can be limited and more comprehensive counselling or discussions referred to ordinary contact between the defence counsel and the accused.
3. If the desired lawyer is not available, it will generally be sufficient to leave a message with his office about the arrest and the wish for contact.
...
5. It must be clear from the orderly book or register of arrests that the accused's request to notify a lawyer has been granted, or an attempt has been made to grant it."

It is a positive development that these guidelines impose a time limit within which police officers are expected to respond to requests for a lawyer by persons arrested under the Criminal Procedure Act. However, in their present form, the guidelines fall short of according a fully-fledged right of access to a lawyer to all persons deprived of their liberty by the police - including those apprehended under the Police Act - as from the outset of their detention.

26. In this respect, the CPT wishes to reiterate that, in its experience, the period immediately following deprivation of liberty is when the risk of intimidation and ill-treatment is greatest. Consequently, the possibility for persons taken into police custody to have access to a lawyer during that period is a fundamental safeguard against ill-treatment.

The right of access to a lawyer as from the outset of deprivation of liberty must include the right to talk to the lawyer in private. The person concerned should also, in principle, be entitled to have a lawyer present during any interview conducted by the police (whether this be during or after the initial period of detention). Naturally, this should not prevent the police from questioning a detained person on urgent matters, even in the absence of a lawyer, nor rule out the replacement of a lawyer who impedes the proper conduct of an interview; however, the latter possibility should be strictly circumscribed by appropriate safeguards.

The Committee also recognises that, in order to protect the interests of justice, it may exceptionally be necessary to delay for a certain period a detained person's access to a particular lawyer chosen by him. However, this should not result in the right of access to a lawyer being totally denied during the period in question. In such cases, access to another, independent lawyer who can be trusted not to jeopardise the legitimate interests of the police investigation should be arranged.

The CPT recommends that steps be taken to introduce such a fully-fledged right of access to a lawyer for all persons deprived of their liberty by the police in Norway, as from the outset of their detention.

d. access to a doctor

27. As regards medical services for persons in police custody, the CPT's delegation found that it remained the case that police officers were screening requests from detained persons to have access to a doctor.

In a letter dated 6 December 1999, the Norwegian authorities informed the Committee that the question of medical services for persons in police custody is currently being reviewed by the Ministry of Justice and the Police. **The CPT recommends that, in the context of that review, concrete action be taken to implement the Committee's 1993 recommendations on this subject, namely that:**

- **the right of persons detained by the police to be examined by a doctor be explicitly recognised;**
- **a detained person be entitled, if he so wishes, to be examined by a doctor of his choice (in addition to any examination carried out by a doctor designated by the police authorities);**
- **any medical examination be undertaken out of the hearing and, preferably, out of the sight of police officers (unless the doctor concerned requests otherwise);**
- **the results of the medical examination as well as relevant statements by the detained person and the doctor's conclusions be formally recorded by the doctor and made available to the detainee and his lawyer.**

e. information on rights

28. In order to ensure that persons deprived of their liberty by the police are duly informed of their rights, the CPT's report on its 1993 visit recommended that a form setting out those rights be given systematically to such persons at the outset of their detention. It also recommended that the form be made available in different languages, and that the persons concerned should certify that they have been informed of their rights.

At the time of the 1999 visit, this recommendation had yet to be implemented; however, the Norwegian authorities subsequently informed the CPT that "the Ministry of Justice and the Director General of Public Prosecutions will jointly prepare an information sheet briefly stating a prisoner's rights. The information will be translated into the most relevant languages and routinely handed out to prisoners. When the information sheet is available, a note must be made in the orderly book or register of arrests that a copy of it has been given to the accused."⁴

The CPT welcomes this development **and trusts that the information sheet will be made available to all persons deprived of their liberty by the police as from the outset of their detention. The Committee would like, in due course, to receive a copy of the information sheet and to be informed of the languages in which it will be made available.**

29. Further, **the CPT trusts that, in due course, the information sheet will be amended to take account of the implementation of the recommendations set out in paragraphs 23, 26 and 27 regarding notification of custody, access to a lawyer and access to a doctor.**

f. complaints procedures

30. The existence of an independent mechanism to examine complaints against the police is another important safeguard for detained persons.

In Norway, this is the task of Special Enquiry Boards ("særskilte etterforskningsorgan" or SEFOs), each of which consist of three members (a qualified lawyer, usually a judge, as Chairman, a member of the local bar, and a police officer). During a meeting with members of one of the two SEFOs which process complaints regarding the police in Oslo, the CPT's delegation was informed that the Boards' current procedures accord only a limited role to persons who complain about police misconduct. In particular, although such persons may complain directly to a SEFO, they have no right to be heard by the Board, and can never be present at hearings when witnesses - including accused officer(s) - are being questioned.

In the view of the CPT, in order for a complaints procedure to be fully effective, it must be, and be seen to be, independent and impartial. In this respect, the Committee has reservations about the limited role which SEFOs accord to complainants as well as about the presence of serving police officers amongst the members of the Boards. Both of these factors are capable of damaging public confidence in the capacity of SEFOs to deal objectively with complaints about police misconduct. **The CPT would like to receive the comments of the Norwegian authorities on this issue.**

⁴ Letter of 6 December 1999 from the Norwegian authorities.

B. Snarøya Aliens Detention Centre

31. The CPT's delegation carried out a follow-up visit to the Snarøya Aliens Detention Centre, which is located in the immediate vicinity of the former international airport at Fornebu. Since the opening of the new international airport at Gardermoen in October 1998, the Centre has only been used for short-term custody (i.e. from one or two days, to a maximum of two weeks). Most of the persons held at the Centre are asylum seekers whose applications have been rejected, and who are due to be expelled from Norway.

32. Material conditions of detention at the Centre remained of a high standard (cf. paragraph 47 of document CPT/Inf (94) 11), and the delegation was pleased to note that - in line with the Committee's 1994 recommendation - an information booklet explaining the Centre's rules in a variety of languages had been produced and was being distributed to detained persons.

33. The delegation was impressed by the personal qualities of the employees of the private security company who staff the Centre; however, it was surprised to learn that they had received no specialised training for this task.

The CPT places a premium upon the supervisory staff in centres for immigration detainees - such as Snarøya - being carefully selected, adequately supervised and appropriately trained. As well as possessing well-developed qualities in the field of interpersonal communication, the staff concerned should be familiarised with the different cultures of the detainees and at least some of them should have relevant language skills. Further, they should be taught to recognise possible symptoms of stress reactions displayed by detained persons (whether post-traumatic or induced by socio-cultural changes) and to take appropriate action.

The CPT recommends that such training be introduced for all staff working in centres for immigration detainees in Norway.

34. The CPT has also been informed that a new detention centre for immigration detainees is to be constructed near Gardermoen International Airport, and that a working group has been established, under the auspices of the Ministry of Justice and the Police, to determine "the detention centre's location, structure, and organisation and the training and educational needs of the centre's employees".⁵

In this respect, the CPT trusts that the requirements set out in its 7th General Report will be fully taken into account in the design of this new facility; it would like to be informed, in due course, of the conclusions of the above-mentioned working group.

