

Response

of the Norwegian Government to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway

from 18 to 27 May 2011

The Norwegian Government has requested the publication of this response. The report of the CPT on its May 2011 visit to Norway was published on 21 December 2011 and is set out in document CPT/Inf (2011) 33.

Strasbourg, 25 July 2012

Response of the Norwegian authorities to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) on its visit to Norway from May 18th to 27th 2011

- **Item 8 - 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 custody¹.**

Reply:

It is a stated goal for the Ministry of Justice and Public Security to reduce the number of breaches of the 48-hour time limit.

The most important remedy for having as many remand prisoners as possible transferred from police custody to prison within the time limit is to have sufficient capacity in the Correctional Services. In recent years, capacity (sentence execution capacity) has been increased by around 870 new places. 657 new prison places have been or are in the process of being established across the country, of which 251 are in Halden prison. Following the latest expansion, sentence execution with electronic monitoring, which had a capacity equivalent to 150 prison places at the turn of the year 2010/2011, now has a capacity of around 215 places in 2012. This initiative frees up prison places and will help alleviate the remand situation. In April, an additional 8 prison places were completed at Hustad prison.

Enabling the Correctional Services to attend to the police's need for remand places has therefore top priority. Remand must always have first priority in the Correctional Services in order to prevent prisoners from sitting too long in police custody.

The Ministry is considering further measures to ensure sufficient capacity in the Correctional Services and a bill is being drawn up where it is proposed that electronic monitoring may be used as an alternative to detention. To ease the pressure on detention centres in Correctional Services Region West, transfer of several prisoners from Bergen prison to various prisons in eastern Norway will still be given priority.

- **Item 9 - The CPT would like to receive updated information on this point (the consideration of the introduction of a single time limit for bringing detained persons before the court and transferring them to a prison).**

Reply:

Work on the question of whether the time limit for bringing detained persons before the court and transferring them to prison should be continued or shortened, is still being considered by the Ministry of Justice and Public Security. A consultation paper, which among other things, raises the question of whether the time limit should be shortened from three to two days, was circulated for comments on December 1st 2010 with March 1st 2011 as the deadline for submitting comments. The consultation bodies were divided on whether the time limit for the first court appearance should be shortened.

¹ «..a considerable number...kept in police detention facilities beyond the 48-hour-limit..», and “..not suited to accommodate detained persons..”

- **Item 13 - 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 accordingly².**

Reply:

The relevant Circular of the General Prosecutor was amended in accordance with the recommendations from the CPT in March 2012, by removing the second sentence in Section IX 2. a) of the Circular.

- **Item 14 - 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**

Reply:

Pursuant to Section 98 (1) first sentence of the Criminal Procedure Act, as far as possible, a defence counsel is to be appointed – at public expense - for an accused who has been arrested “as soon as it is clear that the accused will not be released within 24 hours of arrest”. If the accused was under 18 years of age at the time of the offence, the defence counsel will, if possible, be appointed as soon as it is clear that the accused will not be released within 12 hours of the arrest. The right to be appointed a public defender pursuant to Section 98 (1) of the Criminal Procedure Act applies regardless of the severity and the penalty for the offence(s) the accused is suspected of committing.

In connection with amendment of Section 98 of the Criminal Procedure Act to its present content, it was considered whether the right to a defence counsel should apply in general already immediately when a person is arrested. Some cases are of such a nature that it may be acceptable to waive the appointment of a defence counsel for the accused. These are usually cases where there is reason to believe that the accused is likely to be released within 24 hours. In general, the considerations behind the provision regarding the right to a defence counsel at the time of arrest may be less applicable in such cases. On the contrary, in such cases, appointment of a defence counsel could easily result in the accused being held in arrest for longer than necessary pending appointment of a defence counsel.

Pursuant to Section 98 (1) first sentence, the right to a defence counsel comes into effect *at the latest* when 24 hours have passed and the accused has not been released. According to the provision, the defence counsel is, whenever possible, to be appointed “as soon” as it is clear that the arrest will last more than 24 hours. Therefore, it is assumed that the police will consider at an early stage whether the accused will be held in arrest for more than 24 hours. In those cases where it is clear early on that it will take more than 24 hours before the accused is released or brought before the court, a defence counsel must be appointed at this early stage.

² Contact with a lawyer may be delayed if the person in question is brought in after 22:00.

- **Item 16 - 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).**

Reply:

The report from the CPT has been forwarded to all police districts in Norway. In a letter dated May 9th 2012 to all Chiefs of Police, the National Police Directorate has instructed them to remind police officers of their duties according to Section 2-3 of the Regulations on the Use of Police Holding Cells.

- **Item 17 - 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, this 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.

Reply:

The abovementioned letter of May 9th 2012 states the following:

“Information on rights, cf. Section 2-10 of the custody regulations. The committee recommends that persons who are deprived of their liberty must be systematically given verbal information regarding their rights “at the very outset of their de facto deprivation of liberty.” When taken into custody, the prisoner must be given written information in a language the person in question understands. The committee recommends that the arresting officers ensure that the prisoner has understood the contents of the given information and that they sign for having received this. The Directorate requests that routines are established whereby the committee’s recommendations are followed. Persons, who due to alcohol or other intoxication, cannot give a binding signature at the time of arrest, must sign when they have recovered normal perception.”

The police will also follow the recommendation that the persons concerned should sign a statement attesting that they have been informed of their rights. If they are intoxicated and not able to make a valid statement, the statement will be made as soon as the person is in a suitable state.

- **Item 18 - The CPT would like to receive confirmation that this practice is followed in all police establishments throughout Norway (parents or other relatives are informed without delay when their child had been taken into custody).**

Reply: As far as the Ministry is aware, the practice mentioned is followed in all police establishments.

- **Item 19 - 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.**

Reply:

In **Oslo police district** persons taken into police custody are usually recorded in several systems. One system – INK - is designed to record identity and other relevant personal information, and also the applicable times, the reason for the detention, as well as references to the casework. Other information, such as relatives (to be informed of the detention or not), choice of lawyer etc. is recorded there, and also information on meals, access to fresh air and shower suites etc. For occurrences such as accidents, need for medical assistance etc., the general police log PO is used. PO cannot be altered in any way; corrections will need to be additions. Many employees have reading access to PO and INK, not that many can make entries into the system.

INK is a system that can be altered. For instance, it is not unusual for detainees to provide wrong identities, which will be altered when the correct one is established. Photographs of the detainees can be changed and updated etc.

Any changes made in INK, such as additions, changes or deleted entries will be logged, identifying the officer making the change, along with a numbered code identifying the nature of the change.

In almost all instances, the presence of a detainee in the cell block will be traceable in other systems, such as PO, or the Criminal Case register BL (a report has been submitted by the arresting officer). In this case, a printout of the log will be found along with the report.

Oslo police district has not received any allegations regarding unlawful or illegitimate changes made in these records.

The **other police districts** do not use the INK system. They use the custody module, which is a part of PO (Police Operational Management System). All users with access to PO can read the information in the custody module. Access to PO is granted on a need-to-access basis.

Users with higher than “read-only” access make entries in the custody module.

All user actions will be logged and are traceable. No users have editing access and it is not possible for users to alter the recorded information (implemented across all in the system). The information can only be altered inside the database. This in turn is controlled by the Police Data and Material Services (PDMT) - Identity and access management solution and in Active Directory and requires a password, but is not logged. There are only a few users in PDMT that have this access; these are persons with special responsibility for police operational solutions and support.

- **Item 20 - The Committee would like to receive up-to-date information on the practice of audio and video recording during police interviews.**

Reply:

Recording police interviews is not mandatory. Due to the resource requirements, audio and video recording is usually limited to the most serious offences. In a letter dated December 1st 2011 to key parties, the Prosecutor General questioned whether the use of recordings is excessive and contrary to the aim of efficient, high quality investigations.

The Ministry of Justice and Public Security has no plans for increasing the number of recorded police interviews. A main reason for introducing recordings in addition to safeguarding against ill-treatment and allegations of ill-treatment has been to provide documentation for use in court proceedings in the most serious cases.

