



CPT/Inf (2011) 33

## **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 18 to 27 May 2011**

The Norwegian Government has authorised the publication of this report.

Strasbourg, 21 December 2011

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**Copy of the letter transmitting the CPT's report**

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Strasbourg, 15 December 2011

Dear Ms Drazdiak,

In pursuance of Article 10, paragraph 1, of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, I enclose herewith the report to the Norwegian Government 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 18 to 27 May 2011. The report was adopted by the CPT at its 76<sup>th</sup> meeting, held from 7 to 11 November 2011.

The various recommendations, comments and requests for information formulated by the CPT are listed in Appendix I. As regards more particularly the CPT's recommendations, having regard to Article 10 of the Convention, the Committee requests the Norwegian authorities to provide within **six months** a response giving a full account of action taken to implement them.

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

The Committee would ask, in the event of the response being forwarded in Norwegian, that it be accompanied by an English or French translation.

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

Yours sincerely,

Latif Hüseyinov  
President of the European Committee for  
the Prevention of Torture and Inhuman  
or Degrading Treatment or Punishment

## 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 periodic visit to Norway from 18 to 27 May 2011. It was the Committee's fifth visit to Norway<sup>1</sup>.

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

- Mario FELICE (Head of delegation)
- Ivan JANKOVIĆ
- Marzena KSEL
- Vladimir ORTAKOV
- Elena SEREDA
- Marika VÄLI.

They were supported by Michael NEURAUTER, Head of Division, and Stephanie MEGIES of the CPT's Secretariat and assisted by:

- Veronica PIMENOFF, psychiatrist, Head of Department of Helsinki University Psychiatric Hospital, Finland (expert)
- Anne BRYN (interpreter)
- Hanne MORK (interpreter)
- Nina REIER (interpreter)
- Richard SCIABA (interpreter)
- Linda SIVESIND (interpreter).

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<sup>1</sup> The CPT has previously carried out three periodic visits (in 1993, 1999 and 2005) and one ad hoc visit (in 1997) to Norway. The reports on these visits and the responses of the Norwegian authorities are available on the CPT's website: <http://www.cpt.coe.int/en/states/nor.htm>

**B. Establishments visited**

3. The delegation visited the following places of deprivation of liberty:

Police establishments

- Bergen District Police Headquarters
- Oslo District Police Headquarters
- Grenland District Police Headquarters, Skien
- Trandum Aliens Holding Centre

Prisons

- Bergen Prison
- Bjørgvin Prison (detached unit for juveniles)
- Bredtveit Detention and Security Prison
- Eidsberg Prison
- Ila Detention and Security Prison (Unit for Preventive Detention)
- Oslo Prison
- Skien Prison

Psychiatric establishments

- Regional Department of Forensic and High-Security Psychiatry, Oslo University Hospital (Dikemark).

**C. Consultations held by the delegation and co-operation**

4. In the course of the visit, the delegation held fruitful consultations with Terje Moland PEDERSEN, State Secretary of the Ministry of Justice and the Police, and Tone-Helen TOFTEN, State Secretary of the Ministry of Health and Social Care, as well as with senior officials from these Ministries and the Ministry of Children, Equality and Social Inclusion.

It also had meetings with Arne FLIFLET, Parliamentary Ombudsman, and Reidar HJERMANN, Ombudsman for Children, as well as with representatives of the Norwegian Centre for Human Rights, the Norwegian Bar Association and non-governmental organisations active in areas of interest to the CPT.

A list of the national authorities, organisations and persons met by the delegation is set out in Appendix II to this report.

5. Throughout the visit, the co-operation received by the delegation, at all levels, was excellent. The delegation enjoyed rapid access to all the places visited (including those which had not been notified in advance), was provided - in a spirit of complete transparency - with the information necessary for carrying out its task and was able to speak in private with persons deprived of their liberty.

The CPT also wishes to express its appreciation for the assistance provided before and during the visit by its liaison officer Linda DRAZDIAK from the Ministry of Justice and the Police.

## II. FACTS FOUND DURING THE VISIT AND ACTION PROPOSED

### A. Police custody

#### 1. Preliminary remarks

6. The delegation visited Bergen District Police Headquarters, Oslo Police Headquarters and Grenland District Police Headquarters in Skien.

7. Since the last periodic visit in 2005, the legal framework governing the deprivation of liberty of persons by the police has undergone certain changes. In particular, amendments to the Criminal Procedure Act (CPA) which had been adopted in 2002 entered into force in 2006, and new Regulations on the Use of Police Holding Cells have been adopted<sup>2</sup>.

Following an amendment to Section 183 of the CPA, the maximum duration of police custody for *criminal suspects* has been increased. According to the new provision, the person concerned has now to be brought before the competent district court “as soon as possible and no later than on the third day following the arrest”<sup>3</sup>. At the same time, the new Regulations on the Use of Police Holding Cells stipulate that persons detained by the police shall be transferred within 48 hours of the arrest to a prison “unless this is impossible for practical reasons”.

Persons may also be deprived of their liberty by the police *under the Police Act*<sup>4</sup>, for example, for disturbing the peace, refusing to obey an order issued by the police, for identification (for up to four hours) or to recover from intoxication. In addition, the police may take into custody ill persons unable to take care of themselves and who might pose a danger for themselves or others for a period as brief as possible, and not exceeding 24 hours.

*Foreign nationals* may be taken into police custody under aliens legislation, before they are transferred to a detention centre for foreigners. According to Section 106 of the Immigration Act, the foreign nationals concerned have to be brought before the competent district court “at the earliest opportunity, and if possible on the day following the apprehension”.

8. It remained the case that, in all the police establishments visited, a considerable number of persons remanded in custody were kept in police detention facilities beyond the 48-hour time limit, in some cases (as observed at Bergen and Oslo Police Headquarters) even up to nine days, reportedly due to lack of capacity in remand prisons. Such a state of affairs is of particular concern, given that the police establishments visited were not suited to accommodate detained persons for prolonged periods (see paragraph 23). **The CPT recommends that the Norwegian authorities redouble their efforts to put an end to the practice of accommodating persons in police establishments after they have been remanded in custody.**

9. The delegation was informed by the Norwegian authorities that they were considering the introduction of a single time-limit for bringing detained persons before the court and transferring them to a prison. **The CPT would like to receive updated information on this point.**

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<sup>2</sup> By Crown Prince Regent’s Decree of 30 June 2006.

<sup>3</sup> Previously, the time limit was the end of the following day.

<sup>4</sup> See Sections 8 and 9 of the Police Act.



## 2. Ill-treatment

10. The CPT is pleased to note that its delegation received no allegations of deliberate ill-treatment of persons detained by the police nor of excessive use of force at the moment of apprehension, and did not gather any other information to this effect. In fact, the great majority of persons met by the delegation who were or who had previously been detained by the police indicated that they had been correctly treated by the police throughout their period in custody.

## 3. Safeguards against ill-treatment

11. The legal framework surrounding fundamental safeguards against ill-treatment, namely the right of detained persons to notify a family member or another third person of their detention and to have access to a lawyer and a doctor, has been strengthened since the CPT's last visit. The new Regulation on the Use of Police Holding Cells, together with specific instructions and directives<sup>5</sup>, provides that the aforementioned rights apply to all persons deprived of their liberty by the police – including those deprived of their liberty under the Police Act.

However, there are still certain gaps in the relevant provisions as regards access to a lawyer and to legal aid for those without means, from the outset of deprivation of liberty.

12. It is recalled that the right to notification of custody of criminal suspects is set out in Section 182 (1) of the CPA.<sup>6</sup> The information gathered during the visit indicates that this right of both criminal suspects and those apprehended under the Police Act was generally respected in practice, although some detained persons alleged that they were not informed at the very outset of their deprivation of liberty that they had the right to contact a relative or another trusted person. In this regard, reference is made to the remarks and recommendations made in paragraph 17.

According to Section 182 (2) of the CPA, notification may be delayed in the interest of the investigation. In this connection, the CPT was pleased to note that, following its recommendations in previous visit reports (2005 and 1999), it is now clearly spelt out in a Circular of the General Prosecutor<sup>7</sup> that the decision to delay notification must be taken by a prosecuting case lawyer or a police lawyer (or, if this is not possible, a senior police officer). The Circular further specifies the circumstances under which notification may be delayed and that such a decision and its grounds must be recorded in the custody registers. As far as the delegation could ascertain, these provisions were respected in practice.

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<sup>5</sup> Police Instructions by Crown Prince Regent's Decree of 22 June 1990 – Section 9-2 as amended on 30 June 2006, Circular of the National Police Directorate on the Use of Police Cells – No. 2006/014, Circular of the General Prosecutor on Custody – No. 4/2006 (replacing Circular No. 5/2002).

<sup>6</sup> The right is further specified in the Circular of the General Prosecutor of 4/2006 (Section IX 1.a).

<sup>7</sup> Section IX 1.a of the Circular of the General Prosecutor of 4/2006.

13. The right of criminal suspects to have access to a lawyer (including the right to have a lawyer present during police questioning and to talk to him/her in private) is formally guaranteed in the CPA<sup>8</sup>.

The information gathered during the visit indicates that detained persons were usually informed of their right to have access to a lawyer upon their arrival at the police station and were granted swift access through unmonitored telephone contacts and/or visits.

However, the CPT must express its concern about the fact that the relevant provisions of the Circular of the General Prosecutor<sup>9</sup> provide that if the person is arrested after 10 p.m., contact with a lawyer may be postponed until the following morning. **The CPT recommends that the Norwegian authorities take the necessary steps to ensure that the right of access to a lawyer is granted in all cases from the outset of the deprivation of liberty and that the above Circular is amended accordingly.**

14. The right of access to a lawyer can only be considered an effective safeguard against ill-treatment if persons in police custody who are not in a position to pay for a lawyer benefit from legal aid. Otherwise the right of access to a lawyer will remain, in many cases, purely theoretical. In this respect it is a positive development that a right of access to an *ex officio* lawyer has been introduced in Section 98 CPA.

However, the CPT notes that this right is limited to detained persons who are expected to be deprived of their liberty for more than 24 hours. **The Committee recommends that the right of access to an *ex officio* lawyer be extended in order to ensure that those without means can benefit from this right from the very outset of police custody, irrespective of the seriousness of the offence allegedly committed or the expected duration of police custody.**

15. As regards access to a doctor, the CPT welcomes the fact that the right of detained persons to contact a doctor of their own choice is now embodied in the Regulations on the Use of Police Holding Cells<sup>10</sup>. It appeared during the visit that requests by detained persons to consult a doctor were usually promptly followed up by police officers.

16. Even in the absence of an explicit request by a detained person to see a doctor, the police must be vigilant and arrange a medical examination whenever required. In this regard, mention must be made of a young woman met by the delegation at Bergen Police Headquarters. Despite the fact that she displayed behaviour and other symptoms indicative of a need to be promptly seen by a doctor, she had remained locked up in a cell for several hours without being attended to by staff. The officer on duty did not consider that it was necessary to arrange for a medical check of the woman concerned, and this was done only at the delegation's insistence. **The CPT recommends that police officers be reminded of their duty to ensure that persons who are incapable of taking care of themselves receive the necessary medical attention (see Section 2-3 of the Regulations on the Use of Police Holding Cells).**

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<sup>8</sup> Sections 94 (1) and 186 (1) of the CPA.