⁵ Letter of 6 December 1999 from the Norwegian authorities.

C. Prisons

1. Preliminary remarks

35. The CPT was already familiar with both of the prisons - Bergen and Oslo - which were seen by its delegation during the 1999 visit⁶. Oslo Prison has two main accommodation areas, known as Units A and B. On the first day of the visit, it was holding 277 prisoners, of whom 95 were on remand. At Bergen Prison, a new wing (A East) had been added to the existing accommodation (A West, B and C Wings) in early 1999. On the first day of the visit, the prison was holding 178 inmates, of whom 65 were on remand.

Material conditions at both establishments remained of a high standard, and the delegation was once again impressed by the range of activities in which the majority of prisoners could participate.

Consequently, this chapter focuses on only two issues of concern: the treatment of remand prisoners subject to restrictions imposed by a court, and the quality of prison health care services (in particular, at Oslo Prison).

36. It should also be mentioned at the outset that the CPT's delegation heard no allegations - and gathered no other evidence - of physical ill-treatment of inmates by staff in Bergen or Oslo prisons, or in other prison establishments in Norway (cf., however, paragraph 38). Staff-inmate relations in both prisons appeared to be of a positive and constructive nature.

2. Restrictions

37. The issue of the imposition of restrictions upon remand prisoners (i.e. the prohibition or supervision of their access to letters, visits, newspapers, radio and television) has been a subject of particular concern to the CPT for a number of years.

In the report on its 1997 visit, the Committee recommended a number of measures designed to ensure that restrictions are only imposed when they are absolutely necessary in the interests of an investigation, that they are not extended beyond the time strictly necessary, and that persons subject to them are treated in a manner which minimises their potentially harmful effects (cf. paragraphs 35 to 38 of CPT/Inf (97) 11).

The 1999 visit afforded an opportunity to review the action which has been taken by the Norwegian authorities in this area.

⁶ Oslo Prison was visited by the CPT in 1993 and 1997, and Bergen Prison in 1997 (cf. paragraphs 52, 77 to 79 and 82 of CPT/Inf (94) 11, and paragraphs 21 and 25 of CPT/Inf (97) 11).

38. The CPT's delegation once again gathered evidence of the harmful effects of restrictions upon prisoners. Lawyers with whom the delegation spoke indicated that, time and time again, they see clients subject to restrictions who complain of: anxiety, restlessness, sleeping problems and depression. One of the delegation's psychiatrists also interviewed a number of prisoners who had been subject to restrictions for prolonged periods who displayed a similar pattern of symptoms, including disturbed sleep and suicidal thoughts.

39. The prison authorities are well aware of the deleterious effects of restrictions upon prisoners. Indeed, in a circular dated 29 December 1997, the Director General of the Prison Service noted that:

"Being remanded in custody puts a strain on the inmates concerned. Solitary confinement (isolation) and lack of human contact can have an adverse effect on an inmate's health. Moreover, arrest and subsequent detention in custody give rise to acute practical problems in relation to an inmate's family, etc. Remand inmates in regard to whom the court has imposed a ban on correspondence and visits or screening of correspondence and visits (restrictions) are particularly vulnerable. The risk of negative, undesired effects increases if the remand period is long".⁷

In the same circular, the Director General outlines a series of "possible measures to relieve or mitigate the harmful effects of isolation and lack of human contact for remand inmates who are subject to restrictions". These include increased contact with / supervision by prison staff and other professionals (chaplains, social workers, medical personnel etc.), both at the time of reception and subsequently; extended outdoor exercise (of more than one hour per day); access to additional activities (including work and education); and enhanced co-operation between prison staff and the police as regards the manner in which restrictions are applied.

40. At Oslo Prison, the delegation found that three prison staff had been given the specific task of providing activities for prisoners subject to restrictions. In addition to outdoor exercise, such prisoners were being offered a number of in-cell activities, and staff had set themselves the goal of offering each prisoner the chance to leave his cell to take part in other recreational activities (e.g. playing table tennis / watching television / listening to music in an activities room) at least once a day. At Bergen Prison, a "contact officer scheme" had been introduced, under which staff had been instructed to take every possible opportunity to converse with prisoners subject to restrictions; the delegation observed that they were making considerable efforts to do so, including by talking to prisoners while they exercised.

These are welcome developments; however, the regime being offered to such inmates remains impoverished. At Oslo Prison, excluding outdoor exercise, out-of-cell time for remand prisoners with restrictions was rarely more than 30 to 40 minutes per day (and not all such prisoners were being offered this possibility every day). At Bergen Prison, many prisoners with restrictions were still spending up to twenty-three hours a day in their cells. Neither establishment was offering inmates with restrictions more than one hour of outdoor exercise per day.

⁷ Circular Fst 6/97

At both establishments, it was noteworthy that prisoners subject to restrictions were virtually never allowed to associate with each other, even if there was no connection between the criminal cases in respect of which they were being held. This is apparently because, in terms of section 82 (2) of the Prison Rules, remand prisoners subject to restrictions may only associate with other inmates if the police consent. The delegation found that the necessary police consent for such association was rarely - if ever - given.

41. In this connection, it should be recalled that, once a court has formally authorised the imposition of restrictions upon a remand prisoner for a given period, it is for the "prosecuting authority" (which, in practice, often means a police lawyer) to decide whether to lift or relax the restrictions within that period. Consequently, acting through the "prosecuting authority", the police retain a very substantial degree of control over the daily lives of remand prisoners subject to restrictions.

As during previous visits, the CPT's delegation heard numerous complaints from non-governmental organisations, legal practitioners and prisoners subject to restrictions about the manner in which the police make use of this discretion. In particular, it was alleged that police officers routinely seek to put pressure upon inmates subject to restrictions, by suggesting to them that restrictions could be eased or lifted if they began to provide information which would assist the police investigation. A number of police officers with whom the delegation spoke indicated that these allegations were not unfounded.

42. On 10 November 1999, the Director General of Public Prosecutions issued new Guidelines to all public prosecution authorities and chiefs of police which *inter alia* specify that:

"Restrictions, and remand in general, must not be applied for or upheld in order to put any kind of pressure on the accused to make a statement or contribute information in any other manner. If this should happen, it is unacceptable and contrary to the rules applying in this area. The accused's right to remain silent must be respected."

43. As regards the circumstances in which restrictions may be legitimately requested, the Director General's Guidelines provide that:

"... the public prosecutor must not apply for restrictions for more than *four weeks* at a time, even if the requested period of remand is longer than that. There can often be reasons to apply for restrictions for a shorter period, say of one or two weeks.

Specific reasons must be given for applying for restrictions ... It must be stated specifically in the application what harm can take place if restrictions are not imposed. Restrictions must only be imposed to reduce the danger of evidence being tampered with.

... The police lawyer in charge of the case must continuously evaluate whether it is necessary to uphold the restrictions, including within the time limit imposed by the court. Restrictions cannot be upheld when there is no longer any danger that evidence may be tampered with."

