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REPORT

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COMMISSIONER FOR HUMAN RIGHTS OF THE
COUNCIL OF EUROPE

FOLLOWING HIS VISIT TO
FROM TO 23 JANUARY 2015

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SUMMARY

Commissioner Nils Muižnieks and his team visited Norway from 19 to 23 January 2015. In the course of the visit, the Commissioner held discussions with state authorities, national human rights structures and non-governmental organisations. The present report focuses on the following human rights issues:

Human rights of people with disabilities

The Commissioner welcomes Norway's ratification of the Convention on the Rights of Persons with Disabilities (CRPD) in 2013. Norway has for a long time promoted community living, developed universal design and accessibility, and set up a strong legal framework against the discrimination of people with disabilities.

However, the Commissioner points out that the implementation of the CRPD in Norway falls short of some of its key objectives in promoting the self-determination, legal capacity and effective equality of people with psycho-social and intellectual disabilities. The best interest considerations continue to prevail over the CRPD approach highlighting the person's autonomy, will and preferences. The new Guardianship Act, which entered into force in 2013, still enables substituted decision-making and plenary guardianship with reference to psycho-social and intellectual disabilities. This is not in line with CRPD Article 12. The Commissioner is also concerned that the guardianship model hinders the development of supported decision-making alternatives for those who simply want assistance in making decisions or communicating them to others.

The Commissioner urges the Norwegian authorities to develop new systems for supported decision-making, based on individual consent. Such systems should be developed together with people with disabilities and along with measures for universal design and reasonable accommodation. Plenary guardianship and full incapacitation regimes should be revoked as a matter of priority, and information should be made available on the scope of guardianships applied under the current system.

The Commissioner welcomes the Norwegian national strategy 2012-15 to reduce the use of coercion in mental health care but stresses that a more comprehensive approach, including legislative reforms, will be required to bring about fundamental changes. There is a clear European trend towards reinforcing the rights and self-determination of patients and their participation in decisions about care, and people with psycho-social disabilities should not be excluded from this development. All people with disabilities have the right to enjoy the highest attainable standard of health without discrimination and the care provided to them should be based on free and informed consent in line with Article 25 of the CRPD.

The Commissioner calls on Norway to reform legislation on involuntary placements in a way that it applies objective and non-discriminatory criteria which are not specifically aimed at people with psycho-social disabilities. Precise data on the use of involuntary medical treatment and restraints in Norway should be made available with a view to drastically reducing the recourse to such practices. Medical treatment should be based on free and fully informed consent with the exception of life-threatening emergencies when there is no disagreement about the absence of legal capacity. The Commissioner is not convinced that the documented involuntary use of ECT in Norway is in line with human rights standards.

Human rights situation of Romani people/Taters (Norwegian Travellers), Roma and Roma immigrants

Norway has recognised Romani people/Taters (Norwegian Travellers) and Roma as distinct national minorities. Both communities have been present in Norway for centuries. Within the last decade, Roma immigrants from EU member states have been coming to Norway in search of livelihood.

In the past, Romani people/Taters were victims of assimilation policies and placements in foster care. The Norwegian government has made an apology for this, and in 2011 it appointed a Commission to establish a shared understanding of past injustices and abuses in order to facilitate reconciliation. The Commissioner is pleased that Romani people/Taters have been actively involved in the Commission's work. The publication of the Commission's report and recommendations in June 2015 will provide a good opportunity to disseminate factual information to the public about the history of Romani people/Taters and their experiences. The authorities should also address current discrimination against Romani people/Taters, especially on the labour market, and support opportunities for developing Romani/Tater culture and language.

The Commissioner is seriously concerned about the situation of the Roma community in Oslo. Frequent use of child protection measures separating children from their families and low school attendance are the main concerns, in addition to difficulties in accessing housing and employment. Despite a specific action plan being implemented since 2009, progress in improving the conditions of the Roma community has been very limited. There is an urgent need to build trust between Roma and the authorities so that problems can be addressed on a sustainable basis. Having regard inter alia to the key importance of education to the empowerment of Roma and their enjoyment of human rights, it is essential to develop long-term programmes for mediators and teaching assistants.

The Commissioner calls on the authorities to provide Roma parents with the necessary support to enable them to exercise their parental role in the upbringing and education of their children. While the best interests of the child must be a primary consideration in decisions related to the welfare of children, child protection measures taking children away from their families should only be applied as a measure of last resort, and only extraordinarily compelling reasons can justify the removal of children from parents at birth. The Norwegian authorities should review the situation to identify the underlying causes for Roma children's alternative care decisions to ensure that they are in compliance with the Convention on the Rights of the Child and the case-law of the European Court of Human Rights.

Recently, there have been efforts in Norway, at national and local level, to criminalise begging and "sleeping rough". The government's proposal for a nation-wide prohibition of begging in January 2015 was subsequently withdrawn. While welcoming the withdrawal, the Commissioner is concerned that bans on begging and sleeping rough may in reality be aimed at hiding poverty and discrimination from the public view rather than seeking solutions to underlying problems. Such bans have a discriminatory impact upon Roma immigrants, and a blanket ban on non-aggressive begging also interferes with freedom of expression. The Commissioner urges Norwegian municipalities not to adopt begging bans. The authorities should also ensure the sufficient availability of emergency accommodation to persons – including immigrants - in need, in line with obligations under the revised European Social Charter.

The Commissioner is deeply concerned about the manifestations of anti-Gypsyism and hate speech which have accompanied the arrival of Roma immigrants. Such intolerance can also fuel prejudice against the Roma community in Oslo and Romani people/Tatars in Norway. The Commissioner urges the authorities to firmly condemn all instances of racist and xenophobic speech and to ensure that Roma are treated with respect by the authorities, including the police. The police and the prosecution service should reinforce their efforts in investigating racist hate speech and encourage and facilitate the reporting of such incidents.

Human rights protection system

Norway has a well-developed legal and institutional framework for protecting and promoting human rights. A new chapter on human rights was added to the Norwegian Constitution in 2014 incorporating civil, political, economic, social and cultural rights.

The Commissioner welcomes the process of reforming the National Institution for Human Rights and giving it a firm statutory basis in line with the Paris Principles. The institution should be provided with sufficient resources to carry out its broad mandate effectively. The Commissioner highlights the proactive role of the Equality and Non-discrimination Ombud in promoting equality and the positive duties of public authorities in this area. The Equality Ombud's mandate could be enhanced so that the institution can provide assistance and legal representation to victims of discrimination, and the authority to refer cases to courts. It would also be useful to reinforce the ability of the Equality and Non-Discrimination Tribunal to apply effective and dissuasive sanctions.

The Parliamentary Intelligence Oversight Committee has an important role in ensuring that the rule of law and human rights are respected by Norwegian intelligence, surveillance and security services. The interaction between the Committee and the Parliament is essential for exercising effective parliamentary oversight in this area. Further consideration should be given to the resource needs of the Committee to ensure sufficient technical expertise and capacity to respond to individual complaints.

INTRODUCTION

1. The present report follows a visit to Norway by the Council of Europe Commissioner for Human Rights (“the Commissioner”) from 19 to 23 January 2015.¹ The visit focused on the following themes:
 - Human rights of people with disabilities: implementation and monitoring of the CRPD, legal capacity, supported decision-making alternatives and the use of coercion in the care of persons with psycho-social and intellectual disabilities;
 - Human rights situation of Romani people/Taters (Norwegian Travellers), Roma and Roma immigrants: access to education, child protection measures, anti-Gypsyism and responses to homelessness and begging;
 - Human rights protection system: new human rights chapter in the Constitution, reform of the National Institution for Human Rights, work of the Equality and Anti-Discrimination Ombud and parliamentary oversight of the security sector.
2. During his visit, the Commissioner engaged in a dialogue with representatives of the national authorities, including the President of the *Storting* (Parliament), Mr Olemic Thommessen; the Minister of Local Government and Modernisation, Mr Jan Tore Sanner; the Minister of EEA and EU Affairs, Mr Vidar Helgesen; the Minister of Children, Equality and Social Inclusion, Ms Solveig Horne; the Minister of Health and Care Services, Mr Bent Høie; State Secretary at the Ministry of Justice and Public Security, Mr Hans J. Røsjorde; and State Secretary at the Ministry of Foreign Affairs, Mr Bård Glad Pedersen. The Commissioner also held meetings with the Parliamentary Ombudsman, Mr Aage Thor Falkanger; the Equality and Anti-Discrimination Ombud, Ms Sunniva Ørstavik; the Director of the National Institution for Human Rights, Ms Kristin Høgdahl; the Deputy Ombudsman for Children, Mr Knut Haanes; the Parliamentary Intelligence Oversight Committee; members of the Norwegian delegation to the Parliamentary Assembly of the Council of Europe; and Chair of the Government Commission on Norwegian Travellers (*Tater-/romaniutvalget*), Mr. Knut Vollebæk. In addition, the Commissioner met with representatives of non-governmental organisations working in the field of human rights.
3. The Commissioner made on-site visits to an emergency shelter for homeless people operated by the City Church Aid at the Gamlebyen Church in Oslo and to the Vardåsen Unit for Geriatric Psychiatry of the University of Oslo in Asker (near Oslo). The Commissioner gave a public lecture on current human rights challenges at the House of Literature in Oslo, organised by the Norwegian Centre for Human Rights, and visited the European Wergeland Centre (the European Resource Centre on Education for Intercultural Understanding, Human Rights and Democratic Citizenship) in Oslo.
4. The Commissioner wishes to thank the Norwegian authorities in Strasbourg and Oslo for their valuable assistance in organising and facilitating the visit. The Commissioner expresses his gratitude to all of his interlocutors for their willingness to share their knowledge, insights and comments with him.