- **Item 21 - The Committee considers it essential that the privacy of detained persons be preserved when they are using a toilet³.**

Reply:

In all the police districts there is a central arrest. Each has a number of cells that can be monitored by video, including sound. The use of surveillance equipment is regulated in regulations on the use of police holding cells. It is also regulated in the Ministry's "Special building program for Norwegian Police Service premises" which orders that for the benefit of privacy for the detained person, the lens should be shaded in the toilet area.

In the same way as the CPT, the Central Supervisory Committee revealed in a few cases that the shading has not been satisfactory and has demanded appropriate action taken. Initiative has been taken by the Central Supervisory Committee to ensure privacy protection in this field.

The CPT would like to receive the Norwegian authorities' comments on this point (retention period of 48 hours).

Reply:

The Norwegian authorities share the CPT's concern relating to automatically deleting the recordings after 48 hours. This can be too soon and prevent effective use of the recordings particularly in situations where allegations of abuse are made.

The Ministry will consider whether to prolong the 48-hour period.

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.

Reply:

As regards the security features, the Directive "Use of police cells" provides local instructions that regulate storage and deletion of audio and visual recordings. The Central Supervisory Committee is aware of these issues and has insisted on having regulations in local instructions about who is responsible for recording and storage device.

³ "The CPT has no objection to the use of such a system. However.."

- **Item 22 - The practice in Oslo Police Headquarters of equipping cells with a clock should be followed in other police establishments.**

Reply:

The recommendation to equip cells with a clock has been taken into consideration. When planning and constructing new detention facilities emphasis will be given to both the supply of natural light and ventilation.

- **Item 23 - 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 have adequate access to natural light**

Reply:

The detention facilities at Hordaland Police District (Bergen) are in the same building as Bergen Central police station, established around 1960. The cells are located in the basement. Most of the cells are located in the centre of the building and have no exterior walls. As regards the other cells, it is technically difficult to create solutions that ensure daylight, as the facilities are located in the basement.

Persons held in police custody for 24 hours or more are to be offered outdoor exercise every day and the need for outdoor exercise facilities for detained persons is to be taken into account in the design of new premises

Reply:

All prisoners are offered access to half an hour outdoors in the courtyard. They can exercise by "walking around". Law enforcement personnel monitor the activity. Occasionally, the activity is cancelled due to other priorities.

- **Item 24 - 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.**

Reply:

Section 2-8 of the Regulations on the use of police holding cells contain the following provision: "Prisoners who stay in police custody must be given the necessary toilet requisites and as a rule, daily access to showers."

Based on statements from the Central Supervisory Committee, the Ministry is surprised by the description of conditions in Bergen Police headquarters in the CPT report. The recommendation is noted and will be acted on - primarily by the Central Supervisory Committee.

- **Item 25 - Steps to be taken to ensure that wall-mounted metal rails are removed from all police establishments⁴.**

Reply:

The wall-mounted rails are not often used, and then only for very short periods of time. The rails are not actually “a substitute for proper temporary holding facilities”, but are a part of the waiting area where arrested persons may sit and wait their turn to talk to the custody officers. More often than not, there is no queue, and the detainee will be brought forward immediately to the first available officer. However, at times, the cell block is very busy, and there is waiting time. The waiting area will then be used. As the police will have a duty of care to the prisoner, as well as to other detainees, it may sometimes be necessary to immobilize drunken, violent and/or disorderly persons to prevent them from harming others or themselves. The wall-mounted rail may be used along with handcuffs to secure the person from moving about for a short period of time, before he or she is properly processed and shown to a cell. However, on rare occasions, a large number of detainees may be brought in, usually connected with public disorder – in numbers ranging from 10 to 200. In this context, it is impossible to process detainees without delay, and also impossible to imagine how the police can preserve safety and control and not immobilize aggressive or unstable persons until they are confined to a cell.

For these occasions, the metal rings cannot be removed.

- **Item 26 - The two very small “waiting cells” at Oslo Police Headquarters to be either enlarged (and the wall fixtures for attaching persons removed) or withdrawn⁵ from service.**

Reply:

The two small waiting cells are located within the waiting area, and are meant to confine dangerous detainees until they can be processed and taken to a cell. Oslo police agree that they are too small and are unsuitable even for a short waiting period. Their usage has been discontinued until they can be redesigned.

- **Item 30 - Updated information on 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.**

Reply:

The use of the original Aliens’ Holding Centre building will change quite noticeably during 2012.

This is due to the erection of two new buildings (modules) to compensate for the use of the old building. Detainees will gradually be moved from their 4-man rooms to single cells in the new modules. The old bedrooms will be refurbished as offices for the administrative staff. By Christmas 2012, the only wing left in the old building housing detainees will be the security S- wing.

⁴ “...wall fixtures cannot be a substitute for proper temporary holding facilities.”

⁵ «...unsuitable for holding anyone for any length of time...»

One of the new buildings is already in use. This building (also known as module one), will have two floors and two wings per floor. Each wing has 18 rooms/cells. Each wing has a common room where meals may be served and certain activities arranged (telephone calls, television, kitchen, sitting area and washing facilities).

The individual rooms/cells are furnished with a bed, table, locker, reading light, personal television and calling-system. In addition each room/cell has its own en suite bathroom with basin, toilet and shower.

A module two is planned to be erected and ready for use in December 2012. This module will incorporate a wing for women, families and unaccompanied minors, as well as a room for detainees with reduced functionality. In addition to this, module two will have a wing for detainees destined for a longer stay, as well as an in-house Activity Centre in addition to the existing Centre.

- **Item 31 - 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)**

Reply:

The Centre employed an Activity Leader in 2011. This position is responsible for maintaining a safe and varied number of activities, not just in the Activity Centre, but also in the detention units.

The Activity Leader has increased the number of table games in the wings, furnished the family wing with activities and established laundries so that detainees may wash their own clothing.

A routine for detainees to clean their own rooms and common rooms has also been established as an activity which is rewarded in a point-system that allows detainees to purchase certain commodities from the Centre kiosk.

- **Item. 33 The Norwegian authorities are 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**

Reply:

As a result of the CPT's recommendation, in 2011, the NPIS employed a fully qualified nurse in a full-time position during normal office hours.

The nurse is available to perform immediate examinations and consultations for detainees during the day time and thus alert the duty doctor if necessary.

The nurse, together with the Centres' doctors, will be able to increase the number of examinations of newly arrived detainees. In addition, the nurse will represent a daily presence of a person with a recognised nursing qualification.

The Centre's doctors have three weekly consultations in the evenings (Mondays, Wednesdays and Fridays) and have increased their presence by performing additional consultations during the daytime on Tuesdays.

There is a psychiatrist attached to the team of doctors working at the Centre.

- **Item 34 - 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 report is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned**

Reply:

The NPIS and the responsible Police District's prosecution unit will establish routines to ensure that reports of ill-treatment are brought to the attention of the responsible Police District's prosecutor or the Norwegian Bureau for the Investigation of Police Affairs.

- **Item 35 - Steps to be taken at the Trandum Holding Centre to ensure that confidentiality of medical data is respected in practice⁶**

Reply:

The NPIS, together with the Health Team, will review its routines to ensure confidentiality of medical data in practice, according to the legal regulations.

The qualified nurse, who works normal office hours, will also aid securing confidentiality of medical data.

- **Item 36 - CPT asks for a copy of the new internal instructions for the Trandum Holding Centre on the use of force**

Reply:

The new, reviewed instructions for the use of force will be forwarded to the CPT as soon as they are ready to be implemented.[Comment: awaiting date from POD]

- **Item 37 - 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**

Reply:

The NPIS and the Centre Health Team will establish routines to ensure that detainees that are subjected to restraints and/or placed in security cells, due to continued self-mutilation, are seen to by a doctor or nurse.

⁶ «...indicate the reasons why they wanted to see a doctor» and «...form...completed by the doctor... often kept in the administrative file...»