44. Further, on the issue of whether a prisoner subject to restrictions may associate with other prisoners, the Director General's Guidelines emphasise that:

"Thorough consideration must be given to how necessary it is to limit the accused's association with people other than the other persons charged in the case, for example whether the accused can spend time with all or some of the other inmates. Similarly, consideration must be given to the extent to which the accused can be given access to newspapers, radio and television broadcasts, books etc. It is emphasised that the leading consideration must be that the restrictions imposed must not be more numerous - or more comprehensive - than strictly necessary out of consideration for the investigations. It is not possible to take into consideration a possible increase in "cooperativeness", better "concentration on the case", etc."

In addition, the Committee has recently been informed that, at Oslo Prison, "there will in the near future be organised a meeting between the prison authorities and the police to see whether alternatives can be found to complete segregation during remand. One idea to be discussed is whether inmates subject to restrictions, but not involved in the same case, can be allowed to be together"⁸.

45. The CPT welcomes the production of the above-mentioned Guidelines and, in particular, their categorical recognition that it would be improper for the police to use restrictions to place prisoners under psychological pressure to co-operate with their investigations. If strictly respected in practice, the Guidelines would make a significant contribution toward ensuring that restrictions are only sought when they are absolutely necessary in the interests of an investigation, and that they are not extended beyond the time strictly necessary.

The Committee recommends that the Norwegian authorities carry out a six-month review of the impact of the Guidelines upon the manner in which prosecuting authorities seek and apply restrictions to remand prisoners. It would like to be informed - in due course - of the outcome of that review.

46. The Committee has also noted that efforts are being made to encourage the police to adopt a more flexible approach to the issue of whether a prisoner subject to restrictions may associate with other prisoners. However, in the light of its delegation's findings, the CPT remains of the view that - in line with its 1997 recommendation on this subject - **responsibility for the decision as to whether a prisoner subject to restrictions may associate with other prisoners ought to be vested in the courts.**

47. Lastly, in the light of its delegation's findings in the two prisons visited, **the CPT recommends that serious efforts continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions.**

⁸ Letter of 6 December 1999 from the Norwegian authorities.

3. Health care services

48. At Bergen Prison, health care services were found, on the whole, to be of an acceptable standard. However, the CPT is concerned by the situation found by its delegation at Oslo Prison.

At the latter establishment, the delegation's doctors were shown a number of letters from health care staff to the Oslo Chief County Medical Officer (who has a statutory responsibility to supervise the provision of medical care at the prison) in which they complain about the performance of the establishment's Chief Medical Officer. In a response dated 1 December 1998, the Chief County Medical Officer indicated that she "does not find that the inmates at Oslo Prison are not receiving the health care to which they are entitled pursuant to section 2 of the Act on Municipal Health Service. Further, the Oslo Chief County Medical Officer finds no grounds for criticising the Chief Medical Officer".

However, the information gathered by the delegation during the September 1999 visit, including during contacts with health care staff and the establishment's Chief Medical Officer, indicated that the health care team at Oslo Prison remained riven by an ongoing - and highly acrimonious - conflict. It might be added that a number of prisoners interviewed indicated that they were not satisfied by the quality of the medical care provided by the prison's Chief Medical Officer, whom they characterised as aloof and disinterested.

49. The CPT wishes to stress that the smooth operation of a health care service presupposes that doctors and nursing staff form a cohesive working team under the authority of the senior doctor in charge of the service. In an establishment where this does not happen - such as Oslo Prison - the quality of the health care service which can be delivered to inmates will inevitably be compromised.

In a letter dated 6 December 1999, the Norwegian authorities informed the CPT that the Ministry of Health and Social Affairs has had a meeting with the local authorities in Oslo about this subject and "has asked the supervisory authority to follow up the matter". **The CPT would like to be informed of the concrete action which has been taken by the supervisory authority to ensure that the health care service at Oslo Prison once again begins to operate effectively as a team.**

D. Psychiatric facilities

1. Preliminary remarks

50. The CPT's delegation visited a number of psychiatric facilities in the Oslo area in which patients may be held on an involuntary basis. Although located on separate sites at the Aker, Dikemark and Gaustad hospitals, all of the facilities visited fall under the administrative authority of Aker Hospital.

At the Aker Hospital complex, the delegation visited a new 34-bed facility (building 12), which was due to open in October 1999. It was told that three acute wards (18, 21 and part of ward 6) at Gaustad Hospital were to be relocated in these premises.

Dikemark Hospital is located in a wooded setting near Oslo. The delegation visited the 4-bed rehabilitation unit, and three "regional" units (the 6-bed observation unit, and the closed intermediate and closed long-term units, each of which have 8 beds).

Two of the units seen at Gaustad Hospital - wards 17.1 (9 beds) and 17.2 (10 beds) - form part of the same administrative unit (known as "Department 8") as the facilities seen at Dikemark Hospital. In addition, the delegation visited a closed intermediate and a closed long-term ward (respectively, wards 6.1 and 8, each of which have 10 beds), and two of the acute wards - 18 (10 beds) and 21 (13 beds) - which were due to be transferred to building 12 at Aker Hospital shortly after the CPT's visit.

51. Involuntary placement in a psychiatric hospital in Norway is currently governed by chapter 2, sections 3 and 5 of the Mental Health Act 1961.

Section 3, which concerns short-term involuntary admissions, *inter alia* provides that:

"If any person, due to his mental condition, is unable to make arrangements for the medical assistance and mental health care necessary to him, and if his next-of-kin fail to or neglect to arrange for such attention or care, the public authorities shall arrange for his examination by a medical doctor and otherwise take the necessary steps to have him brought under mental health care and protection.

Should the doctor after a personal examination consider it necessary, the patient may, at the request of his next-of-kin or the public authorities, be either admitted to and kept in hospital or detained in some other place where proper care can be provided, however not for longer than three weeks without his own expressed consent, unless the conditions under section 5 apply."

Longer-term involuntary placements are governed by section 5 of the 1961 Act, in terms of which:

"Any person suffering from a serious mental illness may be committed to a hospital without his own consent if his next of kin or the public authorities so requires and if the senior medical officer [of the hospital concerned] decides that - in view of the patient's mental condition - admittance to hospital is essential in order to prevent the patient coming to any harm or that the prospects for cure or considerable improvement would otherwise be lost, or that the patient represents a serious danger to himself or others.

....

Any person who is admitted to hospital may be retained there without his own consent if the conditions mentioned [above] are present."

52. At the beginning of the visit, the CPT's delegation was informed by the State Secretary for Health and Social Affairs that four draft laws⁹ in the area of mental health services had recently been submitted to Parliament. The Norwegian authorities anticipate that this legislation - which will supersede the 1961 Act - will enter into force at the beginning of 2001.

2. Ill-treatment

53. The CPT's delegation heard no allegations of deliberate physical ill-treatment of patients by staff at the psychiatric facilities visited. Staff-patient relations appeared to be relatively relaxed and the care staff were evidently dedicated to their work.

54. In advance of the visit, the CPT had received a certain number of allegations of the inappropriate use of medication (over-medication, unnecessary use of neuroleptic drugs etc.) in psychiatric facilities in Norway and, more particularly, at Gaustad Hospital.