¹ During the visit, the Commissioner was accompanied by Mr Lauri Sivonen and Mr Furkat Tishaev, Advisers to the Commissioner, and Ms Mila Smelikova, Assistant.

1 HUMAN RIGHTS OF PEOPLE WITH DISABILITIES²

1.1 CRPD RATIFICATION AND MONITORING

5. Norway ratified the UN Convention on the Rights of Persons with Disabilities (CRPD) on 3 June 2013, but has not signed the CPRD's Optional Protocol on an individual complaints mechanism. While the Convention is not directly part of Norwegian law, international human rights obligations are referred to in a general way in the Norwegian Constitution since its reform in 2014 (see also section 3.1 below). The country is expected to submit its initial report to the UN Committee on the Rights of Persons with Disabilities in 2015. The Equality and Anti-Discrimination Ombud (hereafter the "Equality Ombud")³ coordinates independent national monitoring of the implementation of the CRPD pursuant to its Article 33, in cooperation with civil society organisations representing people with disabilities.
6. The Norwegian Anti-Discrimination and Accessibility Act of 21 June 2013 (*Diskriminerings- og tilgjengelighetsloven*) prohibits discrimination on the basis of disability in all sectors of society with the exception of family life and personal relationships. It also promotes accessibility, universal design and reasonable accommodation. A governmental Action Plan for Universal Design and Improved Accessibility was implemented in 2009-2013. Norway has promoted community living and deinstitutionalisation for people with disabilities for decades; moreover, personal assistance, provided by municipalities, became an individual right in January 2015.
7. Upon ratification of the CRPD, Norway made two interpretative declarations regarding the Convention's provisions on legal capacity and coercive measures.

"Article 12 [Equal recognition before the law]

Norway recognises that persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life. Norway also recognises its obligations to take appropriate measures to provide access by persons with disabilities to the support they may require in exercising their legal capacity. Furthermore, Norway declares its understanding that the Convention allows for the withdrawal of legal capacity or support in exercising legal capacity, and/or compulsory guardianship, in cases where such measures are necessary, as a last resort and subject to safeguards.

Articles 14 [Liberty and security of the person] and 25 [Health]

Norway recognises that all persons with disabilities enjoy the right to liberty and security of person, and a right to respect for physical and mental integrity on an equal basis with others. Furthermore, Norway declares its understanding that the Convention allows for compulsory care or treatment of persons, including measures to treat mental illnesses, when circumstances render treatment of this kind necessary as a last resort, and the treatment is subject to legal safeguards."

8. The Commissioner observes that the above declarations, which may amount to *de facto* reservations to the CRPD, have been criticised by the Equality Ombud and the National Institution for Human Rights, who have called on the government to withdraw them. According to the Equality Ombud, the declarations signal a reductive understanding of the CRPD which should be viewed as an effective tool for preventing discriminatory coercion and interventions affecting the autonomy of people with psychosocial disabilities. The National Institution for Human Rights has pointed out that the declarations could further delay necessary reforms at the national level.⁴

² The total population of Norway is about 5 084 000. It is estimated that 15-20% of people living in the country have a disability.

³ The word "ombud" is used to refer to the Equality Ombud in Norway while "ombudsman" is used for the Parliamentary Ombudsman.

⁴ Equality Ombud, *CRPD: Rett til frihet, personlig sikkerhet og likeverdige helsetjenester for personer med psykososiale funksjonsnedsettelse – Innspill til norske myndigheter*, [2013]; Norwegian Centre for Human Rights, Submission to the Universal Periodic Review of Norway 2014, 13 September 2013.

1.2 GUARDIANSHIP LEGISLATION, LEGAL CAPACITY AND SUPPORTED DECISION-MAKING

9. On 26 March 2010, the Norwegian Parliament passed the Guardianship Act (*Vergemålsloven*), which replaced the Act relating to the declaring of a person as incapable of managing his own affairs of 28 November 1898 and the Guardianship Act of 22 April 1927. The new Guardianship Act came into force on 1 July 2013, and was clearly timed to coincide with CRPD ratification. A three-year transitional period between the old and new guardianship systems is still under way.
10. While the new legislation emphasises “adapted” guardianship to suit individual circumstances, the Act continues to provide for guardianship with the denial of legal capacity which can be imposed without the consent of the individual. Although there are safeguards related to the material scope of the guardianship regime, it can become plenary guardianship in practice. As the withdrawal of legal capacity can be made with reference to mental illness and intellectual disability, it could be deemed discriminatory on grounds of disability. This status-based approach to guardianship is complemented by a functional approach whereby medical professionals provide assessments on the decision-making capacity of the individuals concerned to the courts.
11. Article 20 of the Act enumerates the conditions for guardianship, which include mental illness (also dementia), intellectual disability, substance abuse, severe gambling addiction and seriously impaired health resulting in an inability to uphold individual interests. A decision on guardianship should consider the material and temporal scope of guardianship – it should only be as extensive as necessary (Article 21). While individual consent is, in principle, required for guardianship, the deprivation of legal capacity can take place without consent (Article 20). Decisions on guardianship with the loss of legal capacity are made by the courts (Article 68). In principle, guardianship cannot extend to arrangements related to voting in elections, marriage, paternity, donation of organs, creating a will, or consent to coercive measures unless the latter happens under specific statutory authority. However, other legislation enables the guardian to intervene in decisions related to marriage, adoption, abortion, sterilisation, medical treatment, and the acquisition of a passport, for example.⁵
12. The County Governor is the local guardianship authority and is assigned the duty of handling guardianship cases in the first instance. The Norwegian Civil Affairs Authority – an agency under the Ministry of Justice and Public Security – is the central guardianship authority functioning as the supervisory and appellate body for decisions by the County Governor. The central guardianship authority has overall responsibility for financial management, information and training for the guardianship system. All guardians are expected to receive necessary training, guidance and assistance for carrying out their duties (Article 6 of the Guardianship Act).
13. The Commissioner notes that statistics on the guardianship system under the current legislation are not yet fully available because of the transition period between the old and new systems; in particular, there is a lack of precise data about the scope and specific conditions applied in voluntary and non-voluntary guardianships. The Norwegian authorities estimate that there are approximately 36200 adults who are currently under guardianship, and that fewer than 250 guardianships involve a loss of the person’s legal capacity.
14. The majority of guardians are relatives to the people placed under guardianship. Other guardians tend to be lawyers, although other professionals are also encouraged to become guardians under the new system. Civil society representatives pointed out to the Commissioner that in many cases the non-family guardians had not even met the persons whom they represented. There could be 30-40 people put under the same guardian. The Commissioner emphasises that under such circumstances it is unlikely that the guardian would be able to act in a manner respecting the person’s will and preferences.
15. Article 12 of the CRPD guarantees the right to equal recognition before the law for persons with disabilities and, in particular, the right to enjoy legal capacity on an equal basis with others in all aspects

⁵ Marriage Act (*Ekteskapsloven*), Article 2; Adoption Act (*Adopsjonsloven*), Article 4; Abortion Act (*Abortloven*), Article 4; Sterilisation Act (*Steriliseringloven*), Article 4; Patient and User Rights Act (*Pasient- og brukerrettighetsloven*), Article 4-7; Passport Act (*Passloven*), Article 4.

of life. In this respect, an issue of concern for the Commissioner is the limited development of supported decision-making alternatives in Norway to help - based on individual consent - people with psycho-social and intellectual disabilities to exercise their legal capacity, in line with the aforementioned provision of the CRPD. While it is true that the new Guardianship Act was prepared with this aim in mind, it falls short of qualifying as a supported decision-making regime which gives primacy to a person's will, as opposed to substitute decision-making. Under the new system, guardians continue to make decisions on behalf of people with disabilities even though they have a duty to listen to the views of the persons concerned, and a guardian can decide against the will of persons who have not even been deprived of their legal capacity if they are deemed not to understand the issues at hand (Article 33). It should also be noted that guardians do not have a specific duty to promote over time the decision-making capacity of the people put under their guardianship. Although there is a new emphasis on the respect for decision-making capacity in the training materials for guardians available on the guardianship portal, civil society representatives informed the Commissioner that this approach was not yet visible in practice.

16. The CRPD Committee has reaffirmed "that a person's status as a person with a disability or the existence of an impairment (including a physical or sensory impairment) must never be grounds for denying legal capacity or any of the rights provided for in article 12." It has called on States parties to "review the laws allowing for guardianship and trusteeship, and take action to develop laws and policies to replace regimes of substitute decision-making by supported decision-making, which respects the person's autonomy, will and preferences."⁶
17. The UN treaty body has made it clear that obligations under Article 12 of the CRPD require the development of supported decision-making alternatives and - ultimately - the abolition of substitute decision-making regimes. In order for Norway to comply with those obligations, changes to the Guardianship Act alone will not be sufficient. It is nevertheless positive that the Guardianship Act has provisions on advance directives for representational agreements (Chapter 10) which would be particularly useful within a broader framework of supported decision-making based on full respect for legal capacity.