- **Item 38 - Confirmation that custodial officers no longer carry handcuffs, pepper spray and extendable batons within detention areas.**

Reply:

The NPIS confirm that the plan to discontinue the carrying of pepper spray and batons by the staff has been implemented. The only exception to this rule is for members of the Quick Reaction Team.

- **Item 39 - Updated information on the additional training provided to members of staff at the Trandum Holding Centre.**

Reply:

All new members of staff employed after June 2010 have received a four week course during the first year of employment. In addition to this, staff members participate in a 22-day course arranged by the Correctional Services Training College (KRUS). Subjects taught include cultural understanding, conflict solving, first aid, arrest techniques, report writing, ethics and legal lessons.

Training, exercises and refresher courses are arranged to keep staff updated. Employees also have the opportunity to apply for courses at the Police Officers' Training College (PHS) or private language courses.

- **Item 41 - A copy of the 2011 Annual Report of the Supervisory Board of the Trandum Holding Centre**

Reply: It will be forwarded when the translation is done.

- **Item 44 - Detailed information on implementation of the electronic monitoring system introduced in 2008.**

Reply:

Norway established electronic monitoring as an alternative to imprisonment on September 1st 2008. The new legislation, which was passed in August 2008, is implemented in Section 16 (2) of The Execution of Sentences Act, and is supplemented with regulations.

Initially, this will be a temporary pilot project until the end of 2012, then following a political decision, it will be decided whether to make this a permanent alternative. The capacity is 215 tagged offenders at any given time.

During 2011, the number of tagged offenders was 1064, 56 of these have been sent to prison following misconduct. On average, there are about 120 offenders being electronic monitored.

The Correctional Services Department in the Ministry of Justice and Public Security administers and coordinates implementation of electronic monitoring in Norway. The local level of the Norwegian Correctional Services considers the applications, makes a decision and is responsible for execution of the sanction. The Correctional Services IT Centre is responsible for implementing the electronic monitoring software system, and is also in charge of the control centre that is monitoring the whole country and reports to the field personnel. The Correctional Services have overall responsibility for all parts of the activity

concerning electronic monitoring in Norway. Special electronic monitoring units have been established within the existing local probation offices. These units have well-qualified, multidisciplinary staff consisting of prison officers and social workers.

The aim of implementing electronic monitoring is to have a humane and trustworthy alternative to imprisonment, prevent recidivism and lower the prison populations. The goal is to maintain and advance the social and economic capabilities of the offender. There is great emphasis on dynamic security and close follow-up by the staff. The offender has to accept very tight supervision and control forms, and having a suitable occupation is part of the conditions. The offender's obligation to participate in society is just as important as the obligation to stay at home, which will increase the possibility of a stable life for the offender.

The offender also has to meet the probation service at least twice a week, for activities that individually match the offender's need for rehabilitation. This may be 1-1 meetings, group meetings, participation in motivational and crime preventive programme or other activities in cooperation with relevant agencies and organisations. The probation officers emphasise

an individually adjusted supervision based on knowledge of the offender and a good relationship with cooperation, trust and responsibility.

The target group for electronic monitoring in Norway during the pilot period is offenders sentenced to up to 4 months of imprisonment, or those with up to 4 months left of a longer sentence, so called 'front door' and 'back door'. In principal all offenders within this target group may serve their sentence with electronic monitoring. However, as a general rule, offenders convicted for violence and sexual crimes are excluded. Juvenile offenders and 'first-time' offenders are priority target groups. When considering the applications from an offender below the age of 18, the ordinary limitations in the rules can be set aside.

The conventional electronic monitoring of an offender's attendance at his domestic residence, based on radio frequency-technology, has been chosen as a technical solution. The offender is tagged, and the monitoring unit placed in the residence communicates with the control centre and ensures that the offender is following the specific curfew conditions. Compared to the cost of a prison place, the preliminary expenses for implementing electronic monitoring are relatively low. At full capacity, the expenses per place per day are estimated to be around 850 NOK. During the pilot period, when the average number of offenders being tagged is about 120 (in 2011), the expenses per place per day are 1,200 NOK, which is slightly lower than for a half-way-house and open prison. The reason for the relatively high costs is due to the choice of profile for this sanction, with a high degree of supervision and control performed by the staff, and also because of the limited size of the pilot. The costs are expected to be lower when the number of offenders who are tagged increases.

The Prison and Probation Staff Education Centre have the commission to evaluate the pilot project in the period 2008-2012. The evaluation has two main focuses; the perception of the people involved (offender, family, victim, etc.), and the organisational perspective (how the pilots are being run and developed, experiences with mixed professions among the staff, etc.). The results of these evaluations will be publicised in two major reports during 2012.

- **Item 45 - The number of persons (male and female adults and juveniles) who are currently waiting to serve their prison term, due to a shortage of places in prisons.**

Reply:

The Correctional Services do not have systems that provide the possibility to see how long each convicted person has been waiting to start serving their sentence. There are currently 44 prisons with 3,832 places in Norway. As of May 4th 2012, there were 784 people on the waiting list, cf. the figure below, which shows previous figures.

A convicted person join the “waiting list” if he or she has not started to serve his/her sentence 60 days after the judgment has been received by the Correctional Services. Under current law, a convicted person joins the waiting list before 60 days have passed, if the summons date is 60 days after the date of receipt. For example:

A new judgment is received in the region on 1 January. On the same day, the summons to prison is sent with the attendance date set for March 5th. The time from when the judgment has been received until it is implemented will then be more than 60 days. This is because the convicted person joins the waiting list from and including when the summons date has been determined. There are currently no persons under 18 years of age on the waiting list.

Unfortunately, it is not possible to look at this historically. In other words, the Correctional Services do not have an overview of how many minors have been on the waiting list. However, minors must always be given priority when being summoned to prison in order to prevent them from joining the waiting list.

Waiting list for serving sentences – custodial sentence:

30.6.	31.12.06	30.6.07	31.12.07	30.6.08	12.12.08	30.6.09	31.12.09	30.6.10	31.12.10	30.6.11	31.12.11	2.3.
2006												2012
2791	2499	1869	1103	833	508	368	472	773	902	1451	926	771

- **Item 48 - 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 delay⁷ at all times (including at night).**

Reply:

The CPT comments that most of the cells in Bredtveit prison and detention centre do not have in-cell sanitation and point out the fact that some prisoners have complained that it takes a long time from when they summon the guard at the night until they are released in order to go to the toilet. The CPT recommends that delays are avoided when prisoners need to go to the toilet and that a toilet is installed in all the cells.

Bredtveit has notified that the reason prisoners must sometimes wait when they have to go to the toilet at night is that not all units are manned during the night. When prisoners call to go to the toilet, the night guards must go to the unit where the prisoner is located. It has recently been decided to install toilets in all cells in units 1, 2 and 3. The work is scheduled to start on September 1st 2012.

⁷ “...several prisoners complained about delays, on occasion of about one hour...”

Ila prison and preventive detention centre reports that they understand that some prisoners may feel that the waiting time for being allowed to go to the toilet is long. The routine for visits to the toilet is that there must always be three prison officers present when letting out a prisoner and that only one prisoner at a time must be allowed out. This applies to all prisoners in all the units. If several prisoners call at the same time, the prison officer in charge must make an assessment and decide which prisoner is to be given priority. Unit G and the switchboard must always and without exception, be manned. This means that the prison officers in the other units must assist each other. Furthermore, prison officers will also conduct inspection rounds and these will be carried out at random intervals. When so-called “high-risk prisoners” (due to the risk of attempted escaping and / or violence), want to be let out of their cell, for safety reasons it may be advisable to make an inspection round outside first. These various considerations may mean that it takes time before a prisoner can be let out to go to the toilet. As regards the sanitary facilities, the prison is planning alterations, which will mean that all cells will have a shower and toilet in connection with the cell.