These allegations were not borne out by the on-the-spot findings of the delegation's psychiatric experts, who found no evidence that medication was being misused in any of the cases which they examined. The prescription of psychopharmacological drugs in the facilities visited was found to be in accordance with standard professional practice in this area, both as regards the drugs used (mainly neuroleptics and antidepressants, with limited use of tranquillisers), and the dosages involved.

⁹ A law on specialised health services, which will replace the existing Mental Health Act; a law on the establishment and implementation of mental health care, which will regulate involuntary admissions and treatment; a law on patients' rights; and a law on health care staff.

55. However, in the course of its visit to the Regional Observation Unit (Regional Observasjons-Enhet) at Dikemark Hospital, the delegation found that a psychotic patient had been held in that Unit's "sheltered area" - under restraint - for a virtually uninterrupted period of four months. The patient concerned - an Algerian national with whom staff had great difficulties in communicating - was bound with so-called "transport straps", hand and foot, day and night.

In any psychiatric institution, the restraint of agitated and/or violent patients may on occasion be necessary. Further, in exceptional cases, resort to instruments of physical restraint (straps, straightjackets, etc.) may be required. However, if recourse is had to instruments of physical restraint, they should be removed at the earliest opportunity. A state of affairs such as that observed at Dikemark Hospital cannot have any therapeutic justification and amounts, in the CPT's view, to ill-treatment.

This issue was raised with the Norwegian authorities at the end of the visit. In a response dated 25 October 1999, the Ministry of Health and Social Affairs informed the Committee that "the situation for the patient concerned has now changed. Dikemark has provided more resources such as staff whom the patient knows. This has had a positive effect on the patient, who no longer needs to be held under restraint".

The Committee welcomes this development, **and would like to be informed of any measures which have been taken to avoid a repetition of such a case.** A longer-term solution involving the patient's return to his home country was also being sought, and **the CPT would like to be informed of any further progress which has been made in this respect.**

3. Patients' living conditions and treatment

56. The aim in any psychiatric establishment should be to offer material conditions which are conducive to the treatment and welfare of patients; in psychiatric terms, a positive therapeutic environment. Creating a positive therapeutic environment involves, first of all, providing sufficient living space per patient as well as adequate lighting, heating and ventilation, maintaining the establishment in a satisfactory state of repair and meeting hospital hygiene requirements.

Attention should also be given to the decoration of both patients' rooms and recreation areas, in order to give patients visual stimulation. The provision of bedside tables and wardrobes is highly desirable, and patients should be allowed to keep certain personal belongings (photographs, books, etc.). It is also important that patients be provided with lockable space in which they can keep their belongings; the failure to provide such a facility can impinge upon a patient's sense of security and autonomy.

57. These requirements were being fully met in all of the psychiatric facilities visited, where material conditions were of a high standard. Being an entirely new facility, the acute admission wards (building 12) at the Aker Hospital were found to be of a very high standard: the provision of *en-suite* sanitary facilities for all patients were particularly welcome.

Nevertheless, given that building 12 was due to open shortly after the visit, the CPT's delegation drew attention to two features of its design about which it had misgivings. Firstly, it expressed doubts about whether the new, so-called "combi" dining facility and occupational therapy space located in each of the closed sections represented an improvement over the current facilities located in wards 18 and 21 at Gaustad Hospital. In particular, the new facilities are markedly smaller and will require occupational therapists to pack away all of their equipment in order to enable patients to dine. Secondly, although it was expected that the new facility would open in October 1999, the enclosed outdoor exercise area for patients was not expected to enter into service until May 2000.

The CPT would like to be informed of:

- **whether it is intended to provide a room or rooms dedicated to occupational therapy for patients held in the acute admission wards at Aker Hospital;**
- **the measures which have been taken to ensure that all patients held in those wards who wish to take outdoor exercise are able to do so, for at least one hour every day.**

58. As regards treatment, in addition to psychopharmacological drugs, the delegation found that considerable efforts were being made by staff in all of the facilities visited to encourage as many patients as possible to participate in a wide range of other therapeutic and rehabilitative activities. These forms of treatment, based on an individualised approach, included occupational therapy, group therapy and outdoor activities, including sport, walking and - in cases where the patients' conditions permitted - visits to cinemas and museums.

4. Safeguards in the context of involuntary placement

a. initial placement

59. It is axiomatic that the procedure by which involuntary placement in a psychiatric establishment is decided should offer guarantees of independence and impartiality as well as of objective psychiatric expertise. Except in emergency situations, the formal decision to place persons in a psychiatric hospital against their will should always be based on the opinion of at least one doctor with professional qualifications in psychiatry, and preferably of two.

In the view of the CPT, the procedures currently laid down in Chapter 2, section 3 of the Mental Health Act 1961 (cf. paragraph 51) do not meet these criteria. In particular, there is no formal requirement that the single doctor who examines a person with a view to their committal be a qualified psychiatrist.

The Committee understands that the new mental health legislation to which reference was made in paragraph 52 will address this concern, **and would like to receive further details about the manner in which involuntary placement in a psychiatric establishment will be regulated in the future.**

b. during placement

60. An introductory brochure setting out the establishment's routine and patients' rights should be issued to each patient on admission, as well as to their families. Any patients unable to understand this brochure should receive appropriate assistance.

Such brochures were not being given to patients in any of the psychiatric facilities visited although, at Gaustad Hospital, the delegation was told that an information leaflet for patients was being prepared.

The CPT recommends that introductory brochures be drawn up and issued to all patients admitted to psychiatric facilities in Norway.

61. Effective complaints and inspection procedures are another basic safeguard against ill-treatment in psychiatric establishments.

Specific arrangements should exist enabling patients to lodge formal complaints with a clearly-designated body, and to communicate on a confidential basis with an appropriate authority outside the establishment. Further, the CPT attaches considerable importance to psychiatric establishments being visited on a regular basis by an independent outside body (e.g. a judge or supervisory committee) which is responsible for the inspection of patients' care. This body should be authorised, in particular, to talk privately with patients, receive directly any complaints which they might have and make any necessary recommendations.

62. In terms of Chapter 3 of the Mental Health Act, the supervision of the treatment of patients held on an involuntary basis (including complaints and inspection procedures) is the responsibility of Control Commissions appointed by the Ministry of Health for each health district. The Act provides that each Commission shall be composed of a legally-trained chairman (preferably a judge), a medical doctor, and two other members.

Patients may complain to a Commission at any time, and in any manner; there is no formal procedure. Commissions are required to produce a decision within two weeks of a complaint being submitted, failing which they must inform the patient of the reason for any delay. In addition, Commission members carry out visits to each psychiatric facility on a regular basis (e.g., at Gaustad Hospital, for two or three full days per month), during which they visit the wards and offer patients the possibility to register a complaint.

The CPT welcomes the existence of this mechanism; however, it considers that greater efforts could be made to publicise the existence of Control Commissions, and to inform patients of their right to register a complaint. **It would like to receive the comments of the Norwegian authorities on this subject, together with an account of any changes in the role and functions of Control Commissions which will be brought about by the entry into force of the new mental health legislation.**

63. The maintenance of contact with the outside world is also essential, not only for the prevention of ill-treatment but also from a therapeutic standpoint. None of the patients interviewed in the facilities visited made any complaints about their possibilities in this respect.

c. discharge

64. Involuntary placement in a psychiatric establishment should cease as soon as it is no longer required by the patient's mental state. Consequently, the need for such a placement should be reviewed by an appropriate authority at regular intervals. In addition, patients themselves should be able to request at reasonable intervals that the necessity for placement be considered by a judicial authority.