1.3 USE OF COERCION IN THE CARE OF PERSONS WITH PSYCHO-SOCIAL AND INTELLECTUAL DISABILITIES

1.3.1 USE OF COERCION IN MENTAL HEALTH CARE

18. In 2013, 5400 people were placed involuntarily in psychiatric treatment in Norway, for a total number of 7700 involuntary admissions. This represented 16% of the overall number of mental health care admissions, and 30% of the total number of days spent under care. During that year, there were 1426 persons who had been under continuous compulsory care for at least one year, a slight increase (6%) compared to 2012, when 5% of involuntary admissions had resulted in stays beyond six months. Although there was a general decline in the number of days spent in mental health care for adults, the number of days spent under involuntary care rose somewhat (4%) from 2012 to 2013.⁷ Significant differences can be observed in the scope of involuntary admissions both between and within regions, which may be attributed in part to different institutional practices regarding coercion.⁸
19. In contrast to the precise data on involuntary admissions, comparably detailed information is not yet available on involuntary medical treatment and the use of restraints. During the Commissioner's visit, civil society representatives raised concerns about the use of electroconvulsive therapy (ECT) without free and fully informed consent and the excessively lengthy use of restraints in some cases. In addition, they pointed out that coercion was also applied in the context of care provided by municipalities and in educational settings which affected children and young persons with intellectual disabilities in

⁶ UN Committee on the Rights of Persons with Disabilities, General Comment No 1, Article 12: Equal Recognition before the Law, 11 April 2014.

⁷ Norwegian Directorate of Health, *Bruk av tvang i psykisk helsevern for voksne i 2013*, November 2014.

⁸ *Ibidem* and Lossius Husum, Tonje, Staff attitudes and use of coercion in acute psychiatric wards in Norway, University of Oslo, 2011.

particular.⁹ In a recent report, the National Institution for Human Rights documented the use of coercion, including restraints and isolation, in nursing homes for mostly older people.¹⁰

20. The Norwegian authorities acknowledge that coercion in mental health care is applied frequently in the country. A national strategy for 2012-15 is being implemented with the aim of increasing the prevalence of voluntary treatment in mental health services. The strategy has three specific goals: 1) mental health services should as far as possible be based on consent, 2) the services should be of such high quality that the use of coercion is reduced to a minimum level which can be justified with reference to law and human rights standards, and 3) any use of coercion should be recorded and reported to the Norwegian Patient Register. The strategy includes obligatory local, regional and national measures to reduce and standardise the use of coercion, with an emphasis on prevention and human rights training to health professionals. During the visit, the Norwegian authorities pointed out that the use of coercion could be significantly reduced through close cooperation between local and specialised service providers with the aim of providing effective and timely care before the need for coercive measures arises.
21. Pursuant to the above-mentioned strategy, the Government set the goal of a 5% reduction in the number of involuntary admissions and treatments in its 2013 instructions to regional health enterprises. However, in view of the data available for 2013 (cf. paragraph 18 above), that target has not been met. In fact, the number of involuntary placements has remained relatively stable since data collection started in 2007.

1.3.2 NORWEGIAN LEGAL FRAMEWORK ON COERCION IN CARE

22. The Equality Ombud has voiced criticism about the effectiveness of the national strategy for reducing coercion in care, and has advocated for legislation as one of the most effective tools for reducing the use of coercion in mental health care in Norway, in addition to an enhanced focus on developing alternative voluntary treatments.¹¹
23. The Mental Health Care Act of 2 July 1999 (*Psykisk helsevernloven*) regulates the use of coercion in mental health care in Norway. The use of coercion can be divided into three main categories: 1) involuntary placements in observation or psychiatric care, 2) forced medical treatment and 3) the use of coercive means (e.g. restraints and isolation) in institutions. The Act authorises mental health professionals to make administrative decisions on involuntary placements if the patient suffers from a serious mental disorder and compulsory mental health care is deemed necessary in order to prevent the patient from either (Section 3-3 of the Act):
 - a) having the prospects of his or her health being restored or significantly improved considerably reduced, or it is highly probable that the condition of the person concerned will significantly deteriorate in the very near future, or
 - b) constituting an obvious and serious risk to his or her own life and health or those of others on account of his or her mental disorder."
24. Compulsory mental health care may only be applied when, after an overall assessment, this clearly appears to be the best solution for the person concerned, unless he or she constitutes an obvious and serious risk to the life or health of others. It would appear that the "treatment need" criterion "a)" specified in the preceding paragraph is the decisive factor in about half of the decisions related to compulsory care.¹²
25. Mental health professionals also make decisions on involuntary medical treatment when it is clearly in accordance with professionally recognised psychiatric methods and sound clinical practice (Section 4-4 of the Act). Compulsory medication qualified as a serious intervention may only be carried out using

⁹ Ellingsen, Karl Elling *et al.*, "Rule of law – wishful thinking? Exemptions from educational requirements and the use of coercion against people with intellectual disability", *Scandinavian Journal of Disability Research*, Vol. 13:2 (2011): pp. 1-16.

¹⁰ National Institution for Human Rights, *Menneskerettigheter i norske sykehjem*, 2014.

¹¹ Equality Ombud, *CRPD: Rett til frihet, personlig sikkerhet og likeverdige helsetjenester for personer med psykososiale funksjonsnedsettelse – Innspill til norske myndigheter*, [2013].

¹² Norwegian Directorate of Health, *Bruk av tvang i psykisk helsevern for voksne i 2011*, November 2012, p. 28.

medicines in commonly used doses and which have a favourable effect that clearly outweighs the disadvantages of any side effects. While the Patient and User Rights Act (Chapter 4A) authorises necessary medical care without consent if the patient lacks capacity to give consent, such a lack of decision-making capacity is not assumed for involuntary treatment under the Mental Health Care Act. Although the Mental Health Care Act would not appear to foresee the compulsory use of ECT for involuntarily placed patients, the Commissioner points out with concern that ECT has been applied against the patient's express will with reference to the "principle of necessity" (*nødrett*) laid out in Article 47 of the Penal Code (*Straffeloven*).¹³ This provision is generally used to exempt people from criminal responsibility when they have had no alternative courses of action in emergency situations.

26. The Mental Health Care Act (Section 4-8) authorises the use of mechanical or medical restraints for in-patients when it is "absolutely necessary" to prevent injuries and significant damage. A patient can also be held fast briefly and detained for a short period of time behind a locked or closed door. "Shielding" (*"skjerming"*) – i.e., segregation from other patients in a room or a segregated area accompanied by staff - can be applied to aggressive patients (Section 4-3). An administrative decision is necessary if "shielding" is maintained for more than 24 hours.
27. Administrative decisions on involuntary placements and coercive means can be appealed to the quasi-judicial Supervisory (Control) Commission, which also reviews decisions on placement automatically once every three months. The decisions of the Supervisory Commission can be appealed to courts. Decisions on involuntary treatment can be appealed to the County Governor. In 2013, the Supervisory Commission treated 2355 complaints regarding decisions on compulsory mental health care - 6% of which it upheld - compared with 2116 complaints the previous year. County Governors handled a total of 983 complaints about treatment without consent, and 6% of decisions were revoked on procedural grounds.¹⁴ The Supervisory Commissions make regular visits to psychiatric institutions. The Parliamentary Ombudsman is about to begin inspection visits to such institutions as the Norwegian national preventive mechanism under the Optional Protocol to the UN Convention against Torture (OP-CAT).
28. In addition to specialised mental health care facilities, mechanical restraints and "shielding" can be used in general municipal care services to reduce harm in emergency situations in line with Chapter 9 of the Health and Care Services Act of 24 June 2011 (*Helse- og omsorgstjenesteloven*). Force may only be used when it is professionally and ethically justifiable and proportionate.
29. The Commissioner notes that the use of coercion in psychiatric care has been the subject of a public debate in Norway during recent years. In 2011, a government-appointed Commission ("Paulsrud Commission") published its report on legal provisions on compulsory psychiatric care.¹⁵ The Commission upheld the 'treatment' criterion for involuntary admission even when there was no serious risk to the life and health of the person concerned. The 'danger' criterion was nevertheless considered to be the primary starting point for the decision-making process in this area. The Paulsrud Commission also pointed out that an involuntary placement should only take place if the person concerned lacked decision-making capacity and that it could be assumed that she or he would have given consent to the treatment if she or he were capable of making decisions. The Commission acknowledged that in the light of the CRPD, a more general legislation on coercive measures which would not specifically target mental disorders would be the preferable option, and that the proposed requirement related to decision-making capacity was a step in this direction.¹⁶ However, the Commission's recommendations have so far not lead to changes in the Norwegian legislation.

¹³ Norwegian Board of Health Supervision, *Avslutning av tilsynssak "Elektrokonvulsiv behandling ECT gitt på nødrett"*, 21 May 2013; see also *Helserett – INFO*, Nr 1/01, August 2001, *Tvangsbehandling med ECT (elektrosjokk) – nødrett*.

¹⁴ Norwegian Directorate of Health, *Bruk av tvang i psykisk helsevern for voksne i 2013*, November 2014.

¹⁵ *Økt selvbestemmelse og rettssikkerhet - Balansegangen mellom selvbestemmelsesrett og omsorgsansvar i psykisk helsevern*, NOU 2011:9.

¹⁶ The dissenting minority of the Commission regarded the Mental Health Care Act as discriminatory towards people with psycho-social disabilities and contrary to the CRPD and suggested that the Act be repealed in its entirety.