<sup>9</sup> Section IX 2.a of the Circular of the General Prosecutor of 4/2006.

<sup>10</sup> Section 2-3.

17. As regards the provision of information on rights, the findings during the visit would suggest that detained persons were in most cases informed of their rights verbally upon their arrival at a police establishment.

However, a number of detained persons met by the delegation did not have the information booklet on rights of detained persons with them in their cells and claimed that they had not been informed of their rights promptly. Unfortunately, the delegation was not in a position to assess the veracity of these allegations. It observed that, in accordance with the relevant regulations<sup>11</sup>, police officers recorded in the custody registers whether information about their rights had been given to detained persons. That said, detained persons themselves were not requested to sign a statement attesting that they had been informed of their rights in a language they could understand. In this connection, the Norwegian authorities, in their response to the report on the 2005 visit express concerns with regard to the capacity of persons intoxicated by alcohol or drugs to sign any legally valid statement.

**The CPT recommends that verbal information on rights be given systematically to all persons apprehended by the police, at the very outset of their de facto deprivation of liberty. As regards the information booklet on rights, it should be given to all detained persons as soon as they are brought into a police establishment, and should be properly explained to them to ensure that they are in a position to understand their rights and to exercise them effectively.**

**Further, the Committee reiterates its recommendation that the persons concerned be requested to sign a statement attesting that they have been informed of their rights in a language which they understand. In cases where alcohol or drug intoxication prevents a person from making a valid statement, this request should be made as soon as the person is in a suitable mental state.**

18. In accordance with the applicable rules<sup>12</sup>, parents (or other relatives) of juveniles were generally informed without delay when their child had been taken into custody. It appeared from the information gathered during the visit that juveniles were usually subjected to police questioning only in the presence of either a lawyer or a trusted person. **The CPT would like to receive confirmation that this practice is followed in all police establishments throughout Norway.**

19. The requirement that a person's deprivation of liberty is properly recorded is a fundamental safeguard against ill-treatment. In the police establishments visited, various electronic databases were used for recording details about persons in custody. **The CPT would like to receive further information on the security features of these electronic databases, and more specifically on access rights and audit-trail features designed to protect against potential manipulation.**

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<sup>11</sup> See Circular 2006/014 of the National Police Directorate on the Use of Police Cells.

<sup>12</sup> See Section 9-2 Police Instructions, Section 182 (1) of the CPA and Section IX Nos. 1 a) and b) of the Circular of the General Prosecutor of 4/2006.

20. The delegation noted that several interrogation rooms were equipped with audio- and video-recording devices. In terms of preventing ill-treatment, the CPT has repeatedly stressed that the electronic recording of police questioning represents a useful safeguard against both ill-treatment and any false allegations of ill-treatment or undue psychological pressure. **The Committee would like to receive up-to-date information on the practice of audio and video recording during police interviews.**

21. In certain police stations visited, detention areas (including sobering-up cells) were under constant closed-circuit video surveillance (CCTV) and, in accordance with the current retention policy, recordings were destroyed after 48 hours.

The CPT has no objection to the use of such a system. However, **the Committee considers it essential that the privacy of detained persons be preserved when they are using a toilet**; this was not always the case.

Further, given inter alia the fact that several days might elapse before detained persons are presented to a court, a retention period of 48 hours appears to be too short and could undermine the effectiveness of complaints of ill-treatment which are lodged by detained persons after their stay in police custody. **The CPT would like to receive the Norwegian authorities' comments on this point. The Committee would also like to receive information regarding the security features of the recordings, to ensure that the time-stamp on the recordings cannot be manipulated.**

#### **4. Conditions of detention**

22. Material conditions were of a high standard in the newly-constructed detention facilities of Oslo Police Headquarters and were, on the whole, adequate for short-term custody in all the other police establishments visited.

It is noteworthy that, at Oslo Police Headquarters, all cells had access to natural light and detained persons were also offered daily outdoor exercise. In addition, all cells were equipped with a clock which allowed detained persons to remain orientated in time, **a practice which should be followed in other police establishments.**

23. In contrast, at Bergen Police Headquarters, most cells did not have a window and detained persons did not benefit from outdoor exercise; it is of particular concern that some persons had been detained under such conditions for prolonged periods (up to nine days; see paragraph 8). The situation was more favourable at Skien District Police Headquarters, where most of the cells had windows. That said, only those detained persons who smoked were taken outside every day.

**The CPT recommends that the Norwegian authorities review the conditions of detention in the cells at Bergen Police Headquarters and, where appropriate, in other police establishments in Norway where persons may be held for 24 hours or more, in order to ensure that they enjoy adequate access to natural light.**

Further, **the Committee recommends that persons held for 24 hours or more in police custody be offered outdoor exercise every day; the need for outdoor exercise facilities for detained persons should be taken into account in the design of new premises.**

24. At Bergen Police Headquarters, many detained persons interviewed by the delegation had apparently not been provided with any personal hygiene products, and several persons claimed that they had not been offered use of the shower which was available in the detention area. **The CPT recommends that steps be taken at Bergen Police Headquarters and, where appropriate, in other police establishments to ensure that persons taken into custody are offered adequate washing facilities (including the possibility to take a shower) and that persons detained overnight are also provided with basic personal hygiene products.**

25. In the reception areas of both Oslo Police Headquarters and Skien District Police Headquarters, there were wall-mounted metal rails to which persons could be attached.

The CPT has misgivings about the practice of handcuffing detained persons to fixtures in police establishments. While it may be necessary in certain situations for a person in police custody to be handcuffed, attaching the person to wall fixtures cannot be a substitute for proper temporary holding facilities. Therefore, **the Committee recommends that steps be taken to ensure that wall fixtures of the kind described above are removed from all police establishments.**

26. Further, at Oslo Police Headquarters, the delegation found two very small “waiting cells” (measuring slightly more than 1m<sup>2</sup> and with no access to natural light), which were equipped with a bench and a rail for handcuffing detainees. Police officers affirmed to the delegation that these cells were used only for very short periods. However, the CPT must stress that the above-mentioned cells are, by virtue of their very size, unsuitable for holding anyone for any length of time. **The Committee recommends that the above-mentioned cells at Oslo Police Headquarters be either enlarged (and the wall fixtures for attaching persons removed) or withdrawn from service.**

## **B. Trandum Aliens Holding Centre**

27. The CPT carried out a follow-up visit to the Police Immigration Detention Centre at Trandum (hereinafter: “Trandum Holding Centre”) which was opened in 2004 on the premises of former military barracks next to Oslo International Airport.

Since the last visit in 2005, the legal framework governing the detention of foreign nationals under aliens legislation has changed. On 1 January 2010, a new Immigration Act<sup>13</sup> entered into force (adopted in May 2008), which contains a specific provision (Section 107) on the holding centre for foreign nationals. In addition, new Regulations regarding Holding Centres for Foreign Nationals were adopted in October 2009 (in force since 1 January 2010). As a general rule, the detention of foreign nationals may not last for more than twelve weeks. However, under certain circumstances (i.e. refusal of the foreign national to co-operate with the immigration authorities or delays in obtaining necessary documents from another country), the detention can be extended to a period not exceeding 18 months<sup>14</sup>.

28. In recent years, the official capacity of the Trandum Holding Centre has been reduced from 200 to 70 places. At the time of the visit, the Centre was accommodating a total of 53 foreign nationals (48 male and five female, no minors). The Centre comprised two detention units for male adults (Units A and B), one for women, families and children (Unit D), one secure unit (Unit C) and another unit (Unit E) which was not in use at the time of the visit<sup>15</sup>. The delegation was informed that foreign nationals were usually held in the Centre for a period of a few days up to several weeks; only in rare cases had a person been detained for longer than a few months. Further, as a matter of policy, the stay of families was limited to two weeks and that of juveniles to one week.

29. The CPT wishes to stress that its delegation received no allegations and found no other evidence of ill-treatment of immigration detainees by staff at the Trandum Holding Centre. Overall, the atmosphere in the respective units appeared to be quite relaxed.

30. Material conditions of detention were generally very good in terms of living space, access to natural light and ventilation. However, many of the detention rooms were very austere and equipped only with (four) beds, but no tables, chairs or lockers. The delegation was informed by the management that, in two units, almost all the furniture had been destroyed after two fire incidents in February and April 2010 and that new furniture had been ordered and would be delivered in the near future.

The delegation was informed that, following a comprehensive security review, the police authorities had decided to construct by early 2012 a new building with 64 single rooms (with integrated sanitary facilities) and to withdraw from service the existing detention units A and B. **The CPT would like to receive updated information on the implementation of the above-mentioned plans as well as on the standard equipment of all the detention rooms.**

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<sup>13</sup> Act of 15 May 2008 on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm.

<sup>14</sup> Section 106 of the Immigration Act.

<sup>15</sup> According to the management, Unit E was only used sporadically (e.g. prior to large-scale deportations by air).

31. As regards the regime, the delegation was particularly impressed by the establishment's activity centre, where all foreign nationals were provided with a wide range of activities for some four hours per day (in two separate groups). The activity centre was very well equipped and comprised a large common area with board games, a small sports hall, a table tennis room, a room with a television set and video games, another television room, a reading room and a prayer room. In addition, all foreign nationals had access to an outdoor yard for some 15 minutes, five times a day.

For the rest of the day (until 10 p.m.), foreign nationals could move freely within their detention units and had access to a common room with a television set. **That said, the possibilities for detainees to occupy themselves in the detention units were quite limited (in particular, no board games and hardly any reading materials were available).**

32. As in 2005, health care was provided by a pool of four doctors (one general practitioner, two specialists in family medicine and one anaesthiologist) who attended the Centre on a part-time basis. As a rule, one doctor was present three times a week (Mondays, Wednesdays and Fridays) for one to two hours (in the late afternoon or evening), and one doctor was always on call, in case of need. Specialist consultations (including dental care) were provided by outside specialists.

33. That said, the CPT is very concerned by the almost total lack of medical screening of newly-arrived foreign nationals and the lack of nursing cover in the Centre.

Systematic medical screening is not only an important safeguard against ill-treatment but also an essential means to protect inmates and staff alike (in particular, with regard to transmissible diseases). As was already stressed by the CPT in its report on the 2005 visit, a qualified nurse should be present on a regular basis at Trandum Detention Centre. This nurse could perform the initial medical screening of new arrivals (under the supervision of a doctor), handle requests to see a doctor and also deal with the provision and distribution of prescribed medicines<sup>16</sup>, keep the medical documentation (thus ensuring confidentiality of medical data<sup>17</sup>) and supervise the general conditions of hygiene.

Further, it is regrettable that, despite the assurances given by the Norwegian authorities in their response<sup>18</sup> to the report on the 2005 visit, the Centre was no longer visited by a part-time psychologist. The delegation was also informed that there were often long waiting periods before consultations with a psychiatrist could be arranged (excepting emergencies).

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<sup>16</sup> In practice, medication was always prepared by a doctor and distributed by a member of staff who had received special training (of six hours) for this purpose by a pharmacist.

<sup>17</sup> See paragraph 35.

<sup>18</sup> See CPT/Inf (2006) 34, page 11.