The Norwegian authorities recognise that the current procedures in this area, as laid down in Chapters 2 and 3 of the Mental Health Act 1961 are inadequate, in particular as regards patients' rights of appeal.

The CPT would like to receive a full account of the manner in which this question will be regulated by the new mental health legislation.

E. Establishments for young persons

1. Preliminary remarks

65. Under section 4.24 of the Child Welfare Act (CWA)¹⁰, minors who are deemed to have serious behavioural problems may be placed involuntarily¹¹ in an institution, following a decision by a 5-member County Board composed of a judge, a psychologist, a social worker and two elected officials.

Such placement may be for observation and examination for a period of up to four weeks (renewable once); long term placement for treatment is possible for a one-year period (with a further one-year extension).

Each extension of placement must be based on a separate hearing and decision by the County Board; further, placements are reviewed every six months. Senior officials from the Ministry for Children and Family Affairs, which oversees the application of the Child Welfare Act, informed the delegation that approximately 250 juveniles were currently being held pursuant to section 4.24.

66. The institutions which receive minors on the aforementioned basis are dispersed throughout Norway and are relatively small, with capacities ranging from 8 to approximately 20; often, they are located in converted residential houses. Some are operated by private foundations but are subject to the authority of the municipality.

The delegation visited three such establishments, all of which receive both girls and boys aged up to eighteen: the BUS Acute Institution in Oslo (capacity 8; occupancy 4 at the time of the visit), which is used for short-term placements for observation purposes; the Fossum Collective in Spydeberg (capacity approximately 20, occupancy 17 at the time of the visit), which is a rehabilitation institution for minors with substance abuse problems; and the Øvstun Centre in Nesttun (capacity and occupancy 8), which is used both for assessment and long-term placements.

2. Material conditions of detention

67. Establishments where minors may be deprived of their liberty should provide a positive and personalised environment. In addition to being of an adequate size, well lit and ventilated, juveniles' sleeping and living areas should be properly furnished, well-decorated and offer appropriate visual stimuli. Unless there are compelling security reasons to the contrary, juveniles should be allowed to keep a reasonable quantity of personal items.

¹⁰ The Child Welfare Act applies to persons under 18; however, with the consent of the person involved, measures implemented before the age of 18 may be prolonged until the age of 20 (section 1.3; cf. also section 4.24, paragraph 3). The age of criminal responsibility in Norway is 15.

¹¹ i.e. without the child's consent or the consent of the parent or guardian. Voluntary placement is governed by section 4.26 of the CWA.

68. All three establishments visited offered material conditions of a very high standard, fully meeting the criteria outlined above.

The BUS Acute Institution, located in a pleasant residential area in a suburb of Oslo, has eight 9m² single-occupancy bedrooms which were clean and well-equipped. Even though placements were of short duration, the rooms were decorated in a personalised manner by the minors themselves.

The Fossum Collective is located in a rural area, in a farmhouse and auxiliary buildings which have been adapted to its present purpose. The collective, which is operated by a private foundation, provides accommodation for most staff members as well as for the minors. It offers an exceptionally positive, tranquil and home-like atmosphere in premises centred around the farmhouse, which contained the main association area/library and the spacious kitchen and dining area. The main association area featured a fireplace, plants and traditional household objects such as candles and a spinning wheel; attractive woodwork was used throughout the collective in the fixtures and furnishings. The single-occupancy bedrooms as well as the sanitary facilities were also equipped to a high standard.

The Øvstun Centre was located in a suburban area on the outskirts of Bergen. The premises comprised a main building housing two accommodation units for different categories of residents (assessment and long-term placement) and an auxiliary building with an indoor sports hall and facilities for various activities. The bedrooms were single-occupancy and the communal area consisted of a large sitting room/dining area together with a kitchen.

3. Regime activities

69. Juveniles have a particular need for physical activity and intellectual stimulation. Those deprived of their liberty should be offered a full programme of education, sport, vocational training, recreation and other purposeful activities. Physical education should constitute an important part of that programme.

Further, girls and young women deprived of their liberty should enjoy access to such activities on an equal footing with their male counterparts.

70. Considering their respective functions (short- or long-term placements), all three establishments visited had well-developed programmes, which involved a high degree of involvement in activities beyond the confines of the institutions. The programmes were co-educational, i.e. all activities were equally open to and involved both girls and boys.

71. At the BUS Acute Institution, the communal areas provided an inviting space for association, board games, reading and television, and a small courtyard was fitted with a net for volleyball. The practice of keeping the bedroom doors unlocked at all times further contributed to minimising any potentially oppressive or carceral atmosphere.

The institution offered a variety of activities, including 1-1½ hours of individual education every other day, bi-weekly excursions to a nearby sports hall (for football, basketball, etc.) as well as frequent trips to the cinema, shopping (minors received an allowance of 150 NK/week), bowling, swimming, rock-climbing, hiking or skiing. Nevertheless, **the CPT considers that educational activities for minors held in the BUS Acute Institution should be bolstered.**

72. Minors at the Fossum Collective were admitted following the completion of a detoxification programme and a period of assessment. The latter programme took place in an institution affiliated with the collective and could last several months.

The collective offered a fully developed programme which was widely recognised by the minors for its value in helping them to overcome their substance abuse problems - many of those who were placed there on an involuntary basis chose to extend their stay by another twelve months voluntarily. The programme was based on six phases (0 to 5) which, after an initial period of becoming acquainted with the system and the other persons in the collective, allowed for a progressive acquisition of privileges (including an increased allowance) and responsibility on the part of the minors.

Although the establishment had a small school of its own (with an adequate supply of teaching materials, computers and video equipment, etc.), young persons who had reached at least the second phase of the programme attended classes at outside schools. Apart from school, sports, and domestic tasks around the establishment, activities included drama classes in preparation of the staging of plays in community or secondary school theatres.

73. Minors in the assessment unit at the Øvsttun Centre followed a programme of activities including pottery, painting and photography; further, there were regular camping trips to the nearby mountains. Those in long-term placement had individualised educational programmes led either by tutors in the centre itself or by teachers at an outside school.

74. At all three establishments, minors were involved in the maintenance and upkeep of the premises together with the staff, a positive practice which clearly allowed them to establish an attachment to their living space and a sense of responsibility for its appearance.

4. Staffing issues

75. The custody and care of juveniles deprived of their liberty is a particularly challenging task. The staff called upon to fulfil that task should be carefully selected for their personal maturity and ability to cope with the challenges of working with - and safeguarding the welfare of - this age group. More particularly, they should be committed to working with young people, and be capable of guiding and motivating the juveniles in their charge. All such staff should receive professional training, both during induction and on an ongoing basis, and benefit from appropriate external support and supervision in the exercise of their duties.