- **Item 49 Out-of-cell activities for prisoners held in Unit A-West at Bergen Prison and Unit A at Skien Prison to be improved⁸ as a matter of priority.**

Reply:

Bergen prison has notified that they support the committee’s concern regarding the activities offered and the possibility for activities for prisoners who are in the prison’s most restrictive and secure unit. It is in the prison’s interest that the prisoners in Unit A west are given the possibility to take part in daytime activities. However, it is not always possible to arrange this to the desired extent. Limitations in the activities available may be due to imposed restrictions regarding the facilities available or other restrictions as regards the buildings. Furthermore, the prison’s total financial and human resources available limit the possibilities to monitor the activities on offer to the prisoners concerned. The prison has a tight budget that must cover a variety of tasks and services. Strict priorities must be made, where it will not be possible to use as many resources as we could have wished, based on the need at any time.

When the Committee visited Bergen prison, the prison had made the necessary budget cuts, which among other things, had an impact on the range of activities on offer to 24 prisoners in Unit A west. The thought training / stress management programme was discontinued. Three coordinator posts and a leisure time leader post were left vacant and one works officer post was transferred to another unit for the same reason. Unfortunately, this has resulted in fewer activities for the prisoners. Bergen prison has now been allocated one part-time works officer and leisure time leaders have been co-located in Unit A west.

This has resulted in a slightly higher level of activity for the prisoners in the unit following the Committee’s visit.

At present, the unit has the following daytime activities available:

- ✓ 4 prisoners in a small workshop before and after lunch
- ✓ 4 prisoners in an outdoor group after lunch (1 ¾ hours per day)
- ✓ 1 corridor boy
- ✓ 1 cell cleaner
- ✓ 1 chapel cleaner

⁸ “...subjected to a relatively impoverished regime.” At least 21 hours in the cell (1 hour of outdoor activity + up to 2 hours in the gym). “...remained locked up in their cells for the rest of the time...”

In exceptional cases, some prisoners receive tuition.

The Ministry would like to point out that a process has been initiated to review the work situation at the prison, the aim of which is to make optimum use of the resources. In connection with this, among other things, an assessment will be made of the possibility to increase the level of activity for prisoners in Unit A west.

Unit A in Skien prison where there is little social interaction and where the prisoners mainly stay in their cells. The unit was originally intended to be a receiving unit for short stays following imprisonment. The idea was that the prison would have the possibility to become familiar with the prisoner and clarify the needs of the person in question. After that, the prisoner would be moved to an accommodation unit where there was a higher level of activity. However, the situation is such that the prison receives prisoners with very long

sentences. Therefore, it may take time until there is a vacancy in the accommodation units and the stay in the receiving unit may be longer than is desirable.

The management at Skien prison has reported that there is a need for a higher level of activity out-of-cell activity in unit A for prisoners serving long sentences. In order to meet the need for out-of-cell activities, work on an organisational change is in progress where reorganisation and merging of the workshops is being considered. This work has been initiated to achieve greater flexibility and the advantage of this is that it will be possible to meet each prisoner's needs for adapted activities. This flexibility is intended to benefit prisoners in Unit A. However, it should be noted that the situation for the prisoners in Unit A at any time may vary significantly. Therefore, an activity programme with a greater degree of flexibility is necessary.

When the above-mentioned change has been implemented, it will be easier to meet the committee's recommendations regarding more time outside the cell. Furthermore, the educational unit at the prison is requested to provide an educational programme for prisoners in Unit A. Up to now, there has only been an educational programme for prisoners who are in the accommodation unit.

Unit A also functions as a unit to which prisoners are transferred if they feel a need to protect themselves from the community. Furthermore, Unit A is also used for exclusion and for reactions following irregularities. This means that the inmates in Unit A are very different from each other and have very different needs.

It is assumed that the plans that have been drawn up for reorganizing the activities will meet the needs the Committee has pointed out.

- **Item 50 - Information on the plans to construct a new building for additional activities at Oslo Prison**

Reply:

A new building for additional activities is under construction at Oslo prison and will be ready for use in the autumn of 2013. The whole building will be used by prisoners and will contain the following:

- ✓ A shop where prisoners may purchase groceries, clothes and shoes as in a regular shop.
- ✓ A kitchen that will be used in educating the prisoners.
- ✓ A multi-purpose hall for sports, with the possibility for a full size handball court. It will also be possible to divide the hall into three for various activities. Handball, basketball and badminton courts are planned.
- ✓ Four classrooms with adjacent break rooms.
- ✓ Two rooms for music / drama.

In addition to sports, prisoners will be given ample opportunity take part in other cultural activities and cooperation with institutions outside the prison. This will help prisoners to establish new networks outside criminal environments and one of the aims will be that this will reduce recidivism.

- **Item 50 - 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.**

Reply:

The juvenile team at Oslo prison is currently fully operational. The day-unit for juvenile prisoners is a temporary measure pending establishment of a fully-fledged juvenile unit in eastern Norway. Work is in progress at ministerial level to find a suitable location for such a unit.

- **Item 53 - 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 significantly⁹ increased.**

Reply:

Prisoners between 15 and 18 years are formally organised under the juvenile unit at Bjørgvin prison. The juvenile unit is responsible for monitoring these prisoners, also when for various reasons they are staying the Bergen's prison's closed unit. As a result of this, the juvenile unit previously used two cells in Unit A west. Now that the juvenile unit needs secured places, the inmate(s) will be placed in Bergen prison's open units, which have a much higher level of activity than Unit A west could offer.

⁹ "...it is not acceptable that re remained locked up in his cell for 22 to 23 hours a day on Fridays, Saturdays and Sundays."

- **Pkt. 54 - 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.**

Reply:

The day-unit for juveniles has an interdisciplinary staff of nine. Of these nine, there is a psychologist organized under the prison psychiatric outpatient clinic and a child welfare consultant who is organized under Oslo council. Four of the day-unit's staff are social workers who work shifts day, evening and every third weekend. This means that the unit is manned weekdays during the day and on average 4 evenings a week and two of three weekends.

The primary target group of the day-unit for juveniles is all inmates under the age of 18. In periods with spare capacity, prisoners between 18 and 22 years with special needs will also be recruited. The day-unit for juveniles has capacity for up to 15 prisoners.

The day-unit for juveniles has three objectives:

- ✓ To counteract the damaging effects of isolation.
- ✓ To create good environments for change through professional and goal-oriented social work.
- ✓ Prepare for a good release with a place at school or a job, accommodation and safe environment.

The day-unit for juveniles focuses on individually tailored programmes and group activities, including physical activity, learning prisoners to live on their own, courses and goal-oriented social work. The initiative places emphasis on extensive use of interdisciplinary cooperation in terms of what they have access to through imported services, but also as regards getting municipal and city services to collaborate as early as possible. From the time of imprisonment, the day-unit works towards providing juvenile prisoners with the best possible opportunities on release.

- **Item 55 - The CPT trusts that, with the opening of the new day-unit for juveniles at Oslo Prison, in future, no juvenile will be held at Eidsberg Prison.**

Reply:

The day-unit for juveniles at Oslo prison follows-up young prisoners up to 22 years of age. At any given time, this totals around 40 people. The day-unit for juveniles has been in operation for many years. Therefore, there is reason to believe that the confirmation the CPT requests is based on a slight misunderstanding. It is most likely the planned juvenile unit in the eastern part of Norway that the committee is referring to and not the day-unit for juveniles at Oslo prison.

The Ministry of Justice and Public Safety is working on establishing a juvenile unit at Bjørgvin prison in western Norway to replace the temporary unit established there already. The permanent unit in western Norway is expected to be completed in the first half of 2014. Work is also underway to establish a similar unit in eastern Norway, but it is still uncertain when this will get underway.

- **Item 56 - 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 made¹⁰.**

Reply:

It is correct that some prisoners at the juvenile unit who turn 18 years of age during their sentence will be transferred to a regular prison to serve the rest of their sentence there. This can happen, even if there is a relatively short time left to serve. However, it is possible for a prisoner to continue to serve a sentence or detention in the juvenile unit, even if the person in question has turned 18 (up to 18 years and 6 months.) A transfer, such as the one mentioned above, is usually not carried out if it is possible for the prisoner to retain his place at the juvenile unit. Whether it is possible keep the place or not depends on capacity and other juvenile prisoners in the unit at the time of assessment. As CPT is aware, the number of places at the juvenile unit is currently very limited and at any time there are a large number of requests for admissions to the unit. Which prisoners should be allowed to serve their sentence in the juvenile unit is decided according to individual and specific assessments. In such an assessment the following factors, among others, will be important:

- The prisoner's status (judgment or remand and any police / prosecuting authority's view of the transfer to the juvenile unit)
- Health status
- Security assessment
- Family network and – attachment to the place where the person in question is currently staying,
- Follow-up by other public authorities (child welfare services, school, etc.), etc.