1.3.3 ASSESSMENT IN THE LIGHT OF CRPD GUARANTEES

30. The guarantees enshrined in the CRPD focus upon the self-determination, legal capacity and effective equality of people with disabilities, including people with psycho-social and intellectual disabilities. In this respect, in 2013 the UN Committee on Economic, Social and Cultural Rights expressed concern about the high frequency of compulsory treatment and confinement within the mental-health system of persons with psycho-social disabilities in Norway, and the inadequate legal framework regulating the application of coercive treatment.¹⁷ A year earlier, the UN Committee against Torture had expressed concern at the widespread use of restraints and other coercive methods in psychiatric institutions in Norway, as well as at the lack of available statistical data, including on the administration of ECT. The Committee stressed that the provisions of the Mental Health Care Act, allowing for compulsory admission and treatment on the basis of either the “treatment criterion” or the “danger criterion”, leave the possibility for wide discretionary decisions to such an extent that it might lead to arbitrary and unwarranted practice.¹⁸
31. The Commissioner notes that according to the jurisprudence of the European Court of Human Rights involuntary placements and treatment should only be used as a means of last resort. In *Plesó v. Hungary*, the Court stressed the imperative need, when taking decisions regarding involuntary treatment, “to strike a fair balance between the competing interests emanating, on the one hand, from society’s responsibility to secure the best possible health care for those with diminished faculties (for example, because of lack of insight into their condition) and, on the other hand, from the individual’s inalienable right to self-determination (including the right to refusal of hospitalisation or medical treatment, that is, his or her “right to be ill”)”. It highlighted that due consideration should be given to the views of the person concerned.¹⁹
32. In its General Comment on Article 12 of the Convention, the CRPD Committee highlights as an on-going problem the denial of legal capacity of persons with disabilities and their detention in institutions against their will, either without their consent or with the consent of a substitute decision-maker. It considers that such a practice constitutes arbitrary deprivation of liberty and violates Articles 12 and 14 of the Convention, the latter of which notably states that “the existence of a disability shall in no case justify a deprivation of liberty”.
33. In addition, the CRPD upholds the right of persons with disabilities to enjoy the highest attainable standard of health, without discrimination on ground of disability, and that the provision of care should be based on free and informed consent (Article 25). In this regard, the CRPD Committee has stated in 2014 that States parties are therefore obliged to require all health and medical professionals, including psychiatric professionals, to obtain free and informed consent from persons with disabilities prior to any treatment and to refrain from permitting substituted decision-makers, including guardians, to provide consent on their behalf.²⁰ In its country monitoring, the CRPD Committee called on a State party to “review its laws that allow for the deprivation of liberty on the basis of disability, including mental, psycho-social or intellectual disabilities; repeal provisions that authorize involuntary internment linked to an apparent or diagnosed disability; and adopt measures to ensure that health-care services, including all mental-health-care services, are based on the informed consent of the person concerned”.²¹

¹⁷ UN Committee on Economic, Social and Cultural Rights, Concluding Observations – Norway, 13 December 2013, E/C.12/NOR/CO/5. The Committee recommended, *inter alia*, the abolition of the use of restraint and the enforced administration of intrusive and irreversible treatments such as neuroleptic drugs and electroconvulsive treatment (ECT).

¹⁸ UN Committee against Torture, Concluding observations – Norway, 13 December 2012, CAT/C/NOR/CO/6-7.

¹⁹ *Plesó v. Hungary*, Application no. 41242/08, Judgment of 2 October 2012, final on 2 January 2013.

²⁰ UN Committee on the Rights of Persons with Disabilities, General Comment No 1, Article 12: Equal Recognition before the Law, 11 April 2014.

²¹ UN Committee on the Rights of Persons with Disabilities, Concluding Observations – Spain, 19 October 2011, CRPD/C/ESP/CO/1, p. 5.

1.4 ON-SITE VISIT TO VARDÅSEN UNIT FOR GERIATRIC PSYCHIATRY

34. The Commissioner made an on-site visit to the Vardåsen Unit for Geriatric Psychiatry in Asker, in the vicinity of Oslo. The unit belongs to the Oslo University Hospital and it has two wards, one of them closed, with altogether 20 beds. It provides specialist care to older people with severe mental disorders.
35. The Commissioner and his team visited the facilities, including those used for “shielding” and ECT, and talked with a number of patients and staff, as well as representatives of the Service User Council and the Supervisory Commission. 20% of the patients accommodated in the unit had been placed involuntarily pursuant to the Mental Health Care Act. Among coercive measures, shielding in the presence of care staff was applied most often, and the use of belts, straps and forced medication was less frequent. The application of coercive means was recorded in patient records and a national register, although information on the length of the use of restraints and “shielding” was only kept locally and not in the national register. The unit offered ECT under full anaesthesia to its patients and out-patients based on consent. There was close cooperation between the unit and local nursing homes for older people to ensure smooth transfers between the institutions. The Commissioner commends the professional commitment of the staff and their dedication to medical research.

1.5 CONCLUSIONS AND RECOMMENDATIONS

36. While the Commissioner commends Norway for ratifying the CRPD, he points out that the implementation of the Convention in Norway falls short of some of its key objectives in promoting the self-determination, autonomy, legal capacity and effective equality of people with psycho-social and intellectual disabilities. The best interest considerations and substituted decision-making continue to prevail over the CRPD approach highlighting the person’s autonomy, will and preferences. The Commissioner urges the government to adopt a more pro-active stance in implementing its obligations under the CRPD in close cooperation with people with disabilities and organisations representing them.
37. In the Commissioner’s opinion, the withdrawal of Norway’s interpretative declarations concerning the CRPD would signal a new approach. The Commissioner also encourages Norway to sign and ratify the Optional Protocol to the CRPD on an individual complaints mechanism which would improve the access of people with disabilities to external review of their concerns.
38. The Commissioner acknowledges that the Norwegian authorities have attempted to develop some elements of supported decision-making in the context of the new Guardianship Act and that the number of people put under guardianship with a loss of legal capacity is relatively small. However, he points out that the new guardianship system continues to enable substituted decision-making and plenary guardianship and hinders the full development of supported decision-making alternatives for those who simply want assistance in making decisions or communicating them to others.
39. In order to fully comply with the requirements of Article 12 of the CRPD, the Commissioner urges the Norwegian authorities to develop new systems for supported decision-making alternatives, based on individual consent. Such systems should be developed in coordination with measures for universal design and reasonable accommodation, and together with people with psycho-social and intellectual disabilities. Robust safeguards are needed to ensure that any support provided respects the will and preferences of the person requesting it and is free of conflict of interests. Plenary guardianship and full incapacitation regimes should be revoked as a matter of priority and information should be made available on the scope and specific conditions of guardianships applied under the current system.²²
40. The Commissioner welcomes the Norwegian national strategy to reduce the use of coercion in mental health care but stresses that a more comprehensive approach, including legislative reforms, will be required to bring about fundamental changes. There is a clear European trend towards reinforcing the rights and self-determination of patients and their participation in decisions about care, and people with psycho-social disabilities should not be excluded from this development. All people with disabilities have

²² Further guidance on the implementation of CRPD Article 12 and the development of decision-making alternatives can be found in the Issue Paper published by the Commissioner’s Office, “Who gets to decide? Right to legal capacity for persons with intellectual and psychosocial disabilities”, Council of Europe Publishing, April 2012.

the right to enjoy the highest attainable standard of health without discrimination and the care provided to them should be based on free and informed consent in line with Article 25 of the CRPD.

41. Having regard to Article 14 of the CRPD (Liberty and security of the person), the Commissioner urges the Norwegian authorities to reform legislation on involuntary placements in a way that it applies objective and non-discriminatory criteria which are not specifically aimed at people with psycho-social disabilities, while ensuring adequate safeguards against abuse for the individuals concerned.
42. The Commissioner points out that precise data on the use of involuntary medical treatment and restraints in Norway, including the length of their application, should be made available with a view to drastically reducing and progressively eliminating the recourse to such coercive practices. The availability of supported decision-making alternatives and reasonable accommodation measures can contribute significantly towards the development of alternatives to coercion. The Commissioner stresses that medical treatment should be based on free and fully informed consent with the exception of life-threatening emergencies when there is no disagreement regarding absence of legal capacity. The Norwegian Patient and User Rights Act (Chapter 4A) also highlights this principle.
43. It is essential that the use of highly intrusive treatments such as ECT is subject to robust safeguards. The Commissioner is not convinced that the documented involuntary use of ECT in Norway with reference to the "principle of necessity" in the Penal Code (Article 47) is in line with human rights standards, including the provisions of the CRPD. The Commissioner points out that particular care should be taken to ensure that information given by health professionals about ECT is correct and complete, including information on secondary effects and related risks, so that patients are able to express their free and fully informed consent to the procedure. It is also necessary to collect precise data on the use of ECT and make this available to the public. During the visit, the Norwegian authorities informed the Commissioner of their intention to issue national guidelines on the use of ECT and the Commissioner welcomes this development.
44. In the Commissioner's opinion, a comprehensive approach towards reducing coercive measures on people with psycho-social and intellectual disabilities needs to cover a range of different settings in addition to specialised psychiatric institutions. The intention of the Norwegian authorities to include municipal care staff in the scope of their future national guidelines on reducing coercion is commendable. Cooperation between local and specialised care providers will be useful in this context. The Commissioner points out that the use of coercion in nursing homes and in educational settings should also be addressed.

2 HUMAN RIGHTS SITUATION OF ROMANI PEOPLE/TATERS (NORWEGIAN TRAVELLERS), ROMA AND ROMA IMMIGRANTS

45. Norway has recognised Romani people/Taters (Norwegian Travellers) and Roma as distinct national minorities with reference to the Council of Europe Framework Convention for the Protection of National Minorities (FCNM). While data on ethnicity are not kept in the Norwegian population register, it is estimated that the total number of Romani people/Taters, who have been present in Norway since the 16th century, is currently between 4000 and 10000. Roma have been present in Norway since the 19th century; now, there are only between 500 and 700 members of this community, mostly residing in Oslo. Since the last decade, Roma immigrants from newer EU member states - especially Romania - have been coming to Norway in search of livelihood. Their initial length of stay is limited to three months under EU and European Economic Area (EEA) regulations. Depending on the season, their number is estimated to range from 100 to 1000.