76. In the establishments visited in Norway, there was no separate group of "custodial" staff; instead, any security issues were addressed by the "child welfare educators" who were responsible for the guidance, treatment and care of the minors. The delegation was informed that the educators received specialised training in a three-year higher education programme (including 5 months mandatory practice/internship) as well as ongoing training during their tenure. At the Fossum Collective, most staff members also had special training in dealing with persons with substance abuse problems. In each establishment, management stressed that, apart from appropriate training, a stable personality, an ability to communicate and a high degree of personal motivation for working with young people were the most important selection criteria in recruitment of staff.

77. The CPT's delegation found that the staffing situation in all three establishments was very positive, both in terms of the ratio of staff to the minors accommodated (which allowed for individual attention to each minor) and in the staff's dedication to their task. The majority of staff were relatively young, a factor which perhaps contributed to their positive, relaxed relations with the minors. Indeed, the minors themselves expressed a uniformly high opinion of the staff (or, as they called them, "the adults") and asserted that their relations were marked by mutual respect.

5. Complaints and inspection procedures

78. The CPT attaches particular importance to regular visits to all juvenile establishments by an independent body (for example, a visiting committee or a judge) with authority to receive - and, if necessary, take action on - juveniles' complaints and to inspect the facilities.

In Norway, the control and inspection of establishments where minors may be held against their will is carried out by a Supervisory Committee from the relevant County Governor's Office (section 5.7, CWA). The delegation was informed that such inspections take place on a regular basis; in fact, its visit to the Øvstun Centre coincided with that of one such Committee.

The CPT welcomes the existence of this mechanism.

6. Medical issues

79. It is particularly important that the health care service offered to juveniles constitute an integrated part of a multidisciplinary (medico-psycho-social) programme of care. This implies inter alia that there should be close coordination between the work of an establishment's health care team (doctors, nurses, psychologists, etc.) and that of other professionals (including social workers and teachers) who have regular contact with the minors. The goal should be to ensure that the health care delivered to juveniles deprived of their liberty forms part of a seamless web of support and therapy.

80. The information gathered by the delegation indicated that - on the whole - the above-mentioned criteria were being respected in the establishments visited.

However, staff at the BUS Acute Institution and at the Fossum Collective informed the delegation that on occasion, "dual diagnosis" juveniles - those who had both psychiatric disorders and drug abuse problems - were received. The CPT is concerned that these establishments do not currently have the appropriate resources (in terms of staff with a medical - and, more particularly, psychiatric - training) to care for such persons. One practical problem which this created was that, on occasion, child welfare educators were called upon to dispense medication, a task for which they considered themselves unqualified. **The CPT would like to receive the comments of the Norwegian authorities on this matter.**

81. All juveniles deprived of their liberty should be properly interviewed and physically examined by a medical doctor as soon as possible after their admission to the establishment concerned; save for in exceptional circumstances, the interview/examination should be carried out on the day of admission. However, a newly-arrived juvenile's first point of contact with the health care service could be a fully-qualified nurse who reports to a doctor.

Newly-arrived juveniles were being medically screened at the Fossum Collective and the Øvsttun Centre, but not at the BUS Acute Institution. **The CPT recommends that this deficiency be remedied.**

III. RECAPITULATION AND CONCLUSIONS

A. Police forces

82. The CPT's delegation received no allegations of torture or other forms of ill-treatment of persons held in police establishments.

However, a small number of allegations were heard of the use of excessive force by police officers at the time of apprehension. In this respect, the Committee has recalled that no more force than is reasonably necessary should be used when effecting an apprehension and that, once apprehended persons have been brought under control, there can be no justification for striking them.

83. As compared with the situation during the Committee's previous visit, there had been a significant reduction in the average length of time which persons remanded in custody by the courts spend on police premises. In most cases, such persons were being transferred to prison within 24 hours.

Nevertheless, the CPT has stressed that holding persons on police premises after they have been remanded in custody should be the exception and not the rule. In those cases where it is unavoidable, the Committee has recommended that the Norwegian authorities continue to make efforts to ensure that such persons remain on police premises for the shortest possible period of time.

84. As regards formal safeguards against the ill-treatment of detained persons, the CPT has recalled the particular importance which it attaches to three rights which should apply from the very outset of custody, namely the right of detained persons to inform a close relative or another third party of their choice of their situation, the right of access to a lawyer, and the right of access to a doctor. The report on the Committee's 1993 visit recommended that these rights be made available to all persons deprived of their liberty by the police in Norway.

85. By the time of the September 1999 visit, there had been no change in the manner in which police officers handled the question of notifying a third party of the fact that a person had been detained. Although this was being done systematically if such persons were under 18, it remained the case that many other detained persons were not given the opportunity to have a third party informed until after questioning by a police officer, or even until a later stage.

As regards persons arrested pursuant to the Criminal Procedure Act, new guidelines issued by the Director General of Public Prosecutions in November 1999 more clearly circumscribe the circumstances in which the exercise of this right may be delayed. However, the CPT has recommended that appropriate steps be taken to ensure that all persons deprived of their liberty by the police, including those apprehended under the Police Act, are guaranteed the right to inform a close relative or another third party of their detention, as from the moment when they are first obliged to remain with the police. Further, any possibility to delay the exercise of this right should not only be clearly circumscribed but also made subject to appropriate safeguards.

86. In a number of the police establishments visited, it was clear that detained persons were only

being placed in a position to exercise their right to have access to a lawyer as from the moment when they were first questioned by the police.

The above-mentioned Director General of Public Prosecutions' guidelines impose a time limit within which police officers are expected to respond to requests for a lawyer by persons arrested under the Criminal Procedure Act. However, in their present form, the guidelines fall short of introducing a fully-fledged right of access to a lawyer. The CPT has recommended that steps be taken to ensure that all persons deprived of their liberty by the police, including those apprehended under the Police Act, benefit from such a right from the outset of their detention.

87. As regards medical services for persons in police custody, it remained the case that police officers were screening requests from detained persons to have access to a doctor.

The Norwegian authorities have subsequently informed the Committee that the question of medical services for persons in police custody is being reviewed. The CPT has recommended that, in the context of that review, concrete action be taken to accord all persons deprived of their liberty by the police a formally recognised right of access to a doctor, as from the outset of their detention.

88. In order to ensure that persons deprived of their liberty by the police are duly informed of their rights, the CPT's report on its 1993 visit recommended that a form setting out those rights be given systematically to such persons at the outset of their detention. It also recommended that the form be made available in different languages, and that the persons concerned should certify that they have been informed of their rights.

At the time of the 1999 visit, this recommendation had yet to be implemented; however, the Norwegian authorities have subsequently informed the CPT that they intend to produce such a form. The CPT has welcomed this development.

89. Conditions of detention in the police establishments visited were, on the whole, of a good standard. However, not all persons obliged to remain on police premises overnight were being provided with a mattress and clean blankets. The CPT has recommended that immediate action be taken to remedy this deficiency.

B. Snarøya Aliens Detention Centre

90. Material conditions of detention at Snarøya Aliens Detention Centre - first visited by the CPT in 1993 - remained of a high standard. Further, in line with one of the Committee's previous recommendations, an information booklet explaining the Centre's rules in a variety of languages had been produced and was being distributed to detained persons.