The result of such an assessment may be that a prisoner in the juvenile unit, who turns 18, could be transferred to an adult institution closer to his home, even if he has only two months left to serve, e.g., if there is a 15 year old sitting in police custody in Bergen who should be transferred to the juvenile unit. However, the Ministry expects there to be much less need for this type of transfer when the juvenile unit in eastern Norway is ready. There are also expected to be fewer imprisonments of minors once the new Juvenile Sentencing is introduced.

- **Item 62 - The Norwegian authorities' comments on the fact that, due to severe learning disabilities, a number of prisoners in preventive detention at Ila Prison were not effectively able to benefit¹¹ 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 prisoners.**

Reply:

A sentence of preventive detention is assumed to have a different content than a regular prison sentence. The content must be adapted to the offender's individual prerequisites and needs and must aim at promoting the individual's opportunities to learn, master basic skills

¹⁰ "..., 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..."

¹¹ A rejected application results in one year's waiting time / quarantine before a new application may be submitted.

and acquire personal responsibility. The aim is that through the preventive detention programme, the offender will change behaviour and adapt to a law-abiding life.

Programme activities are an important element in motivation, learning and change work at Ila prison and preventive detention centre. The programmes should encourage change work, identify the prisoner's individual needs and facilitate so that each individual can make a contribution as regards own crimes, coping and development.

Participation in programme activities is not a condition for release from preventive detention on probation. Such participation may be a factor that indicates that the person in question has shown a willingness to improve behaviour and to do something about his criminal behaviour. On the other hand, offenders on preventive detention are a heterogeneous group with special problems, and not all match the target group for the programmes available. Furthermore, some prisoners have mental health or other problems, which means that they are not fully able to use the programmes available. This has also been pointed out in CPT's recommendation.

The decisive factor regarding the question of release on probation is whether the risk of reoffending has been adequately reduced for release to be considered to be justifiable. It is not up to the prisoner to prove that he qualifies for release on probation. It is up to the prosecuting authority to prove that the prisoner has not changed. Release on probation is decided by the court, unless the Correctional Services and the prosecuting authority agree that release is justifiable. If the court decides that the prisoner no longer poses a risk to society, he will be released regardless of whether he has participated in a programme or other activities during his sentence.

As with an ordinary prison sentence, a sentence of preventive detention is based on the prerequisite of a gradual return to a life of freedom. Such a gradual adjustment – progression – is essential for successful execution of sentence and for preventing new crimes.

The Ministry of Justice and Public Safety is aware that possibility for prisoners on preventive detention to achieve progression is currently not functioning satisfactorily. The Ministry will consider making a further review of the regulations and routines for treatment of prisoners in preventive detention, including progression and release from preventive detention on probation, so that the possibility for progression may be improved.

It is desirable that toward the end of their sentence, prisoners in preventive detention are given the possibility to transfer to a less restrictive and more responsibility-demanding custodial alternative and greater freedom. This option is currently inadequate, which must be viewed in the context that prisoners in preventive detention are a complex group with different needs. For many, the possibility of a gradual adjustment to a life outside prison will be linked to them utilizing an adapted programme through the whole of their sentence. In connection with follow-up of *Report no. 37 (2007-2008) to the Norwegian Storting Punishment that works – less crime – safer society*, the Correctional Services will ensure that one or more low security prisons are upgraded with a view to staff, jobs, programme activities and release planning. The Ministry assumes that such upgrading will make low security prisons more available to prisoners in preventive detention in connection with progression.

- **Item 65 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.**

Reply:

Norway does not set quotas for the number of positions or other resources, but the responsible authorities, in this case the local authorities of the municipalities where the prisons are located, are required to provide services that comply with the standard of care set out in the relevant laws and regulations. Fundamentally, this standard of care requires that the health services are in accordance with responsible services and the patient is entitled to receive “required health care” cf. The Patients Rights Act Section 2-1.

All prison officers are trained in first aid during their primary education. Most prisons also have repetition courses, especially in resuscitation. Prison officers also have education in suicide prevention and mental illness.

All municipalities have a medical emergency communication central / emergency ward open twenty-four hours. This also accounts for Bergen and Oslo prison.

Within prison prisoners themselves may keep and/or administer their own medication if self-administration is medically safe and in accordance to security rules. The Correctional

Services might deprive the prisoner his/her right to administer their own medication for security reasons. When The Correctional Services apportion the medication, this can be regarded as practical assistance. Medication that must be handled by health personnel should be considered as necessary health care. Some medication might be apportioned by prison officers if they are taught in the administration of pharmaceuticals.

Norwegian health authorities consider the described practice as satisfactory.

- **Item 66 Appropriate steps should be taken at Bergen and Oslo Prisons to resolve the recurring problems in organising police or prison officer escorts to transport prisoners to outside specialists.**

Reply:

Bergen prison:

Bergen prison reports that as regards escorting in connection with essential visits to medical specialists, this will be carried out by the prison or the police — depending on whether the prisoner is serving a sentence or on remand. On occasions, such planned visits to medical specialists may be cancelled for various reasons. The most common cause is a lack of staff available to carry out the task. The routine is that the inmate and the external health institution / specialist are notified. As a result of this, a new appointment is made or a

request for a new appointment is notified. Even though such medical appointments may sometimes be cancelled, they are carried out at a later date. Visits for treatment are of course not cancelled when it is assumed that delay would be medically inadvisable.

Oslo prison:

Oslo prison reports that as regards prisoner's visits to a medical specialist outside the prison, there have been several cases where the appointment with the specialist had to be cancelled due to lack of staff available to escort the prisoner.

For remand prisoners, it is basically the police who are responsible for escorting prisoners during transport to outside specialists, whereas the Correctional Services are basically responsible for escorting convicted persons. The medical unit at Oslo prison has found that the problem is greatest for remand prisoners, but the problems also concern convicted prisoners. Oslo prison tries to take into account all needs when it comes to escorting a remand prisoner to an external medical specialist by hiring two extra officers on such days. When it is known that a prisoner is to be escorted to an external medical specialist the following day, then the number of officers on duty is increased. However, sickness absence or other unforeseen circumstances on the day in question mean that other tasks must be given priority and that doctor's appointments must therefore be cancelled. It is regrettable that this happens, but it is important to point out that it must always be ensured that prisoners receive the necessary medical treatment and that acute situations will be given priority. Oslo prison will now establish a relief arrangement with four extra officers at work when a prisoner has to be escorted to an external specialist (compared with two previously, as mentioned above). This arrangement will make the prison better equipped in the event of sickness absence and thus improve the possibility to escort a prisoner during transport to an external specialist.

If an appointment must be cancelled, the appointment will be postponed. In other words, prisoners will not lose the possibility of specialist health services. Oslo prison would also like to point out that in future, the prison will have to pay for remand prisoner appointments that have to be cancelled when this is due to the prison.

- **Item 67 – The CPT reiterates its recommendation that the necessary 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.**

Reply:

In those municipalities where prisons are located, the municipality authorities are obliged to establish necessary and safe health and care services to the prisoners. Prisoners have in principle the same rights to health and care services as other Norwegian citizens.

According to the annual reports arrival interviews are primarily undertaken by a nurse. The nurse considers the need for health care and reports to a doctor when there is an identified need for further medical follow-up. Health care is in principal based on consent from the patient/prisoner. A prison doctor might be contacted directly in prison or by phone. When health care is needed, including emergent aid, health personnel can be contacted i.e. via the acute medical communication central / emergency ward at all times.