2.1 THE SITUATION OF ROMANI PEOPLE/TATERS

46. The past policies of assimilation and placements in foster care of Romani people/Taters (between 1930 and 1960) have been highlighted by the Advisory Committee on the FCNM and the Council of Europe Committee of Ministers. European and international monitoring bodies have also pointed out that Romani people/Taters experience discrimination in access to education, housing and employment and encounter hostile attitudes on the part of the police. Specific concerns include the lack of opportunities for distance learning and frequent denial of access to campsites during the travelling period.²³ During the Commissioner's visit, civil society representatives also stressed that culturally appropriate foster care was virtually absent for Romani/Tater children, as Romani/Tater families had not usually been recruited as foster families by child protection authorities. They pointed out that it was important to focus on the further development of the Romani/Tater culture and language in Norway.
47. The Norwegian government first made an apology in 1998 to Romani people/Taters about their past treatment, and some compensation schemes have already been implemented. In 2011, the government appointed a Commission of independent experts tasked with documenting and assessing previous policies and measures relating to Romani people/Taters. The Commissioner is pleased to note that Romani people/Taters are represented on the Commission and its reference group and that they were involved in drafting the Commission's mandate.
48. Under the aegis of the Commission, extensive research to document the past has been carried out - including interviews with Romani people/Taters - as well as outreach activities. Research into the past has covered, for example, treatment in the child welfare system, the criminal justice system and psychiatric institutions. In addition, there has been research to document the current situation in terms of the welfare system, education and employment. One of the aims for the Commission's work is to establish a shared understanding of past injustices and abuses in order to facilitate the reconciliation process between Romani people/Taters and the Norwegian authorities. The Commission is expected to present the results of its work, including recommendations for future action, in June 2015. The Norwegian authorities informed the Commissioner that the publication and dissemination of the Commission's report should provide a good opportunity for a "restart" in their relationship with Romani people/Taters.

²³ Council of Europe Committee of Ministers Resolution CM/ResCMN(2012)11 on the implementation of the Framework Convention for the Protection of National Minorities by Norway; Council of Europe Advisory Committee on the Framework Convention for the Protection of National Minorities (ACFC), Third Opinion on Norway, 31 August 2011, ACFC/OP/III(2011)007; European Commission against Racism and Intolerance (ECRI), Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2; UN Committee on the Elimination of Racial Discrimination, Concluding Observations – Norway, 8 April 2011, CERD/C/NOR/CO/19-20.

2.2 THE SITUATION OF ROMA

49. Discrimination and problems in gaining access to education, housing and employment are examples of everyday difficulties faced by Roma in Norway.²⁴ Despite a specific action plan implemented since 2009, there are serious concerns about the situation of Roma in Oslo which require urgent responses.
50. There are about 120 Roma children between the ages of 6 and 15 (age of compulsory education) in Oslo. In 2012 it was estimated that only 71 of them were registered in a school class. In addition, many Roma children who are registered at school are often absent when their families go travelling. At the end of their compulsory education, many Roma children leave school without a diploma. There is also a significant level of illiteracy among the Roma community.²⁵
51. The Ombudsman for Children and the National Institution for Human Rights have expressed concern about the high level of absenteeism among Roma children and the consequent obstacles to successful social integration of Roma children and their families.²⁶ In 2013, the UN Committee on Economic, Social and Cultural Rights (CESCR) echoed these concerns, and recommended making compulsory education more accessible for those who travel for a part of the year.²⁷ With this aim in mind, the Advisory Committee on the FCNM has recommended the development of facilities for distance teaching programmes.²⁸
52. Serious concerns have been raised by civil society representatives about extremely frequent placements of Roma children in child welfare services, including foster care. It is estimated that over 60 Roma children are in foster care currently and that a further 60 children may be vulnerable to such interventions in the future; this represents about half of the total number of (non-immigrant) Roma children in Norway. While issues related to substance abuse, violence and the very low age of some parents are acknowledged as possible grounds for prompting child protection measures, Roma question the severity of the measures applied and stress that support to families should be provided as an initial response, in line with national practice more generally. According to the Commissioner's interlocutors, many Roma mothers-to-be avoid going to Norwegian hospitals for childbirth for fear that the newborn will be immediately taken away by child protection services.
53. There are also concerns about severe restrictions in contacts between Roma children placed in foster care and their natural families, and the cultural appropriateness of foster care. According to civil society representatives, Roma children living in foster homes may only be able to meet with their natural families twice a year and they do not usually have access to education in Roma culture and language. Roma representatives pointed out that many Roma children in foster care face immense challenges in social inclusion as they are unsure about their personal identity and have difficulties in belonging to any community.
54. In 2013, the UN CESCR highlighted concerns about the increasingly high number of children removed from family care and placed in institutions or in foster care, and the persistently high level of child poverty in some segments of society. It recommended that Norway ensure that municipalities are provided with sufficient resources and support so that they can effectively undertake preventive work in families at risk and follow-up work for children in foster families or homes.²⁹
55. The Commissioner stresses that the best interests of the child should always be a primary consideration in decisions regarding the social welfare of children, in line with the UN Convention on the Rights of the Child (CRC, Article 3). However, preventing family separation and preserving family unity are important components of the child protection system as well – the separation of children from their parents should

²⁴ ACFC, Third Opinion on Norway, 31 August 2011, ACFC/OP/III(2011)007; ECRI, Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2.

²⁵ Council of Europe Ad Hoc Committee of Experts on Roma Issues, Thematic report on school attendance of Roma children, in particular Roma girls, 22 April 2013.

²⁶ Norwegian Centre for Human Rights, Parallel report related to the fifth periodic report of Norway to CESCR, 23 September 2013.

²⁷ UN CESCR, Concluding Observations – Norway, 13 December 2013, E/C.12/NOR/CO/5.

²⁸ ACFC, Third Opinion on Norway, 31 August 2011, ACFC/OP/III(2011)007.

²⁹ UN CESCR, Concluding Observations – Norway, 13 December 2013, E/C.12/NOR/CO/5.

only take place as a last resort.³⁰ The European Court of Human Rights has pointed out that the interests of the parents remain relevant and “that family ties may only be severed in very exceptional circumstances and that everything must be done to preserve personal relations and, if and when appropriate, to “rebuild” the family”.³¹ The removal of children from parental care at birth has been qualified as “an extremely harsh measure” by the Court which should only take place for “extraordinarily compelling reasons”.³² It is important to note that economic reasons cannot be a justification for separating a child from his or her parents.³³ Children in alternative care should also have their situation reviewed regularly with the aim of reintegrating the child into the family.³⁴

56. In June 2009, the Norwegian government adopted a long-term plan of action for improving the living conditions of Roma in Oslo. The action plan, which included a set of ten measures, was prepared in dialogue with Roma and the municipality of Oslo. The measures concerned, for example, improving adult education, establishing a guidance and mediation service for contacts with the authorities and municipal services, providing information about Roma to the public, attracting Roma children to day-care institutions, and developing extracurricular activities for young people.
57. An evaluation of the results of the action plan published in 2014³⁵ reveals that the results of the action plan were quite limited. Opportunities for adult education were welcomed by Roma and some of the youth activities offered were quite popular. However, most measures in the action plan were not fully implemented, and some of the initiatives which were found to be useful (such as a mentoring scheme in one school) have not been continued. The action plan was criticised both by the Ombudsman for children and Roma civil society representatives for a lack of a child-sensitive perspective and in particular for its insufficient emphasis on improving the education of Roma children.³⁶ The evaluation report of the action plan pointed out that further work would be particularly useful in the fields of education, contacts with authorities and public services, the situation of women and arranged marriages, safety in conflict situations within the Roma community, and the preservation of cultural identity.
58. Establishing the truth about the past has also been an issue for the Roma community and, based on their initiative, the Norwegian authorities agreed to commission research into the history of Norwegian Roma and the Holocaust. As a result, a report was published in February 2015, which shows that of the sixty-six Roma, who were deported to German extermination camps in 1943-44 after previous expulsion from Norway, only four survived. The report also describes past Norwegian policy of stripping Roma of their Norwegian citizenship and expelling them from Norway.³⁷

2.3 THE SITUATION OF ROMA IMMIGRANTS: RESPONSES TO BEGGING AND HOMELESSNESS

59. Recently, the Norwegian authorities have sought to criminalise begging and “sleeping rough”, citing an increase of these social phenomena. Following the unanimous repeal by Parliament of the Vagrancy Act in 2005 on an understanding that poverty should not be criminalised, the possibility for restricting or prohibiting begging was once again opened by amendments to the Police Act (*Politiloven*) adopted on 13 June 2013 and 16 June 2014, which have enabled municipalities to pass regulations relating to soliciting

³⁰ Article 9 of CRC and UN Committee on the Rights of the Child, General Comment No. 14 on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1), 29 May 2013, CRC/C/GC/14.

³¹ *Neulinger and Shuruk v. Switzerland*, Application no. 41615/07, Judgment of 6 July 2010.

³² *K. and T. v. Finland*, Application no. 25702/94, Judgment of 12 July 2001.

³³ *R.M.S. v. Spain*, Application no. 28775/12, Judgment of 18 June 2013; *Wallová and Walla v. the Czech Republic*, Application no. 23848/04, Judgment of 26 October 2006.