In the light of the above, **the CPT recommends that the Norwegian authorities take urgent steps to:**

- **ensure that all newly-arrived foreign nationals at the Trandum Holding Centre are promptly examined by a doctor or a fully-qualified nurse reporting to a doctor;**
- **arrange for the daily presence in the Centre of a person with a recognised nursing qualification;**
- **ensure appropriate psychological/psychiatric assistance to foreign nationals.**

34. Moreover, the delegation was told by one of the doctors that in the event of signs of ill-treatment being detected upon arrival, the injuries would be recorded in the person's medical file, but would not be reported to any outside authority. In this regard, **the recommendation in paragraph 68 applies *mutatis mutandis* to Trandum Holding Centre.**

35. Another problem is the lack of medical confidentiality in the Centre. Due to the absence of nursing staff, the requests of foreign nationals to see a doctor were processed by custodial staff. For this purpose, inmates had to fill in a form and also indicate the reasons why they wanted to see a doctor. This form was subsequently completed by the doctor (with his conclusions from the consultation as well as any prescriptions for medication) and often kept in the administrative file of the person concerned. Moreover, in the administrative file of one foreign national, the delegation found an annotation that the person concerned was HIV-positive.

Obviously, the daily presence of a nurse should significantly improve the situation (see paragraph 33). **The CPT recommends that steps be taken at the Trandum Holding Centre to ensure that confidentiality of medical data is respected in practice.**

36. For security reasons (e.g. risk of self-harm or harm to others, risk of escape, etc.), foreign nationals could be placed in the secure unit (Unit C) and, when deemed necessary, subjected to mechanical restraint. In this regard, the CPT welcomes the measures taken by the Norwegian authorities in the light of the recommendations made by the Committee after the 2005 visit<sup>19</sup>. In particular, the new Regulations regarding Holding Centres for Foreign Nationals now contain specific provisions<sup>20</sup> on the placement of detainees in a security cell and the use of force and a special register for such measures has been established. Further, the security cells now also have access to natural light. The delegation was informed that the internal instructions on the use of force were being reviewed and that new instructions would be issued in the near future. **The CPT would like to receive a copy of these instructions.**

As regards the use of means of mechanical restraint, the wrist and ankle straps, which had been in use at the time of the 2005 visit, have been replaced by restraint belts<sup>21</sup> (so-called "body cuffs") which allow the persons concerned to maintain a certain degree of mobility.

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<sup>19</sup> See CPT/Inf (2006) 14, paragraphs 41 to 45.

<sup>20</sup> Sections 9, 10 and 13.

<sup>21</sup> The device consists of two handcuffs attached with nylon straps to a textile waist belt and double leg restraints (broad nylon straps) which can be connected to the waist belt.



37. According to the establishment's register, placements in a security cell and resort to "body cuffs" occurred only rarely. Since January 2010, there had been three cases in which a foreign national had been placed in a security cell and restrained with a "body cuff" (in one case for up to 24 hours). In all cases, a doctor, a police lawyer and the lawyer of the person concerned had been informed immediately. The delegation was informed that, whenever a person was restrained with a "body cuff", a member of staff was present in the cell and that, during placement in a security cell (without a "body cuff"), the person concerned was under constant supervision through CCTV and visually checked by a member of staff every 30 minutes.

That said, it is a matter of concern that foreign nationals placed in a security cell and/or subjected to "body cuffs" were not always seen by health-care staff. **The CPT recommends that steps be taken to ensure that, in future, they are always seen by health-care staff.**

38. The CPT has misgivings about the practice observed at the Trandum Holding Centre of custodial officers carrying handcuffs, pepper spray, and extendable batons within detention areas. The management affirmed to the delegation that it was planned to discontinue this practice as soon as foreign nationals were accommodated in the newly constructed detention area. **The CPT would like to receive confirmation that this plan has indeed been implemented.**

39. In 2007, the immigration authorities decided to discontinue the practice of employing private security staff. Instead, the Centre is now run exclusively by police staff (including four holding the rank of police officer). The CPT welcomes the fact that a number of staff spoke at least one foreign language (such as English, French, Russian, German or Serbian/Croatian). All custodial staff had followed an initial training course of four weeks, and additional training (totalling 44 days) was being organised in co-operation with the Correctional Service. The delegation was informed that current members of staff who had not yet received this additional training would do so by 2012. **The CPT would like to receive updated information on this point.**

40. The arrangements for allowing foreign nationals contact with the outside world were generally adequate. It is particularly praiseworthy that foreign nationals were offered a five-minute telephone call free of charge every day (including international calls).

41. Finally, the CPT welcomes the setting-up (in 2008) of a Supervisory Board which is tasked to carry out inspections of the Centre and to process individual complaints from foreign nationals. In accordance with the relevant legislation<sup>22</sup>, the Board was composed of a judge, a nurse and a specialist in health and safety issues, and some of the visits had been unannounced<sup>23</sup>. Special complaints boxes were available in all detention units, which were only accessible to members of the Supervisory Board.

From the annual reports for 2008, 2009 and 2010, which were examined by the delegation, it became apparent that the visits of the Board clearly had a beneficial effect. Indeed, various shortcomings criticised by the Board had subsequently been remedied by the management of the Centre. **The CPT wishes to receive a copy of the 2011 Annual Report of the Supervisory Board of the Trandum Holding Centre.**

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<sup>22</sup> Section 107 (10) of the Immigration Act and Section 17 of the Regulations Regarding Police Holding Centres for Foreign Nationals.

<sup>23</sup> The Board is under a legal obligation to carry out at least two visits per year. In 2008, there had been two visits (both announced), in 2009 five visits (including two unannounced visits) and in 2010 nine visits (including several unannounced visits).

## C. Prisons

### 1. Preliminary remarks

42. The delegation carried out full visits to Bergen, Bredtveit, Oslo and Skien Prisons. In addition, it carried out targeted visits to the detached unit for juveniles of Bjørgvin Prison, to Eidsberg Prison to examine the conditions of detention (including those of the sole juvenile held in the establishment at the time of the visit), and to Ila Prison where it focused on the situation of persons held in preventive detention (*forvaring*).

43. **Bergen Prison** was opened in 1990 and has already been visited by the CPT twice (in 1997 and 1999). Over the years, the prison has been enlarged and its official capacity progressively increased from 152 to 258 places. It also comprises an open section outside the security perimeter (capacity: 32 places) and one detached open section on Osterøy island (capacity: 31 places), neither of which were visited by the delegation. At the time of the visit, the closed sections were accommodating 201 prisoners, 104 of whom were sentenced (100 men and four women), 95 on remand (87 men, seven women and one juvenile) and two in preventive detention; in addition, 52 male prisoners were serving their sentence in one of the two open sections.

Pending the opening of a designated juvenile unit (with a capacity of four places) on the main premises of **Bjørgvin Prison**<sup>24</sup>, juveniles were temporarily held in a detached unit adjacent to Bergen Prison (outside the security perimeter). The latter unit had an official capacity of only two places. At the time of the visit, it was accommodating two male juveniles, while a third male juvenile was being held inside Bergen Prison as the prison's sole juvenile prisoner (see above).

**Bredtveit Detention and Security Prison** was opened in 1947 as a prison for women. It comprises a closed section (capacity: 45 places) as well as an open section (capacity: 19 places) which was not visited by the delegation. At the time of the visit, the establishment was accommodating a total of 63 adult women (50 sentenced<sup>25</sup>, 12 on remand and one in preventive detention).

**Oslo Prison** is the oldest (opened in 1851) and largest prison in Norway (capacity: 392 places) and has already been visited by the CPT three times (in 1993, 1997 and 1999). At the time of the visit, it was accommodating 390 male adults (148 sentenced and 245 on remand) and one male juvenile remand prisoner. More than 60% of the prisoners were foreign nationals from almost 60 countries.

**Skien Prison** was opened in 1993. The establishment has an official capacity of 82 places (including 12 for female prisoners). At the time of the visit, it was accommodating 78 prisoners (including 12 women), of whom 48 were sentenced, 29 on remand and one imprisoned for failure to pay a fine.

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<sup>24</sup> The main premises of Bjørgvin Prison were not visited by the delegation.

<sup>25</sup> 19 women were serving their sentence in the open section.

**Eidsberg Prison** is administratively affiliated, as a detached closed section, to Indre Østfold Prison and is located in the municipality of Eidsberg, some 70km south-east of Oslo<sup>26</sup>. The prison was built in 1860 and has an official capacity of 17 places. At the time of the visit, 17 male prisoners (including one juvenile) were being held in the establishment.

**Ila Detention and Security Prison** remains the only prison in Norway with the specific purpose of receiving persons subject to preventive detention. It has already been visited by the CPT twice (in 1993 and 2005). Since the last visit, the official capacity has been increased from 110 to 124 places. At the time of the 2011 visit, the establishment was accommodating a total of 122 male prisoners, of whom 62 had been sentenced to preventive detention and were held in a separate unit (capacity: 67 places).

44. In recent years, the Norwegian authorities have adopted various measures (including of a legislative nature), with a view to avoiding as far as possible resort to imprisonment and thus reducing the number of inmates in Norwegian prisons. In particular, a system of electronic surveillance was introduced in 2008<sup>27</sup>. **The CPT would like to receive detailed information on the implementation of this system.**

45. The Norwegian Correctional Service comprises 44 prisons with an overall capacity of 3,826 places. At the time of the visit, they were accommodating some 3,600 prisoners (including 980 on remand). In accordance with the long-standing detention policy of the Correctional Service, prisons do not usually operate beyond their official capacity, but convicted persons may be placed on a “waiting list” before starting to serve their sentence. **The CPT would like to be informed of the number of persons (male and female adults and juveniles) who are currently waiting to serve their prison term.**

## 2. Ill-treatment

46. The delegation received no allegations of ill-treatment of prisoners by staff in any of the prisons visited. On the contrary, the general atmosphere was relaxed and prison officers appeared to be highly professional and well-trained. In all the establishments visited, the existence of a personal officer scheme and the mixed gender staff policy<sup>28</sup> also clearly had a beneficial effect in this regard.

47. A number of instances of inter-prisoner violence were reported to the delegation, in particular at Oslo Prison. However, the information gathered indicated that steps were taken by staff to prevent such incidents and to address them adequately if and when they did occur.

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<sup>26</sup> The main premises of Indre Østfold Prison (with an open regime) in Trøgstad were not visited by the delegation.

<sup>27</sup> See new Chapter 7 of the Regulations on the Implementation of the Law on the Execution of Sentences.

<sup>28</sup> As a rule, there were at least 30% of staff of the opposite sex of the majority of the inmate population.

### 3. Conditions of detention of the general prison population

#### a. material conditions

48. Material conditions of detention were of a high standard in all the establishments visited. Almost all of the prisoners were held in single cells (measuring between 9 and 10m<sup>2</sup>), which were well furnished (including with a refrigerator and a television set)<sup>29</sup>. Sentenced prisoners were usually accommodated in small living units each of which comprised a large communal room and a kitchenette.

That said, most of the cells at Bredtveit, Ila and Oslo Prisons did not have in-cell sanitation, and, in particular, at Bredtveit and Ila Prisons, several prisoners complained about delays (on occasion, of about one hour) in gaining access to the toilet at night time. **The CPT recommends that steps be taken at Bredtveit and Ila Prisons, as well as in other prisons in Norway which do not (yet) have in-cell sanitation, to ensure that prisoners who need to use a toilet facility are able to do so without undue delay at all times (including at night). In the Committee's view, the long-term goal should be to install in-cell sanitation in all cells.**

#### b. regime

49. In all the establishments visited, the delegation gained a generally positive impression of the regime offered to prisoners. Most of them (including those on remand) were provided with work, education or other activities such as vocational training in extensive workshops, on the basis of structured individualised plans. In addition, prisoners had regular access to various well-equipped recreational facilities (e.g. gym, music room, library) and could use communal rooms and a kitchen throughout the day.