The delegation was impressed by the personal qualities of the employees of the private security company who staff the Centre; however, it was surprised to learn that they had received no specialised training for this task. The Committee has recommended that such training be introduced for all staff working in centres for immigration detainees in Norway.

C. Prisons

91. The Committee was already familiar with both of the prisons - Bergen and Oslo - which were seen by its delegation during the 1999 visit. The delegation heard no allegations – and gathered no other evidence – of physical ill-treatment of inmates by staff in either of the establishments. Further, material conditions at those establishments remained of a high standard, and the delegation was once again impressed by the range of activities in which the majority of prisoners could participate.

Consequently, the CPT's report focuses on only two issues of concern: the treatment of remand prisoners subject to restrictions imposed by a court, and the quality of prison health care services (in particular, at Oslo Prison).

92. As had been the case during the CPT's two previous visits to Norway, its delegation gathered evidence of the harmful effects of restrictions upon prisoners. Lawyers with whom the delegation spoke indicated that, time and time again, they see clients subject to restrictions who complain of: anxiety, restlessness, sleeping problems and depression. One of the delegation's psychiatrists also interviewed a number of prisoners who had been subject to restrictions for prolonged periods who displayed a similar pattern of symptoms, including disturbed sleep and suicidal thoughts.

93. The prison authorities have taken a number of measures to address this problem; however, in both of the prisons visited, the regime being offered to inmates subject to restrictions remained impoverished. The CPT has recommended that serious efforts continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions.

94. One current constraint upon prison staff is that remand prisoners subject to restrictions may only be allowed to associate with other inmates if the police consent. The delegation found that the necessary police consent for such association was rarely - if ever - given.

The Committee has noted that efforts are being made to encourage the police to adopt a flexible approach to this issue. Nevertheless, it remains of the view that responsibility for the decision as to whether a prisoner subject to restrictions may associate with other prisoners ought to be vested in the courts.

95. As during previous visits, the CPT's delegation heard numerous allegations to the effect that police officers routinely seek to put pressure upon inmates subject to restrictions, by suggesting to them that restrictions could be eased or lifted if they began to provide information which would assist the police investigation. A number of police officers with whom the delegation spoke indicated that these allegations were not unfounded.

In detailed guidelines issued following the CPT's visit, the Director General of Public Prosecutions categorically recognises that it would be improper for the police to behave in such a manner. The Committee has welcomed the production of these Guidelines, which could make a significant contribution towards ensuring that restrictions are only sought when they are absolutely necessary in the interests of an investigation, and that they are not extended beyond the time strictly necessary.

The CPT has recommended that the Norwegian authorities carry out a six-month review of the impact of the Guidelines upon the manner in which prosecuting authorities seek and apply restrictions to remand prisoners.

96. At Bergen Prison, health care services were found, on the whole, to be of an acceptable standard. However, the CPT has expressed concern by the situation found at Oslo Prison, where the health care team was riven by an ongoing - and highly acrimonious - conflict. The Committee has stressed that, in such a situation, the quality of the health care which can be delivered to inmates will inevitably be compromised.

The CPT has asked to be informed of the concrete measures which have been taken by the relevant supervisory authority to ensure that the health care service at Oslo Prison once again begins to operate effectively as a team.

D. Psychiatric facilities

97. The CPT's delegation heard no allegations of deliberate physical ill-treatment of patients by staff at the psychiatric facilities visited at the Aker, Dikemark and Gaustad Hospitals. Staff-patient relations appeared to be relatively relaxed and the care staff were evidently dedicated to their work.

In advance of the visit, the CPT had received a certain number of allegations of the inappropriate use of medication (over-medication, unnecessary use of neuroleptic drugs etc.) in psychiatric facilities in Norway and, more particularly, at Gaustad Hospital. These allegations were not borne out by the on-the-spot findings of the delegation's psychiatric experts, who found no evidence that medication was being misused in any of the cases which they examined.

98. Notwithstanding these positive findings, reference should be made to the CPT's visit to the Regional Observation Unit at Dikemark Hospital, where it found that a psychotic patient had been held in that Unit's "sheltered area" - under restraint - for a virtually uninterrupted period of four months. The CPT has stressed that such a state of affairs cannot have any therapeutic justification and amounts, in its view, to ill-treatment.

According to information submitted by the Norwegian authorities, the patient concerned is no longer being held under restraint; the Committee has requested information about the measures taken to avoid any repetition of such a case.

99. Material conditions were of a high standard in all of the psychiatric facilities visited; moreover, considerable efforts were being made by staff to encourage as many patients as possible to participate in a wide range of therapeutic and rehabilitative activities.

100. The CPT has also made a number of remarks concerning safeguards in the context of involuntary placement in a psychiatric institution.

The Norwegian authorities anticipate that many of the CPT's concerns will be addressed by new mental health legislation, which is expected to enter into force in the near future. The Committee has asked to receive further details about the precise nature of the legislative reforms which are envisaged.

The CPT has also recommended that an introductory brochure be drawn up and issued to all patients admitted to psychiatric facilities on an involuntary basis.

E. Establishments for young persons

101. The CPT's delegation formed a favourable impression of the three establishments for young persons which it visited (the BUS Acute Institution in Oslo, the Fossum Collective in Spydeberg, and the Øvstun Centre in Nesttun).

Juveniles were accommodated in positive and personalised living environments, and had access to well-developed programmes of activities, including a high degree of involvement in activities beyond the confines of the institutions. Further, the staffing situation in all three establishments was very positive, both in terms of the ratio of staff to the inmates accommodated and in the staff's dedication to their task.

Nevertheless, the CPT has formed the view that the intensity of educational activities for minors at the BUS Acute Institution should be bolstered.

102. As regards medical issues, the Committee has stressed in particular that all juveniles deprived of their liberty should be properly interviewed and physically examined by a medical doctor as soon as possible after their admission to the establishment concerned; save for in exceptional circumstances, the interview/examination should be carried out on the day of admission.

Newly-arrived juveniles were being medically screened at the Fossum Collective and the Øvstun Centre, but not at the BUS Acute Institution. The CPT has recommended that this deficiency be remedied.

F. Action on the CPT's recommendations, comments and requests for information

103. The various recommendations, comments and requests for information formulated by the CPT are summarised in Appendix I.

104. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the CPT requests the Norwegian authorities to provide within six months a report providing a full account of action taken to implement the CPT's recommendations.

The CPT trusts that it will also be possible for the Norwegian authorities to provide in the above-mentioned report reactions to the comments formulated in this report which are summarised in Appendix I as well as replies to the requests for information made.