³⁴ Council of Europe Committee of Ministers Recommendation CM/Rec(2011)12 on children’s rights and social services friendly to children and families, 16 November 2011.

³⁵ Tyldum, Gury and Jon Horgen Friberg, *Ett skritt på veien – Evaluering av Handlingsplan for å bedre levekårene blant rom i Oslo*, Fafo-rapport 2014:50.

³⁶ Norwegian Centre for Human Rights, Parallel report related to the fifth periodic report of Norway to CESCR, 23 September 2013.

³⁷ Rosvoll, Maria et al., *“Å bli dem kvit” – Utviklingen av en “sigøynerpolitikk” og utryddelsen av norske rom*, Senter for studier av Holocaust og livssynsminoriteter, 2015.

money in public spaces. The Commissioner is only aware of two municipalities – Arendal and Lillesand – which have so far enacted full bans on begging, although different alternatives were also considered, but not adopted, in Oslo in 2014.

60. In January 2015, the Norwegian government proposed modifications to the Penal Code aimed at criminalising begging nation-wide. It was stated in the proposal that the current legal framework had to be reinforced to ensure a uniform response to begging across the country. Two possibilities were outlined: 1) a ban on organised begging (two or more people cooperating) with a maximum penalty of one year of imprisonment and 2) a general ban on begging with a maximum penalty of six months of imprisonment. It was also acknowledged that the existing criminal legislation related to forced begging and trafficking in human beings, which could be connected to begging, was adequate and would not require changes.³⁸ The government's proposal was withdrawn in early February.
61. The measures aimed at criminalising begging in Norway have been criticised for their discriminatory impact on Roma immigrants (mainly from Romania) even if the relevant legislation and municipal regulations apply to all persons engaged in begging. The Equality Ombud has expressed concern about the ban on begging for being discriminatory towards Roma on grounds of ethnicity and socio-economic status, pointing out that it may not be a proportionate measure to ensure peace and order, could result in the harassment of incoming Roma, and would further restrict the opportunities for improving the living conditions of groups of people who are in a situation characterised by discrimination, stigma, poverty and deprivation.³⁹
62. The UN Special Rapporteur on extreme poverty and human rights has emphasised that criminal or regulatory measures that make vagrancy and begging unlawful have a disproportionate impact on persons who live in poverty. When they are unable to access sufficient support and assistance from the state, persons living in poverty may have no other option than to beg in order to stay alive. Accordingly, bans on begging and vagrancy represent serious violations of the principles of equality and non-discrimination. Such measures give law enforcement officials wide discretion in their application and increase the vulnerability of persons living in poverty to harassment and violence. They contribute to the perpetuation of discriminatory societal attitudes towards the poorest and most vulnerable.⁴⁰
63. The Commissioner notes that measures banning begging may also violate freedom of expression. Emerging national jurisprudence, for example judgments of 30 June and 6 December 2012 by the Constitutional Court in Austria, views begging as a form of communication about a person's social situation which would be subject to disproportionate interference through a blanket ban of non-aggressive begging. The Commissioner stresses that the Norwegian police can already intervene to stop disturbances of public order, including cases of aggressive begging, under Article 7 of the Police Act.
64. "Sleeping rough" has been subject to increased regulation in Oslo. In 2013, the Oslo Police Directorate began enforcing Oslo municipality's blanket prohibition contained in Regulation No. 577 (Section 2-1) against sleeping outdoors in most of the city territory. Infractions of the prohibition carry sanctions in the form of fines or a prison sentence of up to three months. The ban was justified by the influx of homeless foreign citizens to Oslo during the summer of 2012.⁴¹ It is estimated that there are 6 259 homeless persons in Norway overall, with 42% of them residing in one of the four largest cities. About 300 of them stay in overnight shelters and spend the whole or parts of the day outside, or have no accommodation at all. This figure does not include Roma with temporary residence status whose number is estimated to vary between 100 and 1000 people depending on the season.⁴²
65. The blanket ban on sleeping outdoors was criticised for being discriminatory by the National Institution for Human Rights as it appeared to target a particular ethnic group, i.e. Roma immigrants, and was likely

³⁸ Høring – forslag til endring i straffeloven 1902 og 2005 (ny § 350a og ny § 181a om forbud mot organisert tigging), 22 January 2015.

³⁹ Equality Ombud, Høringssvar på forslag til endring i politiloven, 14/569, 14 April 2014.

⁴⁰ UN General Assembly, Report by the Secretary General, 4 August 2011, A/66/265.

⁴¹ Norwegian Centre for Human Rights, Årbok om menneskerettigheter i Norge 2013.

⁴² Norwegian Institute for Urban and Regional Research, Bodstedsløse i Norge i 2012 – en kartlegging.

to be disproportionately enforced against this group.⁴³ The National Institution is currently carrying out research about the implementation of the ban and its impact on the enjoyment of human rights. One result of the ban was that many Roma immigrants moved outside the city boundaries to sleep in the Sognsvann forest. However, those living in the forest have also been evicted by the police. The Norwegian courts have deemed the evictions legal even though alternative accommodation was not offered afterwards.

66. The Commissioner welcomes the fact that in 2013 the government established a grant scheme (a lump sum of 10 million NOK, or about 1.186 million EUR) allowing humanitarian organisations to apply for additional funds to assist those affected by the ban on “sleeping rough”. The grant scheme, which has been continued in 2014 and 2015, has helped maintain emergency shelters to accommodate Roma immigrants. However, civil society representatives have indicated that the scheme is not sufficient to meet the needs for emergency shelter. Furthermore, Roma immigrants do not have access to homeless shelters maintained by Oslo municipality if they are not covered by social security in Norway.
67. As the European Committee of Social Rights has emphasised, the minimum guarantees for the right to housing and emergency shelter under Article 31 (right to housing) of the revised Social Charter - which Norway has ratified - also apply to short-term immigrants, including irregular migrants. Shelter must be provided even when immigrants have been requested to leave the country and even though they may not require long-term accommodation. The Committee has stressed that the right to shelter is closely connected to the human dignity of every person regardless of their residence status.⁴⁴

2.4 ON-SITE VISIT TO GAMLEBYEN EMERGENCY SHELTER FOR HOMELESS PEOPLE

68. The Commissioner visited the emergency shelter for homeless people which has been operating in the Gamlebyen Church in Oslo since 2013, and met with its residents and staff. The shelter receives some financial support from the government’s grant scheme run by the Ministry of Justice and Public Security, and is operated by the City Church Aid (*Kirkens Bymisjon*) with the help of volunteers. It has 50 beds and is open to women and older persons who pay a NOK 15 (EUR 1.7) fee for an overnight stay. Most of the people staying in the shelter are immigrant Roma who beg, sell newspapers or play music on the streets during the day. The shelter is only open during the night and provides a field bed and access to a kitchen, water and a toilet, but has no shower facilities. A social worker who speaks Romanian is available to assist. City Church Aid operates another shelter in Oslo which is open to men as well.
69. The Commissioner’s discussions at the shelter highlighted the problems faced by immigrant Roma. Most of them would like to find a job but this was very difficult. Access to health services was very limited. As a result of the ban on sleeping rough in Oslo, emergency shelters no longer had sufficient capacity, especially during summer. One major concern was the lack of respect towards Roma immigrants on the part of the police and private security guards, and perceived racial profiling.

2.5 ANTI-GYPSYISM

70. The Commissioner is concerned to note that the arrival of Roma immigrants has been accompanied with increasing anti-Gypsyism and anti-Roma hate speech in Norway. In 2013, news in the national public media referred to Roma over 6500 times, with a particular focus on begging and homelessness. The police and some politicians have often been referred to in the media as warning of an impending “invasion” by beggars from Romania and Bulgaria or making a connection between begging and criminality. A supposed lack of hygiene among Roma has also been a frequent subject in the public debate.⁴⁵ An extensive opinion survey about the attitudes of the public towards minorities in Norway carried out in 2010-12 found the highest degree of prejudice towards Roma in comparison to the other

⁴³ *Uttalelse fra Nasjonal institusjon for menneskerettigheter i forbindelse med høring om endringer i Oslo kommunes politivedtekter*, 15 February 2013.

⁴⁴ European Committee of Social Rights, Complaint No. 90/2013 *Conference of European Churches (CEC) v. the Netherlands*, Decision on the Merits, 1 July 2014.