The delegation was particularly impressed by the regime offered to prisoners in the so-called "MASH" and "Pathfinder" Units at Oslo Prison. In the "MASH" Unit, vulnerable prisoners and prisoners with psychological needs (in groups of seven persons at a time) were offered a wide range of occupational activities (e.g. handicrafts, painting) and had access to a separate fitness room and a billiard room. The unit was open every day from 8 a.m. until 8 p.m. (including at weekends and public holidays). The "Pathfinder" Unit (located in Block C) accommodated up to 20 drug-addicted prisoners who benefited from a wide range of activities (including outside the prison).

In contrast, prisoners held in Unit A-West at Bergen Prison and Unit A at Skien Prison were subjected to a relatively impoverished regime. Both units accommodated newly-admitted prisoners pending their transfer to an ordinary detention unit, as well as prisoners who, for various reasons, could not be held together with other prisoners (e.g. remand prisoners under court-ordered restrictions, prisoners with mental problems, prisoners segregated on a voluntary basis from the mainstream inmate population, etc.).

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<sup>29</sup> At Skien Prison, all cells were equipped with personal computers and had a fully partitioned annexe with a toilet, washbasin and shower.

Apart from one hour of outdoor exercise, the prisoners concerned could usually spend up to two hours per day in the unit's gym, but remained locked up in their cells for the rest of the time, their only occupation being reading or watching television. **The CPT recommends that out-of-cell activities for prisoners held in the above-mentioned units of Bergen and Skien Prisons be improved as a matter of priority.**

50. At Oslo Prison, the delegation was informed that plans were afoot to construct a new building for additional activities. **The CPT would like to receive more detailed information on this matter.**

#### **4. Conditions of detention of juveniles in the prisons visited**

51. In the course of the visit, the delegation paid particular attention to the situation of juveniles held in prison. Before setting out the delegation's findings in this regard, the CPT wishes to place on record the efforts continuously made by the relevant authorities in Norway to avoid as far as possible the placement of juveniles in prisons; the mere fact that, at the time of the visit, only seven juveniles were imprisoned in the whole country speaks for itself.

Some two years ago, the Norwegian authorities decided to set up two designated units for juveniles in Bergen and Oslo, with a view to accommodating juvenile prisoners from the entire country in one of the two establishments. The CPT welcomes the fact that, in Bergen, a special unit for juveniles has been temporarily set up in a detached unit of Bjørgvin Prison (adjacent to Bergen Prison), pending the opening of a fully-fledged juvenile unit at Bjørgvin Prison (with a capacity of four places) and that, at Oslo Prison, a day-unit for juvenile prisoners was about to become fully operational very soon.

52. The situation found in the *detached unit for juveniles of Bjørgvin Prison* in Bergen was very positive. The unit had a capacity of two places and was accommodating two male juveniles at the time of the visit<sup>30</sup>. There was a team of nine milieu therapists (teachers, child-welfare workers, social educators, etc.) and nine prison officers. As a rule, four members of staff were present during the day and two at night. Both juveniles benefited from a comprehensive activity programme, which included, among other things, a vocational training course (two to four hours per day), organised in the city of Bergen. During activities outside the establishment, juveniles were always accompanied by two members of staff.

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<sup>30</sup> On the day of the visit, one of the two juveniles had been granted temporary leave of absence and could therefore not be interviewed.

53. Given the limited capacity of the above-mentioned unit, a third juvenile (aged 15) had been held for more than seven months in a single cell in a unit for adult prisoners (Unit A-West) inside *Bergen Prison*<sup>31</sup>. The CPT acknowledges the efforts made by the management, in co-operation with staff of the outside juvenile unit, to provide the prisoner with a wider range of out-of-cell activities as compared to the “normal” regime in Unit A-West (see paragraph 49). In particular, vocational training sessions (cooking, carpentry) and classes in Norwegian language and ethics were organised for a total of two to 3½ hours per day from Mondays to Thursdays. On a more or less daily basis, a member of staff of the outside juvenile unit visited the juvenile, for a chat or to play games with him. The prisoner also had access to a gym three times a week for one hour each time.

However, the regime offered to the above-mentioned juvenile prisoner was still far from satisfactory. In particular, it is not acceptable that he remained locked up in his cell for 22 to 23 hours a day on Fridays, Saturdays and Sundays.

For as long as juveniles continue to be held at Bergen Prison, **the CPT recommends that steps be taken as a matter of priority to ensure that they enjoy out-of-cell activities throughout the day during the week and that out-of-cell time at weekends is significantly increased.**

54. At *Oslo Prison*, the designated day-unit had a capacity of five places and was located at semi-basement level in Block A (comprising seven adjacent interconnected former cells). The unit had been refurbished and pleasantly furnished very recently, but was not yet being used on a regular basis. It resembled a small apartment and comprised a well-equipped living-room area (two small sofas, a coffee table, various board games, table football, musical instruments, etc.), a kitchenette and an officers’ area.

It was prison policy that juvenile prisoners would stay in this unit throughout the day and return to their (single) cells in one of the detention areas for adults in the evening. Arrangements had been made that, during out-of-cell activities, juveniles were always strictly separated from adults (except during educational activities). Recently, one psychologist and three milieu therapists had been recruited to work primarily with juveniles. The delegation was informed by the management that there were plans to recruit one additional therapist, in order to enable the unit to remain operational throughout the day<sup>32</sup>.

At the time of the visit, only one juvenile was being held at Oslo Prison. The prisoner had arrived a few days earlier and was subjected to an impoverished regime (locked up in his cell for 22 hours per day, out-of-cell time being limited to one hour of outdoor exercise and one hour of billiards per day). The management indicated that this regrettable state of affairs had been the result of a limited staff presence (during a weekend and subsequent public holiday) and affirmed to the delegation that immediate steps would be taken to provide the above-mentioned prisoner with a range of purposeful out-of-cell activities in the day-unit every day.

**The CPT would like to receive more detailed and up-to-date information on the regime offered to juveniles at Oslo Prison, as well as on the staffing levels in the day-unit for juveniles.**

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<sup>31</sup> The juvenile was serving a sentence which was to end in the summer of 2011.

<sup>32</sup> For security reasons, the presence of two members of staff was required whenever one or more juveniles were present in the day-unit.

55. The CPT acknowledges the efforts made by the management of *Eidsberg Prison* to provide the sole juvenile who was being held in the establishment at the time of the visit with a range of purposeful activities. The prisoner worked in the kitchen and had access to the gym at all times during the week. That said, given the small size of the prison, the juvenile was constantly in contact with adult prisoners during any out-of-cell activities. **The CPT trusts that, with the opening of the new day-unit for juveniles at Oslo Prison, no juvenile will in future be held at Eidsberg Prison.**

56. Finally, the delegation was informed that juveniles always had to be transferred to an adult prison upon reaching majority, even when the person's expected date of release was relatively close. In the CPT's view, a case-by-case assessment should be carried out in such situations in order to decide whether it is appropriate for a particular inmate to be transferred to an adult institution, taking into consideration the remaining term of his sentence, his maturity, his influence on other juveniles, and other relevant factors.

**The CPT invites the Norwegian authorities to allow for more flexibility in the transfer of prisoners who reach the age of 18 to an adult institution, in the light of the above remarks.**

## 5. Situation of persons held in preventive detention

57. Preventive detention in prison (*forvaring*), which exists in its current form since 2002, is the only potentially indefinite sentence in Norway<sup>33</sup>. It may be imposed by the court if a person is found guilty of having committed or attempted to commit either one serious violent offence (or arson) or more than one less serious offence of a similar nature and if it considers that there is an imminent risk of reoffending (new Section 39c of the Penal Code).

58. At the time of the visit, 73 persons (including one woman) were serving a sentence of preventive detention in Norway (out of a total of some 170 persons who had been sentenced to preventive detention until 2011). The vast majority of them (62) were being held in a special unit at Ila Prison and two at Bergen Prison; the only woman sentenced to preventive detention was being held at Bredtveit Prison.

59. The procedures related to preventive detention are regulated in Sections 39d to 39g of the Penal Code<sup>34</sup>. In the context of the initial court proceedings, a social inquiry must be carried out in order to obtain information on the personality and social circumstances of the person concerned. If deemed necessary, the court may also request a forensic psychiatric assessment. When sentencing a person to preventive detention, the court must set a minimum period (not exceeding ten years) and a maximum period (normally not exceeding 15 years and in no circumstances exceeding 21 years).

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<sup>33</sup> The maximum prison term in Norway is 21 years (Section 17 of the Penal Code).

<sup>34</sup> See also Regulation No. 481 of 5 March 2004 regarding the execution of preventive detention.

At the end of the minimum time limit determined by the court, the person subject to preventive detention may be released on probation by the prison and probation service (either at the request of the person concerned or on its own initiative), with the approval of the prosecuting authority, if he/she is no longer considered to be a danger to society<sup>35</sup>. If the prosecuting authority does not give its approval, a court must decide on a possible release on probation.

At the end of the maximum period, the person concerned must in principle be released. However, at the request of the prosecuting authority, the court may extend the preventive detention for renewable periods of up to five years at a time.

In the context of the above-mentioned proceedings, the persons concerned are entitled to legal assistance by an *ex officio* lawyer, and they may also request that an independent expert be consulted (under certain circumstances, free of charge).

60. The examination of a number of individual files of persons in preventive detention at Ila Prison revealed that the procedures for applications for release and release on probation had been carried out in conformity with the above-mentioned legal requirements. It is noteworthy that, in a significant number of cases, courts had granted release or release on probation at the person's request, despite a negative assessment by the prison and probation service.

61. All persons sentenced to preventive detention underwent a thorough induction and intake assessment at Ila Prison<sup>36</sup>, where an individual detention plan setting out in detail treatment programmes and other activities was prepared for each of them. Subsequently, their situation was reviewed and documented in assessment reports every year.

62. The delegation gained a favourable impression of the activities offered to all persons in preventive detention. These activities also included a range of structured offender-behaviour programmes, with a view to reducing the risk of reoffending and to preparing inmates for their eventual release<sup>37</sup>.

However, at Ila Prison, the delegation was informed that, due to severe learning disabilities, a number of inmates were not effectively able to benefit from offender-behaviour programmes and other activities offered to them, despite the fact that successful completion of these programmes was considered a prerequisite for release. **The CPT would like to receive the Norwegian authorities' comments on this point as well as information on their longer term policy vis-à-vis this specific group of inmates.**

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<sup>35</sup> Following the rejection of a request for release on probation, the person concerned may submit a new request after a waiting period of one year.

<sup>36</sup> Including those subsequently transferred to other prison establishments.

<sup>37</sup> For instance, cognitive programmes and conversation groups tailored to persons who have committed violent/sex offences and to drug-addicted inmates.