A proposal for revised guidelines for the health and care services to prisoners is submitted for public consultation by The Directorate of Health. The guidelines will encompass the European recommendations regarding the arrival interview/ examination. County governors in all counties received in their official commission for 2011 the task of implementing the European Prison Rules, which also include the aforementioned recommendations.

After the CPT's visit in Skien, the prison reports that sound routine for arrival interviews has been established. By the time of imprisonment an assessment of eventual emergent needs and medical use takes place the same day. Prisoners do often not wish to receive more medical follow-up on their day of arrival. The arrival interview is stated to last for one to one and a half hour, and is undertaken two or three days after imprisonment.

Bredtveit prison reports to have established routine for carrying out arrival interviews within twenty-four hours. The prison pays specific attention to suicide prevention work. The department director states that any deviation from the norm is reported through the deviation system.

Bredtveit prison informs that there is a nurse present every day, except for on weekends and public holidays. A psychiatric nurse is present three days a week and a doctor is present two days a week. The nurse contacts the prisoner as soon as possible after admission. If there are many new prisoners, so that nurse does not manage to see all of the in one day, the unit is asked which prisoners should be given priority. In the event of acute illness outside ordinary office hours, an on-call emergency doctor will be contacted for an assessment. It is therefore not correct that it can take many days or weeks before inmates are seen by medical personnel.

- **Item 68 - 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.**

Reply:

Health personnel have an obligation of client confidentiality and "shall prevent that others get access to or knowledge about information regarding personal health conditions or other personal conditions they get to know of in their capacity as health personnel" (reference is made to The Health Personnel Act Section 22).

The obligation of client confidentiality might be derogated from if the client gives his/hers consent to this. In that case, an informed consent is required, i.e. that the patient knows what kind of information that will be communicated and to whom.

Some legal provisions give health personnel the right or obligation to convey confidential information in particular situations. The Health Personnel Act Section 23 no.4 states that client confidentiality is not an obstacle for transmitting information when private or public interests of vital concern make it legitimate to do so. Only in particularly grave situations can this exception be used, e.g. in situations where health personnel considers it as an absolute requirement in order to avoid suicide or serious harm to the prisoner him-/herself or

to others. According to The Health Personnel Act Section 31 health personnel shall warn emergency units if this is needed to avoid serious damage to persons or property. In light of the CPTs report this will be considered as a topic for the forthcoming guidelines.

- **Item 69 - The CPT recommends that the psychiatric resources at Bergen Prison be significantly increased.**

Reply:

The report gives the impression that Bergen prison has only one full-time and one part-time psychologist, but this is not correct. The psychologist resources at Bergen prison are, among other things, divided into 1.6 FTE (full time equivalents), which are located in the prison's ordinary health unit. Over and above this, there are psychologists who are permanently attached to the various units. A total of 7 psychologist posts are attached to Bergen prison. The psychologists who are attached to the units implement programme activities and ordinary follow-up of treatment when required in the units. As regards access to psychiatric resources, work is in progress to appoint a psychiatrist in a 20% post at the prison. Even though Bergen prison does not currently have permanent access to a psychiatrist, it must be pointed out that the prison doctor / psychologists have access to psychiatrists when required. In connection with this, reference is also made to the close connection and cooperation the prison and its units have with Sandviken hospital.

- **Item 70 - 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.**

Reply:

Different views on the individual prisoner's illness and needs for help might occur between prison personnel and health personnel. A health professional judgment shall always serve as a basis for the treatment regime and follow-up in connection to the prisoner's health situation. If disagreement regarding transference to specialist health care cannot be solved or the prisoner claims that the health services do not fulfill his/her patient rights, the case might be submitted to the Health Supervision Department at the County Governor's office, for a new consideration and final decision.

As for today, there are no national overview of how many prisoners having needs for mental health care and what mental diagnoses they have. In collaboration between The Ministry of Justice and Public Security, The Directorate of Health and The Competence Center for Forensic and Prison Psychiatry a study of the incidence of mental illnesses among prisoners have started. The goal is to develop individual schemes before, during and after serving a sentence. A representative selection of women and men, Norwegian as well as foreign speaking persons, is interviewed with internationally validated instruments in order to assess sociodemographical data and life quality, subjective health issues, symptom disorders and personality disorders, reading and writing difficulties, ADHD, attitudes towards violence, rage outburst among youngsters and adults, and feelings of hopelessness. So far a pilot has been undertaken, covering 16 prisoners in 7 prisons. The data collection will take place up to spring of 2013.

- **Item 73 – The CPT would like to receive information in order to obtain a nationwide picture 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)

Reply: see separate attachment

- **Item - 74 The CPT considers that the Criminal Procedure Act should stipulate an upper limit on the duration¹² of solitary confinement of remand prisoners by court order.**

Reply:

Prolonged isolation can be very stressful for a prisoner and significant emphasis has been placed on this when drawing up the relevant provisions. The right to detain a person over the ages of 18 years in prison in complete isolation, without a maximum time limit, assumes that a very serious crime has been committed, and even then only in exceptional cases.

Assessment of whether the conditions have been met is subject to strict judicial review. The idea behind this is that introduction of a mandatory maximum time limit, such as 6 months in such cases, may be incompatible with the need to be able to combat and bring serious and socially harmful crimes to trial.

Complete isolation is regulated in Section 186 a) of the Criminal Procedure Act. Pursuant to the first paragraph, the court may by order decide that the person remanded in custody may be excluded from the company of other prisoners (complete isolation), if the remand in custody is due to the risk of tampering with evidence (Section 184 (2) of the Criminal Procedure Act, cf. Section 171 (1) no. 2), and there is an “imminent risk that the person remanded in custody will interfere with evidence in the case, if he is not kept isolated”. It is also required that use of isolation is not a disproportionate intervention, cf. Section 170 a) of the Civil Procedure Act.

The above-mentioned conditions mean that a prisoner cannot be kept completely isolated, if remand in custody on its own is enough to prevent interference with evidence, or if it suffices to have partial isolation in accordance with Section 186 (2) third sentence of the Criminal Procedure Act. The requirement of “imminent risk” of interference with evidence means that there must be a specific and real opportunity for the accused to destroy or tamper with evidence in some other way, and that it must be more likely than not that he will use this opportunity. As mentioned, complete isolation must not be used when it would be a “disproportionate intervention” in the view of the nature of the case and the circumstances. The object of the conditions is that complete isolation must only be used if this is strictly necessary, which is also reflected in the stringent requirements for the grounds for the

¹² “...three prisoners had been held under such conditions for more than six months in 2010 and/or 2011” and “...should stipulate an upper limit on the duration of solitary confinement of remand prisoners by court order.”

decision. Pursuant to Section 186 a) (4) compared to Section 186 (3) of the Criminal Procedure Act, the order must state the manner in which the investigation will be impaired if the person in remand or custody is not subject to prohibition or control and that use of prohibition or control is not a disproportionate intervention.

The court must always set a specific time limit for the isolation, cf. Section 186 a) (2) of the Criminal Procedure Act. The time limit must be as short as possible and cannot exceed 2 weeks. However, the time limit may be extended by order for up to 2 weeks at a time, which assumes a new review of whether the conditions for complete isolation still exist. In special circumstances, the time limit may be extended by up to 4 weeks at a time if “the nature of the investigation or other special circumstances indicate that review of the order after 2 weeks would be pointless”. The extension deadlines are not automatic deadlines, and they must be determined according to a specific assessment in each case. Even if it may be clear that the prosecuting authority needs to keep the prisoner isolated, e.g. for four weeks, such a long time limit cannot be set if there is reason to believe that isolation will impose such a strain that it will be a disproportionate intervention.

Both Section 186 a) (3) letter a) and b) contain narrow exception rules that the prisoner may still be kept isolated more than the maximum periods if “strong considerations make this necessary”. The exception rules have been drawn up especially with regard to charges that concern a large number of offences, and other situations where the investigation is time-consuming, as with cross-border crime and in other cases where international investigation is necessary.