⁴⁵ Norwegian Centre for Human Rights, *Årbok om menneskerettigheter i Norge 2013*; ECRI, Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2.

minorities included in the survey. 27% of the respondents indicated that they would strongly dislike having Roma as their neighbours.⁴⁶

71. A particularly disturbing development is the emergence of violent hate speech against Roma. A well-known politician stated in 2012 that Roma should be sectioned into small pieces and served to dogs. Roma have also been referred to as “brown snails” in online discussion groups. In 2012, the Oslo Property and Urban Renewal Agency referred to “gypsies” within a list of urban waste – along with car wrecks, scrubs, and tall grass – in an open tender announcement on waste removal. Following a complaint, the Equality Ombud found the text directly discriminatory and amounting to incitement to discrimination.⁴⁷
72. The Norwegian Penal Code (Section 135a) prohibits public statements which threaten or insult people or incite hatred, persecution or contempt for people because of their skin colour or national or ethnic origin. Since 2012, expressions published on public fora on the internet have also been included in the scope of the prohibition. In addition, Norway has ratified the Additional Protocol to the Council of Europe Convention on Cybercrime concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems.
73. Although the Supreme Court and the public prosecution service have made it clear that the Norwegian law can be applied to punish hate speech, the European Commission against Racism and Intolerance (ECRI) has pointed out that reporting of hate crime to the police remains very low in Norway. ECRI has also expressed concern at the lack of monitoring by the police of racist hate speech on the Internet and urged the police and the prosecution service to reinforce their efforts to monitor and investigate online hate speech.⁴⁸

2.6 CONCLUSIONS AND RECOMMENDATIONS

74. The Commissioner considers that it is essential for the Norwegian authorities to pursue a constructive relationship, based on respect and the principles of equality and non-discrimination, with Romani people/Taters, Roma and Roma immigrants. While all these communities have their distinct identities and challenges, there is also overlap in the problems they face. All of them are victims of discrimination and intolerance with a long historical dimension.
75. The Commissioner commends the inclusive approach adopted by the government-appointed commission of independent experts examining the past assimilation policies and treatment of Romani people/Taters. The active participation of Romani people/Taters is essential for the success of the Commission’s work. The publication of the Commission’s report and recommendations in June 2015 will provide a good opportunity to disseminate factual information to the public about the history of Roma people/Taters and their experiences. In addition to ensuring accountability for past injustices, the Commissioner urges the government to address current discrimination against Romani people/Taters, especially on the labour market. It is also important to support opportunities for developing Romani/Tater culture and language and improve distance learning possibilities for Romani/Tater children during travelling periods.
76. The Commissioner has serious concerns about the situation of the Roma community in Oslo, and stresses that the human rights of Roma should be fully respected without discrimination. It is necessary to develop new mechanisms for continuous contacts and cooperation between the Roma and the authorities to ensure that any specific measures relating to Roma are planned and implemented with their active participation from the start. The long-standing problems in the fields of education and the application of child protection measures, for example, cannot be solved without the participation of the Roma community, including Roma women. It would also be useful to offer mediation services to solve

⁴⁶ Center for Studies of the Holocaust and Religious Minorities, *Antisemitism in Norway? – The Attitudes of the Norwegian Population toward Jews and Other Minorities*, May 2012.

⁴⁷ Norwegian Centre for Human Rights, *Årbok om menneskerettigheter i Norge 2013*; ECRI, Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2.

⁴⁸ European Commission against Racism and Intolerance (ECRI), Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2.

any conflicts between Roma and the authorities, in line with the recommendations of the Council of Europe Committee of Ministers.⁴⁹ Public services should improve their outreach towards Roma and offer guidance to facilitate contacts. Past injustices experienced by the Roma community should also be addressed.

77. Education is of key importance to the empowerment of Roma and their enjoyment of human rights. There is a pressing need for long-term programmes for mediators and teaching assistants helping with Roma children's school attendance and educational achievement. Distance learning opportunities should also be offered when regular school attendance is not possible. Adult education programmes should be continued. It is important to develop language education in Romanes in co-operation with the speakers and to encourage positive attitudes towards this language in line with the recommendations addressed by the Council of Europe Committee of Ministers to Norway.⁵⁰
78. The Commissioner calls on the Norwegian authorities to provide Roma parents with the necessary support to enable them to exercise their parental role and duties in the upbringing and education of their children. While the best interests of the child must be a primary consideration in decisions related to the welfare of children, child protection measures taking children away from their families and placing them in foster care should only be applied as a measure of last resort. The Commissioner emphasises that the removal of children from parental care at birth can only take place for extraordinarily compelling reasons, and poverty alone cannot qualify as grounds for separating children from their parents. The Norwegian authorities should seek to identify the underlying causes for decisions to place Roma children in alternative care, to ensure that they are in compliance with the Convention on the Rights of the Child and the case-law of the European Court of Human Rights. Particular consideration needs to be given to the preservation of family relations and Roma identity during foster care, and finding opportunities to reintegrate into the family.
79. The initiatives in Norway to ban begging and "sleeping rough" should be viewed in a wider context of European societies increasingly seeking to regulate and criminalise behaviours in public spaces. The Commissioner observes that the current bans on begging and sleeping rough in Norway have a discriminatory impact towards Roma immigrants, and is particularly concerned that such moves may in reality be aimed at hiding poverty and discrimination from the public view rather than seeking solutions to the underlying problems. Any blanket bans on non-aggressive begging also interfere with freedom of expression.
80. The Commissioner welcomes the government's decision to withdraw its proposal of January 2015 for a nation-wide prohibition on begging. In his opinion, the Norwegian legal framework is already adequate for intervening in cases of aggressive and forced begging, which can engage criminal responsibility. The provisions of the proposed legislation related to giving assistance to beggars were also problematic from the viewpoint of the right to respect for private life. The Commissioner urges Norwegian municipalities not to adopt begging bans and to repeal the current regulations to this effect. He also calls on the Norwegian authorities, including the municipal authorities in Oslo, to ensure the sufficient availability of emergency accommodation to persons – including immigrants - in need, in accordance with Norway's obligations under the revised European Social Charter. The Commissioner encourages the authorities to give full consideration to the aim and willingness expressed by Roma immigrants to find work, including in terms of opportunities for seasonal work.
81. The Commissioner is deeply concerned about the manifestations of anti-Gypsyism and hate speech which have accompanied the arrival of Roma immigrants. Such intolerance can also fuel prejudice against the Roma community in Oslo and Romani people/Taters in Norway. The Commissioner urges the Norwegian authorities to firmly condemn all instances of racist and xenophobic speech and to ensure that Roma are treated with respect by the authorities, including the police. He calls on the police and

⁴⁹ Council of Europe Committee of Ministers Recommendation CM/Rec(2012)9 on mediation as an effective tool for promoting respect for human rights and social inclusion of Roma, 12 September 2012.

⁵⁰ Council of Europe Committee of Ministers Recommendations CM/RecChL(2010)2 (10 March 2010), and CM/RecChL(2012)8 (28 November 2012) on the application of the European Charter for Regional or Minority Languages by Norway.

prosecution service to reinforce their efforts to investigate and monitor racist hate speech, including on the Internet, and to encourage and facilitate the reporting of such incidents.

3 HUMAN RIGHTS PROTECTION SYSTEM

3.1 LEGAL AND INSTITUTIONAL FRAMEWORK

82. Norway has a well-developed legal and institutional framework for protecting and promoting human rights. The country has ratified most European and international human rights treaties, and there are several independent human rights structures which are easily accessible to the population. The present section will highlight the respective roles of the National Institution for Human Rights, the Equality and Non-Discrimination Ombud and Tribunal, and the Parliamentary Intelligence Oversight Committee.
83. A new chapter (E) on human rights was added to the Constitution by the Parliament in May 2014 coinciding with the 200-year anniversary of the Constitution. Civil, political, economic, social and cultural rights are now part of the Constitution. Norway's international human rights obligations are referred to in Article 92.⁵¹ There is a general non-discrimination provision (Article 98) without specifically-enumerated grounds of discrimination. The human rights chapter includes a provision on the rights of the child (Article 104).
84. There is significant variation in the status of human rights instruments ratified by Norway in the domestic legal order. The Norwegian Human Rights Act of 1999 (*Menneskerettsloven*) incorporates into Norwegian law the European Convention on Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, the Convention on the Rights of the Child (CRC), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). If there is a conflict between these treaties and Norwegian law, the treaty provisions will prevail over Norwegian legislation apart from the Constitution. The International Convention on the Elimination of All Forms of Racial Discrimination (ICERD) has been made part of Norwegian law through equal treatment legislation which does not give it precedence over other domestic laws. Human rights instruments ratified by Norway but not directly incorporated into the domestic legal order are usually given less consideration by the judiciary.
85. Norway has a dense network of independent national human rights structures (NHRSS), some of which are associated with the Parliament. The Parliamentary Ombudsman supervises public administration on the basis of individual complaints and conducts *ex officio* investigations related to maladministration or injustice. Since 2014, the Ombudsman has also been acting as the national preventive mechanism under the OP-CAT. The Parliamentary Intelligence Oversight Committee is an independent body supervising the legality of the actions of the Norwegian intelligence services. It carries out inspection visits, examines individual complaints and publishes annual reports of its activities. In addition, there is a specialised Parliamentary Commissioner for the Armed Forces to safeguard the rights of defence personnel.
86. The Equality and Anti-Discrimination Ombud is an institution established pursuant to legislation on equal treatment, with a mandate to promote equality and combat discrimination on grounds of, *inter alia*, gender, ethnicity, religion, disability, sexual orientation, gender identity and age. The Equality Ombud examines individual complaints and provides advice to victims of discrimination. The Ombud also has specific responsibilities in promoting and monitoring the implementation of CEDAW, ICERD and CRPD. The Equality and Anti-Discrimination Tribunal is the appeal body of the Equality Ombud.
87. Norway was the first country to establish a Children's Ombudsman in 1981. The Children's Ombudsman promotes and monitors the implementation of the CRC, as well as providing advice and raising awareness of children's rights.
88. The National Institution for Human Rights promotes human rights through research, monitoring, consultancy and education, and publishes an annual report on the human rights situation in Norway. Until now, it formed part of the Norwegian Human Rights Centre at the University of Oslo. The Parliament is currently in the process of adopting legislation which is expected to reinforce the

⁵¹ The opening Article 92 of the human rights chapter E of the Constitution reads: "The State is obliged to respect and secure human rights as enshrined in this Constitution and in human rights treaties which Norway is bound by."

independence and effectiveness of the institution with reference to the Paris Principles (see next section).⁵²

89. The Data Protection Authority is an independent government authority which enforces statutes and regulations related to the processing of personal data. It issues opinions and provides advice and guidance in matters on the protection of privacy and the protection of personal data. Decisions of the Authority can be appealed to the independent Privacy Appeals Board.