## 6. Health care<sup>38</sup>

63. Health-care facilities were of a high standard in all the prisons visited.

64. In all the prisons visited, the presence of general practitioners was satisfactory. Bergen Prison was attended by three part-time doctors (each working two days a week) and Ila Prison by three part-time doctors (each working one day a week). Oslo Prison had two doctors (one working full-time and one 50%), while, at Bredtveit and Skien Prisons, a doctor was present on a part-time basis (40% at Bredtveit and 20% at Skien).

65. At Bergen Prison, the health-care team included nine nurses (working the equivalent of 7.60 posts) providing cover until 10 p.m. from Mondays to Fridays and until 5 p.m. at weekends. At Oslo Prison, 20 nurses (17 full-time posts) worked on a duty roster with three nurses being present every day (including at weekends) until 10 p.m. Bredtveit and Ila Prisons each had a total of five nurses<sup>39</sup>, with at least one nurse present from Mondays to Fridays until 10 p.m., while, at Skien Prison, two nurses were present from Mondays to Fridays until 3 p.m. It is noteworthy that many nurses had received specialised training in psychiatry.

It is a matter of concern that, at Bredtveit, Ila and Skien Prisons, no health-care staff were present at weekends and that in none of the prisons visited were any health-care staff present at night; this is of all the more concern as regards Bergen and Oslo Prisons, bearing in mind the size of the inmate population and the number of prisoners with mental illnesses or disabilities in both prisons.

Further, in all the establishments visited, the delegation observed that, although prescribed medicines were always prepared (in an individualised form) by nurses, they were often distributed by custodial staff.

### **The CPT recommends that steps be taken to ensure that:**

- **someone competent to provide first aid is always present on the premises of all prisons visited (including at night); preferably, this person should be a qualified nurse (in particular, at Bergen and Oslo Prisons);**
- **a nurse is present at Bredtveit, Ila and Skien Prisons every day of the week (including at weekends); this should, *inter alia*, make it possible to avoid the need for medication to be distributed to prisoners by custodial staff.**

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<sup>38</sup> The delegation examined the medical services at Bergen, Bredtveit, Ila, Oslo and Skien Prisons. Given the specific objectives of the visit to Eidsberg Prison, the delegation did not assess the medical services in that establishment.

<sup>39</sup> At Ila Prison, all nurses worked full-time; Bredtveit Prison had one full-time and four part-time nurses.

66. The delegation gained a generally positive impression of the quality of somatic health care (including dental care) which was provided in all the establishments visited by the relevant municipality (as part of the civil health-care structure reporting to the Ministry of Health).

However, at Bergen and Oslo Prisons, the delegation was informed that problems had repeatedly occurred in organising escorts of police or prison officers to transport prisoners to outside specialists, with the consequence that some medical examinations/consultations had had to be cancelled. **Appropriate steps should be taken to remedy this deficiency.**

67. As regards medical screening upon admission, the CPT wishes to recall that prison health-care services can make a significant contribution to the prevention of ill-treatment of detained persons (in addition to the prevention of transmissible diseases and suicides in prisons). Even if the information gathered during this visit (as well as previous visits) would suggest that persons detained by the police in Norway run little risk of being subjected to physical ill-treatment, constant vigilance is required.

Against this background, the Committee is concerned that – in the same way as in previous visits – its delegation observed delays of several days, at times even weeks, at Bredtveit and Skien Prisons, before newly-arrived prisoners were seen by a nurse or doctor. Further, physical examinations during medical screening often appeared to be superficial.

**The CPT reiterates its recommendation that the necessary steps be taken at Bredtveit and Skien Prisons and, where appropriate, in other prisons to ensure that every newly-admitted prisoner is properly interviewed and physically examined by a medical doctor – or a fully qualified nurse reporting to a doctor – as soon as possible after his/her admission; save for exceptional circumstances, the interview/examination should be carried out on the day of admission.**

68. Further, in all the prisons visited, the delegation was informed that if injuries were to be found which could be the result of ill-treatment by police or prison officers, the injuries would be recorded in the medical file but usually not reported to any outside authority (unless the prisoner concerned explicitly asked for this to be done).

**The CPT recommends that existing procedures be reviewed in all prisons in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.**

69. As regards the provision of psychiatric and psychological care, the presence of psychiatrists and psychologists was adequate in most of the establishments visited. At Oslo Prison, a psychiatrist and four full-time psychologists of the psychiatric team of the Regional Department for Forensic and High-Security Psychiatry at Oslo University Hospital (“Dikemark”) were present from Mondays to Fridays. Bredtveit and Skien Prisons were visited by a psychiatrist and a psychologist once a week.

That said, at Bergen Prison, the presence of the psychiatrist (twice a month for some two hours each time), in addition to the presence of one full-time and one part-time psychologist, was clearly insufficient, given the size of the establishment and the number of prisoners suffering from mental disorder. **The CPT recommends that the psychiatric cover at Bergen Prison be significantly increased.**

70. Further, in particular at Bergen, Ila and Oslo Prisons, the delegation was informed of difficulties in transferring severely mentally-ill prisoners to psychiatric hospitals (especially for longer-term treatment). In a number of cases, when the persons concerned were discharged after a few days' stay in an acute psychiatric ward and referred back to the prison, they were not yet able to cope with life in prison.

The CPT wishes to stress once again that prisoners suffering from a severe mental illness should be cared for and treated in an adequately equipped and staffed hospital setting. **The Committee reiterates its recommendation that the Norwegian authorities take the necessary steps to ensure that such prisoners are transferred to an appropriate psychiatric unit/hospital.**

## 7. Other issues

### a. court-ordered solitary confinement and other restrictions

71. Since its first visit to Norway in 1993, the CPT has paid particular attention to the situation of remand prisoners subjected to solitary confinement and/or other restrictions in the interests of an ongoing investigation.

72. At the time of the visit, only six remand prisoners<sup>40</sup> (out of a total of 245) at Oslo Prison and one prisoner at Bergen Prison were subject to the most severe measure of solitary confinement combined with prohibition<sup>41</sup> (*forbud*) of contact with the outside world<sup>42</sup> (correspondence, visits and telephone); this measure had been applied to them for less than three weeks. No remand prisoner was subject to such a measure in the other prisons visited. According to statistics provided by the management of Bergen and Oslo Prisons, since January 2010, a total of some 50 remand prisoners at Bergen and 140 at Oslo Prison had been subjected to solitary confinement combined with prohibition of contact with the outside world. For approximately 70% of the prisoners concerned, the measure had been alleviated or terminated within one month. The practice of progressively alleviating severe measures after an initial period of two weeks was also observed by the delegation in a number of individual files which it examined at Bergen and Oslo Prisons. It is also noteworthy that, in all cases examined by the delegation, court decisions (on the initial imposition and any prolongation) contained detailed reasoning.

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<sup>40</sup> Including two remand prisoners who arrived in the establishment during the visit.

<sup>41</sup> As opposed to contacts under supervision (*kontroll*).

<sup>42</sup> Contacts with the prisoner's defence lawyer were never restricted.

73. The information gathered during the visit would suggest that the frequency and duration of resort to court-ordered solitary confinement has diminished since the 2005 visit; this is a very welcome development. Nevertheless, in order to obtain a nationwide picture of the current situation, **the CPT would like to receive the following information for all Norwegian prisons, in respect of the period from 1 January 2010 to the present:**

- (a) the number of remand prisoners subjected to complete solitary confinement combined with prohibition of contact with the outside world;**
- (b) the number of remand prisoners subjected to complete solitary confinement combined with restricted contact with the outside world;**
- (c) the number of remand prisoners subjected to complete solitary confinement without restrictions regarding contact with the outside world;**
- (d) the total duration per prisoner of the court-ordered measures referred to in (a) to (c).**

74. Notwithstanding the above, the CPT remains concerned that some prisoners were subjected to solitary confinement (combined with a prohibition of or restrictions on contact with the outside world) for prolonged periods. According to the management of Oslo Prison, three prisoners had been held under such conditions for more than six months in 2010 and/or 2011. Only for juveniles does current legislation provide for a maximum period<sup>43</sup>.

Given the very harmful effects a solitary confinement regime can have on the prisoner concerned, **the CPT wishes once again to express its opinion that the Criminal Procedure Act should stipulate an upper limit on the duration of solitary confinement of remand prisoners by court order.**

75. As regards the conditions under which prisoners were held in solitary confinement by court order, the CPT welcomes the efforts made by the management at Bergen and Oslo Prisons to provide the prisoners concerned with in-cell activities (such as a DVD-player and video games, in addition to books and television) and to maintain human contact (daily conversations with staff). However, out-of-cell activities were limited, in particular at Oslo Prison. Apart from daily outdoor exercise of one hour, the prisoners concerned could only go to the gym for some two hours per week and were occasionally allowed to use a home trainer within the detention unit. The situation was more favourable at Bergen Prison where prisoners usually had access to a gym for one to two hours per day (in addition to one hour of outdoor exercise).

**The CPT recommends that the Norwegian authorities redouble their efforts to provide out-of-cell activities for remand prisoners held in solitary confinement by court order at Oslo Prison and, where appropriate, in other prisons in Norway.**

76. At Oslo Prison, prisoners subject to solitary confinement by court order had to take outdoor exercise in cubicles on the roof of the establishment which were far too small (each measuring some 10 m<sup>2</sup> only). **The CPT recommends that these cubicles be enlarged.**

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<sup>43</sup> I.e. eight weeks (under Section 186a of the CPA).

77. As regards medical supervision, prisoners subject to solitary confinement by court order at Oslo Prison were usually seen by a nurse at least once per week; it remained somewhat unclear as to what extent such checks were performed by health-care staff in the other prisons visited.

In this regard, **the CPT recommends that steps be taken in all Norwegian prisons to ensure that prisoners held under conditions of solitary confinement are visited on a daily basis by a doctor or a qualified nurse reporting to a doctor (cf. also Rule 43.2 of the European Prison Rules).**

b. discipline

78. According to the relevant legal provisions<sup>44</sup>, the following disciplinary sanctions may be imposed on prisoners: reprimand, loss of daily allowances for up to 14 days, loss of certain privileges for up to 20 days (e.g. temporary removal of television set or personal computer, temporary prohibition of access to the prison shop), “exclusion from leisure company or other leisure activities” for up to 20 days and withdrawal of the entitlement to leave of absence for a period not exceeding four months.

As regards, more specifically, the sanction of “exclusion from leisure company or other leisure activities”, the prisoners concerned remained locked up alone in their cells outside work, educational activities and outdoor exercise. Prisoners who did not work or attend classes were thus confined to their cells for 23 hours per day, but were allowed to associate with other prisoners during outdoor exercise. Prisoners’ contacts with the outside world (correspondence, visits and telephone) were not restricted during the imposition of this sanction, and prisoners could also attend religious services.

79. From the consultation of disciplinary registers and files, as well as from interviews with prisoners and staff, it transpired that disciplinary procedures were generally carried out in a satisfactory manner in all the establishments visited.

However, it is a matter of concern that prisoners facing disciplinary charges were in most cases not interviewed by the person who decided on the imposition of a disciplinary sanction (in most cases the director), but a decision was usually taken on the basis of a statement given by the prisoner to another senior officer. **The CPT recommends that steps be taken in all prisons to ensure that prisoners facing disciplinary charges are always heard in person by the decision-making authority.**

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<sup>44</sup> See Section 40 of the Law on the Execution of Sentences and Sections 3-36 to 3-39 of the Regulations on the Implementation of the Law on the Execution of Sentences.