APPENDIX I

SUMMARY OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION

A. Police forces

recommendations

- all items such as those described in paragraph 12 held on police premises as items of evidence to be properly labelled and kept in a secure location designated for that purpose, and no other non-standard issue weapons to be held on police premises (paragraph 12);
- in cases where holding persons on police premises after they have been remanded in custody is unavoidable, the Norwegian authorities to continue to make efforts to ensure that they are held there for the shortest possible period of time (paragraph 14);
- immediate action to be taken to ensure that all persons obliged to remain on police premises overnight - regardless of their condition or the legal basis on which they are being held - are provided with a mattress and clean blankets (paragraph 17);
- appropriate steps to be taken to ensure that the possibility to delay the exercise of a detained person's right to notify a third party of his situation is not only clearly circumscribed but also made subject to appropriate safeguards (e.g. any such delay to be recorded in writing together with the reasons therefor and to require the approval of a senior police officer or public prosecutor) (paragraph 22);
- appropriate steps to be taken to ensure that all persons deprived of their liberty by the police, including those apprehended under the Police Act, are guaranteed the right to inform a close relative or another third party of their detention, as from the moment when they are first obliged to remain with the police (paragraph 23);
- steps to be taken to introduce a fully-pledged right of access to a lawyer (as described in paragraph 26) for all persons deprived of their liberty by the police in Norway, as from the outset of their detention (paragraph 26);
- in the context of the review of medical services for persons in police custody currently being carried out by the Ministry of Justice and the Police, concrete action to be taken to implement the Committee's 1993 recommendations on this subject, namely that:
 - . the right of persons detained by the police to be examined by a doctor be explicitly recognised;
 - . a detained person be entitled, if he so wishes, to be examined by a doctor of his choice (in addition to any examination carried out by a doctor designated by the police authorities);

- . any medical examination be undertaken out of the hearing and, preferably, out of the sight of police officers (unless the doctor concerned requests otherwise);
- . the results of the medical examination as well as relevant statements by the detainee and the doctor's conclusions be formally recorded by the doctor and made available to the detainee and his lawyer (paragraph 27).

comments

- no more force than is reasonably necessary should be used when effecting an apprehension. Furthermore, once apprehended persons have been brought under control, there can be no justification for them being struck by police officers (paragraph 11);
- detainees held for prolonged periods are entitled to expect a better physical environment and regime than that which is available at Bergen Police Headquarters (paragraph 14);
- the CPT trusts that the information sheet stating prisoners' rights will be made available to all persons deprived of their liberty by the police as from the outset of their detention (paragraph 28);
- the CPT trusts that, in due course, the information sheet referred to in paragraph 28 will be amended to take account of the implementation of the recommendations set out in paragraphs 23, 26 and 27 regarding notification of custody, access to a lawyer and access to a doctor (paragraph 29).

requests for information

- the findings of the review carried out by the Norwegian authorities regarding the quality of ventilation in the cells at Bergen Police Headquarters (paragraph 16);
- the comments of the Norwegian authorities on the issue of shackling detained persons to a wall (paragraph 18);
- a copy of the information sheet referred to in paragraph 28 and information on the languages in which it will be made available (paragraph 28);
- the comments of the Norwegian authorities on the limited role which SEFOs accord to complainants as well as on the presence of serving police officers among the members of the Boards (paragraph 30).

B. Snarøya Aliens Detention Centre

recommendations

- training such as that described in paragraph 33 to be introduced for all staff working in centres for immigration detainees in Norway (paragraph 33).

comments

- the CPT trusts that the requirements set out in its 7th General Report will be fully taken into account in the design of the new detention centre for immigration detainees to be constructed near Gardermoen International Airport (paragraph 34).

requests for information

- the conclusions of the working group established, under the auspices of the Ministry of Justice and the Police, to determine "the ... location, structure, and organisation and the training and educational needs of the ... employees" of the new detention centre for immigration detainees to be constructed near Gardermoen International Airport (paragraph 34).

C. Prisons

recommendations

- the Norwegian authorities to carry out a six-month review of the impact of the Guidelines referred to in paragraphs 42 to 44 upon the manner in which prosecuting authorities seek and apply restrictions to remand prisoners, and to inform the CPT of the outcome of that review (paragraph 45);
- serious efforts to continue to be made by prison staff with a view to offering additional activities and appropriate human contact to prisoners held on remand under restrictions (paragraph 47).

comments

- responsibility for the decision as to whether a prisoner subject to restrictions may associate with other prisoners ought to be vested in the courts (paragraph 46).

requests for information

- the concrete action which has been taken by the supervisory authority to ensure that the health care service at Oslo Prison once again begins to operate effectively as a team (paragraph 49).

D. Psychiatric facilities

recommendations

- introductory brochures to be drawn up and issued to all patients admitted to psychiatric facilities in Norway (paragraph 60).

requests for information

- any measures which have been taken to avoid a repetition of a case such as the one referred to in paragraph 55 (paragraph 55);
- any further progress which has been made as regards the longer-term solution of returning the patient referred to in paragraph 55 to his home country (paragraph 55);
- whether it is intended to provide a room or rooms dedicated to occupational therapy for patients held in the acute admission wards at Aker Hospital (paragraph 57);
- the measures which have been taken to ensure that all patients held in those wards who wish to take outdoor exercise are able to do so, for at least one hour every day (paragraph 57);
- further details about the manner in which involuntary placement in a psychiatric establishment will be regulated under the new mental health legislation (paragraph 59);
- the comments of the Norwegian authorities on the subject of ensuring greater awareness of Control Commissions and of the right of patients to register a complaint, together with an account of any changes in the role and functions of Control Commissions which will be brought about by the entry into force of the new mental health legislation (paragraph 62);
- a full account of the manner in which the questions of the regular review of involuntary placement in a psychiatric establishment and of the right of appeal of patients will be regulated by the new mental health legislation (paragraph 64).

E. Establishments for young persons

recommendations

- newly-arrived juveniles held at the BUS Acute Institution to be medically screened (paragraph 81).

comments

- educational activities for minors held in the BUS Acute Institution should be bolstered (paragraph 71).

requests for information

- the comments of the Norwegian authorities on whether the BUS Acute Institution and the Fossum Collective currently have the appropriate resources to care for "dual diagnosis" juveniles (paragraph 80).

APPENDIX II

**AUTHORITIES AND NON-GOVERNMENTAL ORGANISATIONS
WITH WHICH THE CPT'S DELEGATION HELD CONSULTATIONS**

A. National authorities

Ministry of Foreign Affairs

Ms Janne H. Matlary State Secretary for Foreign Affairs

Ministry of Justice and the Police

Mr Odd Einar Dørum Minister for Justice
Mr Bjørn Solbakken State Secretary for Justice
Mr Sven Ole Fagernæs Secretary General

Ministry of Health and Social Affairs

Mr Idar Magne Holme State Secretary for Health and Social Affairs

Ministry of Children and Family Affairs

Mr Hector Helland Director General for Child Welfare

Office of the Director General of Public Prosecutions

Mr Tor-Geir Myhrer Senior Public Prosecutor
Mr Knut Kallerud Senior Public Prosecutor

Office of the Parliamentary Ombudsman

Mr Arne Fliflet Parliamentary Ombudsman
Mr Harald Gram Head of Division
Mr Torkjel Nesheim Head of Division
Ms Berit Herlofsen Legal Adviser

B. Other authorities

Special Enquiry Board (SEFO) for the Oslo Police District

Judge Trond Magseth Group Leader

C. Non-governmental Organisations

Norwegian Association for Penal Reform

Norwegian Helsinki Committee

Norwegian Organisation for Asylum Seekers