- **Item 75 - 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.**

Reply:

Oslo prison confirms that the possibilities for daily activities for remand prisoners, who have bans / restrictions imposed by court order, are limited. This is due to the number of rooms available for exercising. Large areas in Unit B have been converted from communal areas into cell units over the last few years, 2nd and 7th unit respectively. The possibilities for out-of-cell activities will improve when the replacement building has been completed in 2013. However, Oslo prison will meet the proposal from CPT to double out-of-cell activities for remand prisoners subject to bans / restrictions already.

- **Item 76 -The CPT recommends that the outdoor exercise cubicles¹³ on the roof of Oslo Prison be enlarged.**

Reply:

Following CPT’s visit last year, Oslo prison has discussed with Statsbygg (the building owner) the possibility of demolishing walls between the exercise cubicles on the roof above the D block. This will result in fewer and larger cubicles. There is therefore a plan to improve the exercise area for the inmates in isolation. This is currently under review with a view to financing the demolition and construction work involved. In connection with the changes in the exercise cubicles on the roof, the possibility of fitting the cubicles out so that the inmates can play basketball or some other kind of sport is also being looked into.

¹³ «...which were far too small... »

- **Item 77 – 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).**

Reply:

A proposal for revised guidelines for the health and care services to prisoners is submitted for public consultation by The Directorate of Health. The guidelines will encompass the European recommendations regarding inspection during use of isolation.

County governors in all counties received in their official commission for 2011 the task of implementing the European Prison Rules, which also include the recommendations for inspection/supervision connected to isolation.

Incidentally a doctor, following The Correctional Services guidelines to the Criminal Procedure Act, shall immediately visit prisoners excluded from the prisoner community, if information give indications of illness or any need for health care. Health personnel are supposed to warn the prison administration if the health condition of a prisoner make it necessary to modify the person's prison conditions.

If the Correctional Services ask for a health assessment in connection to isolation, health personnel shall communicate their concern if continued isolation is considered medically unjustifiable.

Health personnel shall not express themselves in advance regarding whether or not it will be justifiable to exclude a prisoner from the community or to continue isolation of the person.

- **Item 79 - 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.**

Reply:

In accordance with the regulations with the Execution of Sentences Act (Act of May 18th 2001 relating to execution of sentences, etc.), prisoners must be given the opportunity to comment and an interview report must be written before a sanction is imposed. It is true that prisoners' comments are usually given to a prison officer. However, it is not a routine that prisoners comment directly to the governor or the party that has made the decision. However, it is fully possible for prisoners to speak directly with the decision-maker, if an inmate so requests. Prisoners may also appeal against the decision if it is felt that it has been made on incorrect grounds. In connection with this, it must be pointed out that the Ministry of Justice and Public Security has not received complaints or other indications that the current routines are not functioning satisfactorily, and therefore see no reason to make any change in the routines as regards this point.

- **Item 80 - The Norwegian authorities' comments on the points raised¹⁴ in paragraph 80 regarding the imposition of cellular confinement as a provisional disciplinary sanction.**

Reply:

According to Section 39 of the Execution of Sentences Act, the Correctional Services can fully or partially place a prisoner in exclusion for up to 24 hours, if it is likely that he has committed an act that can lead to a sanction pursuant to Section 40 (2) letter c), d) and e). Exclusion pursuant to Section 39 of the Execution of Sentences Act will be deducted from any subsequent sanction pursuant to Section 40 letter c – e of the Execution of Sentences Act, cf. Section 3-36 of the regulations with the Execution of Sentences Act.

According to the guidelines for the Execution of Sentences Act, a general preponderance of evidence is required (more than 50%) that an act has been committed that may lead to a sanction for breach of Section 40 (2) letter c), d) and e) of the Execution of Sentences Act.

There must be specific circumstances to indicate that there has been a disciplinary breach. In the event of a disciplinary breach, which according to practice only leads to a sanction pursuant to Section 40, letter a) or b) of the Execution of Sentences Act, a sanction pursuant to Section 39 of the Execution of Sentences Act may not be imposed.

Such exclusions are especially relevant for preventive purposes or when there is a need for an immediate reaction to undesirable behaviour. Exclusion may only last for 24 hours. During this time, the situation regarding the breach must be clarified further. Immediate exclusion is not allowed if the sanction is a written reprimand or loss of daily pay pursuant to Section 40 (2) letter a) and b). When required the prisoner will be checked by the staff and health personnel.

The Execution of Sentences Act has not previously contained special provisions for persons under 18 years of age. In December last year, and in line with recommendations from the CPT and the UN, the Norwegian Parliament passed a number proposed new special rules for juveniles; including a new second paragraph in Section 39, where it is determined that immediate exclusion from the community as disciplinary measure cannot be used against prisoners under 18 years of age. Measures based on communication and motivation must be used instead. Pursuant to Section 40 new sub-section 10, rules regarding sanctions may be given in the event of breach of the Execution of Sentences Act for prisoners under 18 years of age. Due to the need for new regulations and guidelines, the provision has not come into effect yet.

The reason for the amendment to the Act is that exclusion from the community as a disciplinary reaction toward minors should not be used. This is because this kind of sanction is not suitable for influencing the minor's behaviour in a positive direction. Instead, the behaviour of juveniles is regulated using positive and negative consequences. Exclusions should only be used in exceptional cases to protect the juvenile, as a means of preventing a very serious situation.

¹⁴ “...has misgivings about the widespread practice observed...” and “...it (CPT) fails to see the need for immediately imposing ...simply because it is considered probable that a prisoner has committed an act which may result in...”

- **Item 81 - The CPT has the opinion that the long-term goal should be to abandon resorting to restraining beds in non-medical settings.**

Reply:

Under Norwegian law, restraining beds may only be used to prevent an inmate from self-harm, cf., Section 38 of the Execution of Sentences Act, and also section 3.41 of the guidelines for this.

As far as possible, a doctor should be consulted before a restraining bed is used. Otherwise, a doctor must be notified as soon as possible in order to provide advice on how to proceed. A restraining bed must not be used for longer than is absolutely necessary, and the prisoner must receive the necessary monitoring and care. The prisoner must be checked by personnel at least hourly and continuous monitoring should be considered. The prisoner must also be checked by health personnel at least once a day. The governor of the prison must keep himself updated on the situation and it must be assessed regularly whether use of coercive measures can be stopped.

All types of coercive measures in the Correctional Services may only be used if the situation makes this absolutely necessary and less invasive measures have been tried or will obviously not be adequate. Coercive measures must be used with care so that no one is hurt or suffers unnecessarily. The Correctional Services must assess regularly whether there are grounds for maintaining the measures.

Decisions regarding use of coercive measures on person's inside the prison area are taken by the prison governor. Personnel must not, except in self-defence or as a principle of necessity use coercive measures without orders from the governor.

An employee who has used coercive measures or who has notified a prisoner that gas or a baton will be used must immediately submit a verbal and subsequently a written report to their superior. The report must be submitted to the prison governor. If a doctor has expressed an opinion, this must be conveyed immediately to the prison governor. Information regarding use of coercive measures must be noted in a separate record.

Use of a restraining bed must be reported to regional level. Use of a restraining bed that exceeds 24 hours must be reported to regional level and it must be decided at regional level whether the measures are to be continued. The question must be re-assessed after 24 hours. If use of a restraining bed exceeds 3 days, the measure must be reported from regional level to the Correctional Services' central administration. A report must also be sent to the Correctional Services' central administration regarding all use of coercive measures annually.

The Correctional Service's education centre provides personnel with basic training in the use of coercive measures. In addition, personnel are trained at least once a year in the use of use coercive measures. Regional level will ensure that there are instructors who can continue and maintain the training of personnel in use of coercive measures.