80. Further, the CPT has misgivings about the widespread practice observed in several of the establishments visited of imposing cellular confinement (for up to 24 hours<sup>45</sup>) as a provisional sanction even before the disciplinary process was initiated. If the commission of a disciplinary offence was subsequently established, the time spent in cellular confinement was deducted from the sanction imposed.

The CPT acknowledges that it may be necessary to impose special measures (including segregation from other prisoners) to prevent violence and maintain internal order and security, as is provided for under Section 37 of the the Law on the Execution of Sentences. However, it fails to see the need for immediately imposing cellular confinement as a provisional disciplinary measure simply because it is considered probable that a prisoner has committed an act which may result in a sanction such as loss of privileges or “exclusion from leisure company or other leisure activities” (as set out in Section 39 of the Law on the Execution of Sentences). **The Committee would like to receive the Norwegian authorities’ comments on this point.**

c. security-related issues

81. Save for Eidsberg Prison, the prisons visited had a small number of security cells. All these cells had good access to natural light and ventilation and were equipped with a floor toilet and a call system. In every establishment, one of the cells was equipped with a restraint bed and the others with a plastic mattress placed on the floor.

According to the establishments’ registers, prisoners were usually held in a security cell for a period not exceeding 24 hours; further, it was only very rarely that prisoners had been attached to a restraint bed and then for no longer than ten hours. As far as the delegation could ascertain, a doctor was always notified and a member of the health-care staff always carried out an examination, whenever a prisoner was held in a security cell and/or attached to a restraint bed.

As regards the supervision of security cells, the situation had clearly improved since the 2005 visit. Custodial staff usually performed visual checks every 30 minutes and, whenever a prisoner was attached to a restraint bed, a member of staff was continuously present.

In the CPT’s opinion, **the longer-term goal should be to abandon the resort to restraint beds in non-medical settings.**

82. At Bredtveit Prison, the use of the security cells was not properly recorded in a centralised and easily accessible manner. There was also one cell (No. 306) which had the same design as the establishment’s designated security cells and where, according to staff, prisoners were on occasion placed for security reasons, but no record at all was kept of the use of that cell. **The CPT recommends that steps be taken to remedy these shortcomings.**

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<sup>45</sup> On the basis of Section 39 of the Law on the Execution of Sentences.

83. During the delegation's visit to Oslo Prison, a 47-year-old prisoner reportedly committed suicide. The delegation was informed that the prisoner concerned had been ordered to give a urine sample. Due to his refusal to urinate in front of prison officers, he was confined to a cell as a security measure, pending the delivery of the urine sample. After a short time, officers opened his cell and apparently found him dead. Immediate attempts to resuscitate him were unsuccessful.

The delegation could observe directly that the procedures set out in the protocol which had been established by the prison administration in the event of a suicide in prison were fully implemented in practice. **The CPT would like to be informed of the outcome of the inquiries which have been initiated into the death of the above-mentioned prisoner.**

d. contact with the outside world

84. In all the establishments visited, prisoners were allowed to receive at least one one-hour visit every week (except those under court-ordered restrictions). In practice, longer visits were granted to prisoners who were serving a long sentence and to those who rarely received a visit, as well as to juvenile prisoners. In addition, many prisoners benefited from the possibility of receiving unsupervised visits. The facilities available for that purpose at Bergen, Oslo and Skien Prisons were of a very high standard; indeed, their design and equipment resembled a private home. Further, it is particularly noteworthy that the prison authorities frequently covered the expenses for travel (including by air) and accommodation of visiting relatives of imprisoned juveniles.

85. In all the establishments visited, prisoners (including remand prisoners who were not subject to a court-ordered restriction) were usually allowed to make telephone calls for a total of 20 minutes<sup>46</sup> per week (in addition to telephone calls to lawyers and social workers); juveniles were often allowed to use the telephone for up to 20 minutes per day.

Given the fact that many prisoners did not (regularly) receive visits, **the CPT invites the Norwegian authorities to increase the maximum duration of telephone calls and, where appropriate, to introduce low-cost international phone-call possibilities for foreign prisoners.**

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<sup>46</sup> At Skien Prison, prisoners could usually make telephone calls for a total of 30 minutes per week.

## **D. Dikemark Forensic Psychiatric Clinic**

### **1. Preliminary remarks**

86. The delegation visited the Regional Department of Forensic and High-Security Psychiatry Helse Sør Øst<sup>47</sup>, located in a building of the former Dikemark hospital complex about 30 km south-west of Oslo. Dikemark Hospital (“Dikemark”) was visited by the CPT in 1999, but the department has existed in its current form only since 2009. As one of three specialised regional high-security departments of Norway<sup>48</sup>, Dikemark admits severely mentally ill patients who display severe violent behaviour whose treatment in a “Local Security Unit” has failed. The department accommodates both forensic psychiatric patients and patients subject to an involuntary placement of a civil nature.

87. The General Civil Penal Code (“Penal Code”) provides for compulsory mental health-care measures in respect of persons who have been found not to be criminally responsible for their acts, when this is considered necessary for the protection of society (Sections 39 and 44 of the Penal Code). Other grounds for placement in the context of criminal proceedings are court-ordered psychiatric observation (Section 167 of the Criminal Procedure Act – CPA) or placement in a psychiatric institution instead of a remand in custody (Section 188 of the CPA).

Involuntary admission of civil patients is governed by Section 3 of the Mental Health Care Act 1999 (MHCA). The legal grounds for placement are serious mental disorder and dangerousness (manifest and serious threat to the patient’s own or another’s life or health) or treatment reasons (to prevent a deterioration in the patient’s state of health).

88. Dikemark has a total capacity of 16 beds, with two additional beds for emergency admissions. At the time of the visit, the hospital was accommodating eleven patients (including two women); nine civil patients, one patient serving a criminal court sentence of treatment in a psychiatric institution and one patient under court-ordered psychiatric observation. There were around 20 to 25 admissions a year, and patients usually stayed there for three to nine months.

The “Psychiatric High-Security Unit for Intensive Care” (Ward 3), located on the third floor, with a capacity of four beds (plus the two emergency beds), serves as an acute ward and was accommodating three patients at the time of the visit. The “Psychiatric High-Security Unit” (Ward 2), where patients were moved after the acute phase, was on the second floor; it had six beds and was accommodating four patients at the time of the visit. The “Forensic Psychiatric Unit” (Ward 1), on the first floor, functioned as a “discharge” unit and as a unit for forensic psychiatric examination. With a capacity of six places, this ward was accommodating four patients at the time of the visit.

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<sup>47</sup> The hospital is administratively attached to Oslo University Hospital.

<sup>48</sup> The other two regional high-security departments are located in Bergen and Trondheim.



89. The CPT wishes to stress at the outset that its delegation received no allegations of ill-treatment of patients by staff, nor any allegations of violence between patients. On the contrary, the delegation was impressed by the professionalism and commitment of staff to provide the best possible care to patients. To a large extent, this was facilitated by a high staff-patient ratio to enhance “dynamic security”<sup>49</sup>.

## 2. Staff, patients’ living conditions and treatment

90. The patient/staff ratio at Dikemark was very high (between six and seven staff per patient on each day shift). There were a total of five full-time psychiatrists (including the head of the security department), with one psychiatrist in charge of each of the three wards. Each ward was further staffed by one full-time psychologist. Nursing staff worked on a rota with at least seven nurses present on each ward during the day (Ward 3: eight to ten nurses) and five nurses present on each ward at night (Ward 1: four nurses).

91. Patients’ living conditions were of a high standard. All patients were accommodated in adequately sized and well-equipped single rooms and had unrestricted access to shared toilets and showers (including at night). A number of rooms had their own sanitary facilities. Each ward had a large communal area with a television set, a computer, reading material and board games. In addition, all wards had a kitchen where patients could prepare their own food (if they so wished), as well as a room for visitors, a smoking room and a laundry room.

All patients could go outside twice a day for 30 minutes in a spacious fenced yard or, if security allowed, walk in the park around the hospital building together with staff. Patients could also use the very well-equipped gym and sports facilities in an adjacent building (for ball games, etc.).

The CPT welcomes the efforts made to adjust the old, non-purpose-built building to find appropriate solutions for individual patients. The delegation was informed that, in order to allow for even better solutions to patients’ needs and security requirements, there were plans to move the regional security department to new facilities in the Gaustad hospital area of Oslo. **The CPT would like to receive further information regarding these plans.**

92. The delegation gained a very favourable impression of the psychiatric treatment provided to patients. Medical files were well kept, and for every patient an individualised treatment plan had been drawn up. In addition to pharmacotherapy, patients benefited from a wide range of therapeutic and rehabilitative activities (for example, occupational therapy classes in music, painting, languages and IT).

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<sup>49</sup> The security approach in Dikemark was based on “dynamic security”, “static security” and “organisational security”. “Dynamic security” refers to the relations between staff and implies that the patient sees staff as helpers instead of just being guards, and that the patient has little or no motivation to harm his helper. Static security focuses on physical security (through fences, cameras, alarms, etc.) and organisational security on written procedures for security, policy and treatment.

As regards somatic health care, it was possible to call on a general practitioner trained in working with psychiatric patients as well as various specialist doctors. Further, with the patient's consent, an "*individuell plan*" (a co-ordinated programme of social and health-care services) was implemented and updated during the patient's stay in hospital.

However, as far as the delegation could ascertain, physical examinations upon admission were rather superficial. The CPT considers it to be essential for the prevention of ill-treatment (in addition to the prevention of transmissible diseases) that newly-arrived patients, who might be admitted to the hospital directly from police custody or prison, be thoroughly checked by a doctor or a nurse reporting to a doctor within the first 24 hours. In this regard, **the remarks and recommendations made in paragraphs 67 and 68 apply *mutatis mutandis* to psychiatric hospitals.**

### 3. Means of restraint

93. The legal provisions governing the use of means of restraint in psychiatric establishments were described in the 2005 visit report<sup>50</sup>. It is recalled that Section 4-8 MHCA provides for resort to mechanical means of restraint (including belts, straps and special clothes designed to prevent injury), confinement for a short period<sup>51</sup> behind a locked or closed door without a staff member present ("seclusion"), single doses of medicines with a short-term effect for the purpose of calming down the patient ("chemical restraint") and briefly holding down a patient ("manual control"). The measures must be ordered by the "responsible mental health professional" (a psychiatrist or a clinical psychologist; emergency medication must be ordered by a psychiatrist) and recorded in writing; the decision must be renewed if the measure is continued for more than eight hours. The patient or his/her next-of-kin can appeal the decision to the Supervisory Commission. The CPT was pleased to note that, by law, patients under restraint must be constantly monitored by nursing staff and, if the patient is strapped to a bed or a chair, nursing staff must be continuously present in the room.

In addition to short-term isolation, patients may be segregated from other patients in a room or a segregated area ("*skjerming*" - shielding; Section 4-3 MHCA). According to the relevant regulations, staff members shall be present and the patient may never be locked up in a room<sup>52</sup>. The measure is recorded in the patient's file and, if maintained for more than 24 hours (twelve hours if the restrictions are serious), a formal administrative decision must be taken. The CPT welcomes the fact that, following its recommendation made in the report on the 2005 visit, this time-limit has been reduced from 48 to 24 hours (and even twelve hours in certain cases). The decision is valid for a maximum of two weeks at a time and can be appealed by the patient or his/her next-of-kin to the Supervisory Commission.