3.2 REFORM OF THE NATIONAL INSTITUTION FOR HUMAN RIGHTS

90. The Norwegian National Institute for Human Rights was set up in 2001 by Royal Decree with a mandate focused on research. While it initially received an initial A-status under the Paris Principles by the International Co-ordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC), since November 2012 the National Institution has only held B-status as its position had not been consolidated by an act of Parliament. In 2013, the UN CESCR noted with concern the downgrading of the National Institution owing to a lack of a legal framework that is compliant with the Paris Principles and insufficient resources.⁵³
91. Following the downgrading of its status, a process to reform and reinforce the National Institution was initiated, and the Parliament is about to adopt a law aimed at setting up a reformed institution during summer 2015. The draft Act on the National Institution for Human Rights lays out a broad mandate to promote and protect human rights in line with the Constitution, Human Rights Act, other national legislation and international conventions. The planned functions include reporting on the human rights situation in Norway, advice to government and the Parliament, raising awareness, and cooperation with other NHRs and international organisations.
92. The Commissioner observes that the proposed Act has been drafted with close reference to the Paris Principles and has strong guarantees for the independence, representativeness and expertise of the institution. Under the draft law, the institution's director is elected by the Parliament after an open announcement for the position for a non-renewable six-year period. The director, who is required to have high human rights qualifications, appoints the institution's staff, who should possess a broad area of expertise. The Presidency of the Parliament appoints a 10-15 member Advisory Commission - composed of representatives of civil society and NHRs - to the National Institution, on the proposal of the director. The National Institution submits an annual report to the Parliament and its budget is proposed by the director directly to the Presidency of the Parliament.⁵⁴ Naturally, the resources made available to the institution will be an essential factor for determining the actual scope of its activities.

3.3 EQUAL TREATMENT OMBUD AND TRIBUNAL

93. Under the equal treatment legislation, the Equality Ombud has a proactive role to promote equality in all areas of society, which is closely linked to the duty of public authorities to make active and systematic efforts to promote equality. In addition, the Ombud examines individual complaints which can subsequently be brought before the Equality Tribunal (the Ombud's quasi-judicial appeals body) if voluntary compliance with the Ombud's statements has not been reached. While victims of discrimination can also lodge complaints before courts, the Ombud and the Tribunal provide a free low-threshold complaint system for cases of discrimination. Although the Tribunal can impose coercive fines to ensure compliance, in practice sanctions are usually only applied by courts. The Ombud has a duty to provide guidance to victims of discrimination, but cannot provide assistance to them or represent them in legal proceedings. Nor does the Ombud or the Tribunal have the authority - unlike the Parliamentary Ombudsman - to "recommend cases to court free of charge", i.e. where the victim is exempt from

⁵² "Principles relating to the status of national institutions", appended to the UN General Assembly Resolution A/RES/48/134, 4 March 1994.

⁵³ UN CESCR, Concluding Observations – Norway, 13 December 2013, E/C.12/NOR/CO/5.

⁵⁴ *Rapport til Stortingets presidentskap fra arbeidsgruppen som har utarbeidet forslag til lov og instruks om nasjonal institusjon for menneskerettigheter, Dokument 16 (2014-15).*

paying court fees and obtains free legal representation. ECRI has recommended that such powers be granted to the Ombud and the Tribunal, along with the competence to seek friendly settlements.⁵⁵

94. The government is currently considering a reform of the equal treatment legislation with the aim of consolidating the separate equal treatment acts, adopted in 2013, into one equal treatment act covering all prohibited grounds of discrimination. A proposal for new legislation is expected to be unveiled after summer 2015. As part of the reform, the authorities are looking into the effectiveness of current complaints mechanisms against discrimination in order to improve access to remedies.
95. In order to be effective, national structures for promoting equality should be designed to ensure the optimal functioning of both their promotional and their quasi-judicial roles in hearing or mediating cases. A degree of separation between these distinct aspects is useful, so as to ensure the impartiality of the quasi-judicial role while enabling a genuinely proactive promotional role. The promotional function of equality bodies should involve providing legal advice and representation to those who experience discrimination, conducting surveys and research work, raising awareness of equality, and supporting good practice by policy makers, employers and service providers. The Commissioner considers that the positive duty of Norwegian public authorities to make systematic efforts to promote equality is complementary to the work of the Equality Ombud. Promotional bodies should also be able to bring cases to court, while quasi-judicial bodies should be able to order binding sanctions that are proportionate, effective and dissuasive. It is essential that equality bodies are easily accessible to victims of discrimination.⁵⁶

3.4 PARLIAMENTARY INTELLIGENCE OVERSIGHT COMMITTEE

96. The Parliamentary Intelligence Oversight Committee (EOS Committee) can be likened to a collective ombudsman body for intelligence activities which has the broad aim of ensuring that the Norwegian intelligence, surveillance and security agencies (EOS services) respect the rule of law and civil liberties (e.g. right to private life and freedoms of expression, assembly and association) in their operations.⁵⁷ Although the Committee is appointed by the Parliament, it operates independently in its day-to-day activities, and its seven members are not serving MPs but represent many walks of life in society. The Committee has wide investigative powers as well as access to secret information, and conducts regular and unannounced visits to the premises of the EOS services. Its statutory area of oversight is broad, covering intelligence activities carried out by the authorities or on their behalf, which also enables oversight of private contractors.
97. The task of the EOS Committee vis-à-vis the individual complaints it receives is to determine whether the persons concerned have been subjected to unjust treatment, and to verify that the EOS services have not made use of more intrusive methods than necessary under the given circumstances. If the examination of an individual complaint reveals grounds for criticism, the Committee issues a statement with recommendations to the service concerned. However, there are limits to the information divulged to the complainants. For example, the Committee cannot reveal to the complainants whether they have been subject to surveillance or registration, but they would be informed if the complaint constituted grounds for criticism of the EOS services. The Committee can also recommend to the service that the relevant information be declassified and made available to the complainant. The number of individual complaints received by the Committee has increased substantially during recent years.⁵⁸
98. The EOS Committee prepares an annual public report to the Parliament which is discussed by the parliamentary Standing Committee on Scrutiny and Constitutional Affairs. The Standing Committee then provides written comments for a debate in the plenary; this provides an important opportunity for the Parliament to exercise their political oversight of EOS services. The EOS Committee can also make the

⁵⁵ ECRI, Report on Norway (fifth monitoring cycle), 24 February 2015, CRI(2015)2.

⁵⁶ Commissioner for Human Rights, Opinion on National Structures for Promoting Equality, CommDH(2011)2, 21 March 2011.

⁵⁷ The EOS Committee carries out continuous oversight of the following EOS services: the Police Security Service, the Norwegian National Security Authority, the Norwegian Intelligence Service and the Norwegian Defence Security Agency.

⁵⁸ In 2013 the Committee received 47 individual complaints, as compared to 29 in 2012 and 21 in 2011. EOS Committee, Abbreviated Annual Report for 2013.

Parliament aware of the existence of relevant classified information which the Parliament can request from the authorities for further clarifications.

99. The EOS Committee, which is served by a secretariat of about ten people, informed the Commissioner that its current challenges include the availability of sufficient expertise to match rapid developments in the use of information and communication technologies, as well as increasing international cooperation between intelligence and security services which limits the coverage of oversight.

3.5 CONCLUSIONS AND RECOMMENDATIONS

100. The new human rights chapter – comprising civil, political, economic, social and cultural rights - in the Norwegian Constitution reinforces the legal framework for protecting human rights in the country, and highlights their indivisible, interdependent and interrelated nature. In the Commissioner's opinion, the explicit reference to international human rights treaties in Article 92 could also facilitate the consideration given by the judiciary to European and international human rights instruments which Norway has ratified but not yet incorporated into national law.
101. The Commissioner welcomes the process of reforming the National Institution for Human Rights and giving it a firm statutory basis in line with the Paris Principles. When completed, the reform should enable this independent institution to realise its potential and to assume a fully effective and complementary role among the dense network of NHRs in Norway. The Advisory Commission to the National Institution should facilitate communication and cooperation among NHRs. The Commissioner urges the Norwegian authorities to provide the National Institution for Human Rights with sufficient resources to ensure wide expertise among its staff and the ability to carry out effectively its broad mandate.
102. The Commissioner highlights the essential role of the Equality Ombud in promoting equality, which is complemented by the public authorities' own promotional duties. He considers it advisable to enhance the Equality Ombud's mandate so that the institution can provide assistance and legal representation to victims of discrimination, and the authority to refer cases to courts. This would improve access to judicial remedies for vulnerable and disadvantaged groups of people, while enabling strategic litigation on key concerns. It is also important to reinforce the low-threshold complaints mechanism ensured by the Equality Ombud and the Equality Tribunal. Particular attention should be given to the availability of binding sanctions which are effective and dissuasive, and following up their implementation.
103. The Parliamentary Intelligence Oversight Committee has an important role in ensuring that the rule of law and human rights are respected by Norwegian intelligence, surveillance and security services. The regular oversight of EOS agencies and the examination of individual complaints are complemented by the Committee's function in keeping the Parliament informed of any concerns related to the activities of EOS services. In the Commissioner's opinion, the interaction between the Committee and the Parliament is essential for exercising effective parliamentary oversight in this area. Further consideration should be given to the resource needs of the Committee so that it has sufficient technical expertise to carry out its activities and the capacity to respond to individual complaints without undue delay and with the maximum transparency possible.