In December last year, the Norwegian Storting decided that coercive measures should only be used on prisoners under the age of 18 years if this was absolutely necessary and less invasive measures had been tried in vain or would obviously not suffice. Amendments of the law raise the threshold for use of coercive measures towards prisoners under 18 years of age. The condition of "absolutely necessary" implies that there must be a much higher threshold for using the most intrusive coercive measures against juveniles than for an adults. The conditions are cumulative and the latter consists of two alternative conditions. The conditions must be interpreted strictly. The child's best interests must always be taken into consideration in assessment of whether coercive measures can be used. Less intrusive measures should be attempted. It must be assessed "on-site" whether preventive measures pursuant to Section 37 may suffice. Under the circumstances, brief restraint could be less intrusive than use of coercive measures, cf. new sub-section three, first sentence. The provision is in accordance with Articles 63 and 64 of the JDL rules.

According to Sub-section three, new fourth sentence, prisoners must have continuous supervision if coercive measures are used. When restraining a person to a bed or chair, there should be personnel in the same room as the prisoner. Some prisoners may find such presence a strain, and if the prisoner objects to such presence, the supervision should be carried out in another way. In the new Sub-section 4, fourth and fifth sentence, a more stringent duty to report has been introduced as regards use of a restraining bed on prisoners under 18 years of age than for adults: For prisoners under 18 years of age, use of a restraining bed must be reported immediately to regional level, who will then decide whether the measure should be maintained. The measure will be reported to the Correctional Services' central administration when use of a restraining bed exceeds a period of 24 hours.

In the same way, a more stringent duty to report has been introduced in Sub-section 5, third and fourth sentence, regarding use of a security cell for inmates under the age of 18 years: For prisoners under 18 years of age, use of a security cell for a period that exceeds 24 hours must be reported to the regional level, who will decide whether the measure should be maintained. The measure is to be reported to the Correctional Services' central administration when use of a security cell exceeds a period of three days.

Due to the need to prepare more detailed rules in the form of regulations and guidelines, the changes for prisoners under 18 years of age have not come into effect yet.

Bredtveit prison informs in connection with this that no restraining bed has been used since 2004.

Based on the above explanation, the Ministry finds no reason to follow the CPT's recommendation on this point. It is recognized that use of a restraining bed is a very serious measure for the person subjected to this, and such a coercive measure should be used restrictively, especially as concerns juveniles. However, it may be necessary to use coercive measures in certain extreme situations. Therefore, the law permits use of a restraining bed to prevent a prisoner from self-injury. For the same reason, the possibility to use this coercive measure on minors is very restricted.

- **Item 82 - The CPT recommends that steps 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.**

Reply: Bredtveit prison comments the following on this point:

The CPT comments that our use of a security cell is not registered in an easily accessible way. Our use of cell no. 306 has also been commented. Use of this cell is not registered in any way, despite the fact that in the CPT's view it can be compared to a security cell.

Following Committee's visit, we have established a ring binder that contains all the decisions regarding transfer to a security cell and reports that form the basis for these, so that it will be easy to find your way back to the decisions. The binder is kept in the office of the principal prison officer. We have also established an electronic folder for Bredtveit prison's common area, where the date when a security cell has been used and the duration of the stay have been registered.

Bredtveit also comments that cell no. 306 was originally an ordinary cell in unit 3, which has been stripped of furniture. It is not one of the prison's ordinary places. The cell only contains a mattress on the floor. It is used as a "waiting cell" when prisoners do not manage to provide a urine sample immediately. It is also sometimes used when prisoners behave disruptively, where the aim is to calm them down and avoid self-injury or damage to the cell. From experience, transfer to cell 306 means that use of a security is avoided.

Whether cell no. 306 can be compared to a security cell has not been considered, but in the view of Bredtveit prison, cell no. 306 is different. The difference between cell no. 306 and a security cell is that it has a larger window, no toilet in the floor and no window through which prison officers can look. The procedures for transfer to cell no. 306 are also different. Prisoners are not made to undress and put on prison clothes, as they have to when transferring to a security cell. In the view of Bredtveit prison, transfer to cell no. 306 is far more humane than transfer to a security cell. The prison has not had any routine that a decision must be made for use of cell no. 306. The cell has not been in use following the CPT's visit, but since then new routines have been introduced, which state that a decision must be made pursuant to Section 37 of the Execution of Sentences Act if the cell is to be used.

- **Item 83 – The CPT asks for information on the outcome of the inquiries which have been initiated into the death of a 47-year old prisoner that occurred during the CPT delegation's visit to Oslo Prison.**

Reply:

A prisoner was discovered lifeless in a cell at 14:25. Attempts to resuscitate the person were started immediately using CPR and a defibrillator. The prison doctor and the ambulance service were summoned immediately.

The ambulance arrived at 14:38 and paramedics took over treatment. A doctor from one of the three ambulances that arrived pronounced that the patient died at 15:05. Jølstad funeral agency arrived at the prison at 16:10 and transported the deceased to the Institute of Forensic Medicine, who on 23 May 2011 concluded that the cause of death was hanging.

On 27 September 2011, the Norwegian Board of Forensic Medicine wrote that the expert report from the Institute of Forensic Medicine had been dealt with without finding any basis for remarks. The police have not pursued any further investigations against the prison following the incident and therefore it is assumed that the police agree with the Institute of Forensic Medicine's conclusion in the case. Oslo prison has established responsible routines for such cases and can confirm that all routines were followed in this case. Despite this, it is not possible to fully prevent such incidents, but the number of suicides in Norwegian prisons is very low. The last suicide in Oslo prison was in 2008.

- **Item 85 - 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.**

Reply:

Having a good social network is important for a prisoner's smooth return to society and contact with family and other close relatives is very important. Prisoners who serve the longest sentences in prison with a high security level have very possibility to have contact with their next-of-kin. The same applies to prisoners who have family far away or who for other reasons cannot visit the prisoner regularly. Even though the Correctional Services strives have as good contact arrangements as possible, the existing contact options via telephone, visits and prison leave do not provide enough contact in all cases. The Correctional Services would like to do something about this. However, greater access to telephones is a resource-intensive measure and for this reason has not been given priority. However, Report no. 37 (2007-2008) to the Norwegian Parliament states that prisoners' telephone call time and visiting hours should be extended.

- **Item 91 – The CPT would like to receive further information regarding these plans (new facility in the Gaustad area)**

Reply:

Changes in the health legislation within the area of security departments in the mental health services is currently in process, aiming at strengthening the security and safety for both patients and health personnel in security departments. As for the case of localisation of Regional Security Department in Health Region South-East, there has not yet been taken further decisions on this matter.

- **Item 92 – 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.**

Reply:

The Health Authorities emphasize, as a formal premise, that newly-arrived patients shall be given a proper health check within reasonable time after the arrival, as this responsibility follows the law (c.f. the Specialist Health Service Act and the Health Personnel Act). The Norwegian authorities are so far not informed of breaches that call for specific national measures in this area.

- **Item 94 – The CPT 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.**

Reply:

Pursuant to the Mental Health Care Act there are clear limits for the use of means of restraint. According to Section 26 ”Implementation of means of restraint” the use of such means shall be as short lasting as possible and implemented in the most gentle and careful way. Isolation can at a maximum be used for 2 hours at a time. In case of continued use of mechanical restraint for more than 8 hours, the patient shall be subject to less invasive board/food for shorter or longer time, dependent on the patient’s condition and overall circumstances. If this is not possible, the reason shall be documented.

Patients subjected to such measures shall be under continued supervision.

A new national strategy for increased voluntarily mental health care has been implemented in 2010 on a regional and local level, giving the health enterprises detailed guidelines on implementing concrete measures for reduced coercion, requiring collaboration with users, careers, municipalities, health personnel at all levels etc. A supplementary plan for national, state-held measures (2012-2015) is currently being launched by the ministry/government.

- **Item 95 – 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.**

Reply:

See below.

- **Item 96 – 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.**

Reply:

Common response to the remarks of item 95 and 96: The Ministry of Health and Social Care are not familiar with eventual problems connected to the existing arrangement and regulation in this area. In the proposal for changes in the legislation of security departments a requirement to the responsible professional for working out a specific resolution is made for the transference of patients to a security department.

Beyond this, the aforementioned new strategy for increased voluntariness in the mental health services include measures for strengthening the Supervision Commissions as well as the County Governor’s Health Supervision Departments in terms of competence in legal and human rights related topics.