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<sup>50</sup> CPT/Inf (2006) 14.

<sup>51</sup> For a maximum of two hours at a time, see Regulation No. 1173 of 24 November 2000 on the use of restraint measures, Section 7.

<sup>52</sup> See Regulations concerning the use of shielding in institutions of mental-health services established by Royal Decree, 15 December 2006.

94. At Dikemark, the concept of “dynamic security” and the high staffing ratio contributed to the limited use of means of restraint. According to the registers, short-term seclusion and the use of emergency medication were very rare<sup>53</sup>. Restraint beds<sup>54</sup> were also used rarely and only for short periods (usually a few hours). As a less invasive means, a so-called “transport belt” was used, a broad waist belt which could be linked with straps to the wrists and, if necessary, also to the ankles to limit the ability to move or walk. These belts were generally used for not more than a few hours.

However, the delegation was informed by the Supervisory Commission about the case of one particularly difficult patient who had injured staff and, during the last year, had been kept in a “transport belt” for a period of nearly six months for a number of hours almost every day. A less intrusive solution for this patient has since been found by segregating him from other patients in a specifically constructed individual apartment with a separate living room, bathroom, etc. and a permanent staff presence. The CPT welcomes the arrangement that has been found for this patient. **The Committee encourages the Norwegian authorities to ensure that in hospitals throughout the country, means of mechanical restraint such as “transport belts” are applied only for the shortest possible period of time and that alternative solutions for particularly difficult patients are explored.**

#### 4. Safeguards

95. The legal grounds for placement have already been set out in paragraph 87, and the procedure for involuntary placement of a civil nature in a psychiatric establishment has already been summarised in the report on the 2005 visit<sup>55</sup>. It should be recalled that the relevant legislation provides for an initial observation period of ten days<sup>56</sup>, after which a second placement decision for one year (renewable) is taken<sup>57</sup>.

Within 24 hours of admission, a placement decision must be taken by the “responsible mental health-care professional” on the basis of an examination of the patient by two physicians, one of whom must be independent of the hospital<sup>58</sup>. According to the law, the aforementioned mental health-care professional can be a psychiatrist or a clinical psychologist with relevant practical experience and specialised training<sup>59</sup>. It appeared from interviews with staff, with the Supervisory Commission and a review of patients’ files, that the placement procedure prescribed by law had been followed at Dikemark and that the “responsible mental health-care professional” in all the cases examined was a psychiatrist. The CPT welcomes this practice at Dikemark and **recommends that the same approach be followed in other hospitals in Norway in order to ensure that the placement decision is always based on the opinion of at least one medical doctor who is a qualified psychiatrist.**

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<sup>53</sup> This should be distinguished from treatment without consent which is regulated in Section 4-4.

<sup>54</sup> The establishment had six beds in individual rooms with special straps for fixation.

<sup>55</sup> CPT/Inf (2006) 14, paragraphs 89 to 91.

<sup>56</sup> Which can be prolonged for another ten days with the consent of the Supervisory Commission (Section 3-2 of the MHCA).

<sup>57</sup> Section 3-3 of the MHCA.

<sup>58</sup> Sections 3-2 No. 2 and 3-3 No. 2 of the MHCA.

<sup>59</sup> Section 1-4 of the MHCA.

96. After three months, the Supervisory Commission must review whether the need for involuntary placement still exists. Further, a renewal of the placement order after one year is subject to the consent of the Supervisory Commission and can only be issued for one year at a time (Section 3-8 MHCA).

The patient or his/her next-of-kin may appeal against the placement decision (or its continuation) to the Supervisory Commission, which has the power to terminate the placement if the conditions for placement are no longer fulfilled. The decisions of the Supervisory Commission can be appealed to the court. In accordance with the MHCA, the Supervisory Commission at Dikemark was able to reach a decision within 14 days, whilst an appeal to court, according to the representatives of the Commission, would take a month or two for a decision to be taken.

According to the Council of Europe Committee of Ministers' Recommendation concerning the protection of the human rights and dignity of persons with mental disorder<sup>60</sup>, persons subject to involuntary placement or involuntary treatment should be entitled to appeal against a decision, have the lawfulness of the measure or its continuing application reviewed by a court at reasonable intervals and be heard in person or through a personal advocate or representative at such reviews or appeals. The explanatory memorandum provides that, in accordance with the jurisprudence of the European Court of Human Rights, this review could be undertaken by a specialist body that has the characteristics of a court – for example, if it has the necessary independence, offers appropriate procedural safeguards, and is able to decide on the lawfulness of the measure and order its termination if necessary.

These conditions might be considered as being met by the Norwegian Supervisory Commissions. According to the relevant legal provisions, they must be chaired by a lawyer qualified as a judge and his/her independence of the hospital must be ensured<sup>61</sup>. The law further sets out clear rules of procedures and powers for the Supervisory Commissions which are similar to those of a court (i.e. the right of the patient to be heard in person and to be represented by a lawyer, and to receive legal aid if necessary, and the right of the Commission to have the evidence of witnesses recorded in court etc.<sup>62</sup>).

The four members of a Supervisory Commission must include at least one physician. In the case of Dikemark, the physician was a psychiatrist, an approach which would appear essential for the proper assessment of placement decisions, in particular as the Supervisory Commissions – in contrast to courts – do not usually consult independent psychiatrists as expert witnesses. **The CPT trusts that this positive example will be followed in all Supervisory Commissions throughout Norway in order that at least one member of the Commission is a qualified psychiatrist.**

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<sup>60</sup> Article 25, Rec(2004)10.

<sup>61</sup> Section 6-3 of the MHCA.

<sup>62</sup> Section 6-4 of the MHCA.

97. The placement of forensic patients is ordered by a court for an initial period of three years (for the legal grounds, see paragraph 87).

During this period, the patient is subject to the legal provisions in Section 5 of the MHCA, and the “responsible mental health-care professional” has the power to make administrative decisions as regards transfer to out-patient care. Such a decision can be appealed by the prosecuting authorities to the Supervisory Commission.

The patient, his/her relatives or his/her attending doctor can apply for a review of the placement decision one year after the placement decision (or one year after a negative court decision)<sup>63</sup>. After three years, the court order may be renewed at the request of the prosecuting authority – and a psychiatrist independent of the hospital will be appointed as an expert witness in court. If no such request is made, the person must be released<sup>64</sup>.

As far as the delegation could ascertain, the placement procedure prescribed by law had been followed with regard to forensic patients at Dikemark. At the initiative of the Supervisory Commission, the situation of each forensic patient was reviewed every three months by the hospital with a view to transferring the patient, if possible, to an establishment with a lower security level.

98. With regard to information to patients, the CPT was pleased to note that, following its long-standing recommendation<sup>65</sup>, a brochure on the legal rights of patients and the role of the Supervisory Commission (available in ten languages) had been prepared and was given to every patient. In addition, patients received a comprehensive information booklet on house rules and the establishment’s routine.

99. As regards complaints procedures, patients could, in addition to appeal procedures to the above-mentioned Supervisory Commission, appeal to the County Governor in the case of treatment without consent and lodge complaints to a range of outside bodies such as the Norwegian Board of Health, The Patients’ Ombudsmen, the Parliamentary Ombudsman or the Norwegian Ministry of Health and Care Services. There were also regular inspections by the Health Supervisory Board, the Civil Ombudsman of Parliament and the Chief County Medical Officer.

100. The existing arrangements for contact with the outside world were excellent. Patients were able to send and receive correspondence, to make telephone calls free of charge (seven times per week for 15 minutes), to use the Internet and to receive visits from their family and friends (in principle every day).

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<sup>63</sup> Section 39b of the Penal Code.

<sup>64</sup> Section 39 of the Penal Code.

<sup>65</sup> See CPT/Inf(2006)14, paragraph 110, and CPT/Inf(2000), paragraphs 60 and 62.

## **APPENDIX I**

### **LIST OF THE CPT'S RECOMMENDATIONS, COMMENTS AND REQUESTS FOR INFORMATION**

#### **Police custody**

##### **Preliminary remarks**

##### recommendations

- the Norwegian authorities to redouble their efforts to put an end to the practice of accommodating persons in police establishments after they have been remanded in custody (paragraph 8).

##### requests for information

- updated information on the introduction of a single time-limit for bringing detained persons before the court and transferring them to a prison (paragraph 9).

#### **Safeguards against ill-treatment**

##### recommendations

- the Norwegian authorities to take the necessary steps to ensure that the right of access to a lawyer is granted in all cases from the outset of the deprivation of liberty and that the Circular of the General Prosecutor of 4/2006 is amended accordingly (paragraph 13);
- the right of access to an ex officio lawyer to be extended in order to ensure that those without means can benefit from this right from the very outset of police custody, irrespective of the seriousness of the offence allegedly committed or the expected duration of police custody (paragraph 14);
- police officers to be reminded of their duty to ensure that persons who are incapable of taking care of themselves receive the necessary medical attention (see Section 2-3 of the Regulations on the Use of Police Holding Cells) (paragraph 16);
- verbal information on rights to be given systematically to all persons apprehended by the police, at the very outset of their de facto deprivation of liberty. As regards the information booklet on rights, it should be given to all detained persons as soon as they are brought into a police establishment, and should be properly explained to them to ensure that they are in a position to understand their rights and to exercise them effectively (paragraph 17);

- detained persons to be requested to sign a statement attesting that they have been informed of their rights in a language which they understand. In cases where alcohol or drug intoxication prevents a person from making a valid statement, this request should be made as soon as the person is in a suitable mental state (paragraph 17).

#### comments

- the privacy of detained persons should be preserved when they are using a toilet inside a police custody cell under closed-circuit video surveillance (paragraph 21).

#### requests for information

- confirmation that juveniles in all police establishments throughout Norway are subjected to police questioning only in the presence of either a lawyer or a trusted person (paragraph 18);
- information on the security features of electronic databases used for recording details about persons in custody, and more specifically on access rights and audit-trail features designed to protect against potential manipulation (paragraph 19);
- up-to-date information on the practice of audio and video recording during police interviews (paragraph 20);
- the Norwegian authorities' comments on the current retention period of 48 hours for video recordings of police detention areas, in the light of the remarks in paragraph 21 (paragraph 21);
- information regarding the security features of the video recordings of detention areas, to ensure that the time-stamp on the recordings cannot be manipulated (paragraph 21).

### **Conditions of detention**

#### recommendations

- conditions of detention to be reviewed in the cells at Bergen Police Headquarters and, where appropriate, in other police establishments in Norway where persons may be held for 24 hours or more, in order to ensure that they enjoy adequate access to natural light (paragraph 23);
- persons held for 24 hours or more in police custody to be offered outdoor exercise everyday and the need for outdoor exercise facilities for detained persons to be taken into account in the design of new premises (paragraph 23);
- steps to be taken at Bergen Police Headquarters and, where appropriate, in other police establishments to ensure that persons taken into custody are offered adequate washing facilities (including the possibility to take a shower) and that persons detained overnight are also provided with basic personal hygiene products (paragraph 24);

- steps to be taken to ensure that wall-mounted metal rails are removed from all police establishments (paragraph 25);
- the two very small “waiting cells” at Oslo Police Headquarters to be either enlarged (and the wall fixtures for attaching persons removed) or withdrawn from service (paragraph 26).

comments

- the practice in Oslo Police Headquarters of equipping cells with a clock should be followed in other police establishments (paragraph 22).

**Trandum Aliens Holding Centre**

recommendations

- the Norwegian authorities to take urgent steps to:
  - ensure that all newly-arrived foreign nationals at the Trandum Holding Centre are promptly examined by a doctor or a fully-qualified nurse reporting to a doctor;
  - arrange for the daily presence in the Centre of a person with a recognised nursing qualification;
  - ensure appropriate psychological/psychiatric assistance to foreign nationals (paragraph 33);
- existing procedures to be reviewed at the Trandum Aliens Holding Center in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a foreign national (or which, even in the absence of allegations, are indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 34);
- steps to be taken at the Trandum Holding Centre to ensure that confidentiality of medical data is respected in practice (paragraph 35);
- steps to be taken to ensure that foreign nationals placed in a security cell and/or subjected to “body cuffs” are always seen by health-care staff (paragraph 37).

comments

- the possibilities for foreign nationals to occupy themselves in the detention units at the Trandum Holding Centre were quite limited (in particular, no board games and hardly any reading materials were available) (paragraph 31).



requests for information

- updated information on the implementation of the plan to construct a new building at the Trandum Holding Centre as well as on the standard equipment of all the detention rooms (paragraph 30);
- a copy of the new internal instructions of the Trandum Holding Centre on the use of force (paragraph 36);
- confirmation that custodial officers no longer carry handcuffs, pepper spray and extendable batons within detention areas (paragraph 38);
- updated information on the additional training provided to members of staff at the Trandum Holding Centre (paragraph 39);
- a copy of the 2011 Annual Report of the Supervisory Board of the Trandum Holding Centre (paragraph 41).

**Prisons**

**Preliminary remarks**

requests for information

- detailed information on the implementation of the system of electronic surveillance introduced in 2008 (paragraph 44);
- the number of persons (male and female adults and juveniles) who are currently waiting to serve their prison term, due to a shortage of place in prisons (paragraph 45).

**Conditions of detention of the general prison population**

recommendations

- steps to be taken at Bredtveit and Ila Prisons, as well as in other prisons in Norway which do not (yet) have in-cell sanitation, to ensure that prisoners who need to use a toilet facility are able to do so without undue delay at all times (including at night) (paragraph 48);
- out-of-cell activities for prisoners held in Unit A-West at Bergen Prison and Unit A at Skien Prison to be improved as a matter of priority (paragraph 49).

comments

- the long-term goal should be to install in-cell sanitation in all prison cells (paragraph 48).

requests for information

- on the plans to construct a new building for additional activities at Oslo Prison (paragraph 50).

### **Conditions of detention of juveniles in the prisons visited**

#### recommendations

- steps to be taken as a matter of priority to ensure that juveniles held at Bergen Prison enjoy out-of-cell activities throughout the day during the week and that out-of-cell time at weekends is significantly increased (paragraph 53).

#### comments

- the CPT trusts that, with the opening of the new day-unit for juveniles at Oslo Prison, no juvenile will in future be held at Eidsberg Prison (paragraph 55);
- the Norwegian authorities are invited to allow for more flexibility in the transfer of prisoners who reach the age of 18 to an adult institution, in the light of the remarks made in paragraph 56 (paragraph 56).

#### requests for information

- more detailed and up-to-date information on the regime offered to juveniles at Oslo Prison, as well as on the staffing levels in the day-unit for juveniles (paragraph 54).

### **Situation of persons held in preventive detention**

#### requests for information

- the Norwegian authorities' comments on the fact that, due to severe learning disabilities, a number of inmates in preventive detention at Ila Prison were not effectively able to benefit from offender-behaviour programmes and other activities offered to them, even though successful completion of these programmes was considered a prerequisite for release, as well as information on the Norwegian authorities' longer term policy vis-à-vis this specific group of inmates (paragraph 62).

## **Health care**

### recommendations

- steps to be taken to ensure that:
  - someone competent to provide first aid is always present on the premises of all prisons visited (including at night); preferably, this person should be a qualified nurse (in particular, at Bergen and Oslo Prisons);
  - a nurse is present at Bredtveit, Ila and Skien Prisons every day of the week (including at weekends); this should, *inter alia*, make it possible to avoid the need for medication to be distributed to prisoners by custodial staff (paragraph 65);
- steps to be taken at Bredtveit and Skien Prisons and, where appropriate, in other prisons to ensure that every newly-admitted prisoner is properly interviewed and physically examined by a medical doctor – or a fully qualified nurse reporting to a doctor – as soon as possible after his/her admission; save for exceptional circumstances, the interview/examination should be carried out on the day of admission (paragraph 67);
- existing procedures to be reviewed in all prisons in order to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of allegations, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 68);
- the psychiatric cover at Bergen Prison to be significantly increased (paragraph 69);
- the Norwegian authorities to take the necessary steps to ensure that prisoners suffering from a severe mental illness are transferred to an appropriate psychiatric unit/hospital (paragraph 70).

### comments

- appropriate steps should be taken at Bergen and Oslo Prisons to resolve the recurring problems in organising escorts of police or prison officers to transport prisoners to outside specialists (paragraph 66).

## **Other issues**

### recommendations

- the Norwegian authorities to redouble their efforts to provide out-of-cell activities for remand prisoners held in solitary confinement by court order at Oslo Prison and, where appropriate, in other prisons in Norway (paragraph 75);
- the outdoor exercise cubicles on the roof of Oslo Prison to be enlarged (paragraph 76);

- steps to be taken in all Norwegian prisons to ensure that prisoners held under conditions of solitary confinement are visited on a daily basis by a doctor or a qualified nurse reporting to a doctor (cf. also Rule 43.2 of the European Prison Rules) (paragraph 77);
- steps to be taken in all prisons to ensure that prisoners facing disciplinary charges are always heard in person by the decision-making authority (paragraph 79);
- steps to be taken at Bredveit Prison to ensure proper recording of the use of security cells as well as of the use of cell No. 306 for security reasons (paragraph 82).

comments

- the CPT considers that the Criminal Procedure Act should stipulate an upper limit on the duration of solitary confinement of remand prisoners by court order (paragraph 74);
- the longer-term goal should be to abandon the resort to restraint beds in non-medical settings (paragraph 81);
- the Norwegian authorities are invited to increase the maximum duration of telephone calls and, where appropriate, to introduce low-cost international phone-call possibilities for foreign prisoners (paragraph 85).

requests for information

- for all Norwegian prisons, in respect of the period from 1 January 2010 to the present:
  - (a) the number of remand prisoners subjected to complete solitary confinement combined with prohibition of contact with the outside world;
  - (b) the number of remand prisoners subjected to complete solitary confinement combined with restricted contact with the outside world;
  - (c) the number of remand prisoners subjected to complete solitary confinement without restrictions regarding contact with the outside world;
  - (d) the total duration per prisoner of the court-ordered measures referred to in (a) to (c) (paragraph 73);
- the Norwegian authorities' comments on the points raised in paragraph 80 regarding the imposition of cellular confinement as a provisional disciplinary sanction (paragraph 80);
- the outcome of the inquiries which have been initiated into the death of a 47-year old prisoner which occurred during the CPT delegation's visit to Oslo Prison (paragraph 83).

## **Dikemark Forensic Psychiatric Clinic**

### **Staff, patients' living conditions and treatment**

#### recommendations

- steps to be taken at Dikemark Forensic Psychiatric Clinic to ensure that every newly-admitted patient is properly interviewed and physically examined by a medical doctor – or a fully qualified nurse reporting to a doctor – as soon as possible after his/her admission; save for exceptional circumstances, the interview/examination should be carried out on the day of admission. Further, existing procedures should be reviewed to ensure that, whenever injuries are recorded by a doctor which are consistent with allegations of ill-treatment made by a patient (or which, even in the absence of allegations, are clearly indicative of ill-treatment), the record is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned (paragraph 92).

#### requests for information

- on the plans to move the regional security department to new facilities in the Gaustad hospital area of Oslo (paragraph 91).

### **Means of restraint**

#### comments

- the Norwegian authorities are encouraged to ensure that in hospitals throughout the country, means of mechanical restraint such as “transport belts” are applied only for the shortest possible period of time and that alternative solutions for particularly difficult patients are explored (paragraph 94).

### **Safeguards**

#### recommendations

- the approach at Dikemark Hospital to be followed in other hospitals in Norway in order to ensure that the placement decision is always based on the opinion of at least one medical doctor who is a qualified psychiatrist (paragraph 95).

#### comments

- the CPT trusts that the positive example of Dikemark Hospital will be followed in all Supervisory Commissions throughout Norway in order that at least one member of the Commission is a qualified psychiatrist (paragraph 96).

**APPENDIX II**

**LIST OF THE NATIONAL AUTHORITIES, ORGANISATIONS AND PERSONS  
WITH WHOM THE CPT'S DELEGATION HELD CONSULTATIONS**

**A. National authorities**

Ministry of Justice and the Police

Terje Moland PEDERSEN	State Secretary
Hans Olav ØSTGAARD	Deputy Secretary General
Marianne VOLLAN	Director General, Correctional Services Department
Sissel KOFOED	Deputy Director General, Correctional Services Department
Harald FØSKER	Director, Correctional Services Department
Anne-Li FERGUSON	Senior Adviser, Correctional Services Department
Hans SVERRE SJØVOLD	Director General, Police Department
Christian BUDSBERG PETTERSEN	Deputy Director General, Police Directorate
Morten Hojem EREVIK	Head of section, Police Directorate
Jan AUSTAD	Senior Adviser, Police Department
Sissil PETTERSEN	Deputy Director General, Department of Migration
Kenneth A. BAKLUND	Specialist Director, Department of Migration
Sigurd BORDVIK	Adviser, Department of Migration
Ståle SØRMO	Deputy Director General, Trandum Alien Holding Centre
Tonje MEINICH	Deputy Director General, Section for European and International Affairs
Linda K. DRAZDIK	Senior Adviser, Section for European and International Affairs, CPT's liaison officer
Birgitte ISTAD	Senior Adviser, Legislative Department

Ministry of Health and Care Services

Tone-Helen TOFTEN	State Secretary
Anne Kari LANDE HASLE	Secretary General
Bjørn ERIKSTEIN	Director General
Petter ØGAR	Director General
Thor ROGAN	Deputy Director General
Hans-Jacob SANDSBERG	Specialist Director
Sjur Øverbø ANDERSEN	Senior Adviser
Nina Horg THORESEN	Assistant Director General

Ministry of Children, Equality and Social Inclusion

Oddbjørn HAUGE	Director General
Linn Fossen KIELLAND	Adviser
Anders HUMSTAD	Adviser
Per Aubrey BUGGE TENDEN	Adviser

Ombudspersons

Arne FLIFLET	Parliamentary Ombudsman
Reidar HJERMANN	Ombudsman for Children

**B. Organisations and persons with whom the delegation held consultations**

Norwegian Bar Association

Amnesty International Norway

JUSS BUSS (student legal aid organisation)

Norwegian Centre for Human Rights

Norwegian Helsinki Committee

Norwegian Organisation for Asylum Seekers

The Norwegian Association for Penal Reform

Gro Hillestad Thune, human rights specialist