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# Report

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

# from 28 May to 5 June 2018

The Norwegian Government has requested the publication of this report.

Strasbourg, 17 January 2019

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## EXECUTIVE SUMMARY

In the course of the visit, the delegation assessed progress in the implementation of the recommendations made by the CPT following the previous visit in 2011. It paid particular attention to the safeguards against ill-treatment and the detention conditions of persons in police custody and immigration detention. Other matters reviewed included prison health care and the situation of prisoners who are subjected to court-ordered full isolation or complete exclusion from company as a security measure. In addition, the delegation carried out targeted visits to a psychiatric hospital and, for the first time in Norway, to a nursing home.

The co-operation received throughout the visit was excellent at all levels.

*Police custody*

The delegation visited Bergen, Bodø and Oslo Police Headquarters and interviewed many persons who were or had recently been detained by the police. As during previous visits, the delegation did not receive any allegations of deliberate physical ill-treatment or verbal abuse by police officers. On the contrary, the overwhelming majority of those interviewed stated that they had been treated correctly by the police.

As regards the implementation in practice of the fundamental safeguards against police ill-treatment, namely the right of notification of custody and the rights of access to a lawyer and a doctor, the delegation gained a generally positive impression. That said, the CPT notes with concern that detained persons without financial resources still did not under all circumstances have access to an *ex officio* lawyer, free-of-charge, from the outset of deprivation of liberty. Further, the Committee recommends that the Norwegian authorities carry out a complete overhaul of the existing information sheets for persons deprived of their liberty under criminal or police legislation.

The delegation also examined the Norwegian model of investigative interviewing by the police, which aims at obtaining from criminal suspects accurate and reliable information rather than a confession. In the CPT's view, this model represents an example of good practice. That said, the Committee expresses its concern that some provisions of the criminal legislation, which may provide incitements to confess, could run counter to the paradigm of investigative interviewing. It welcomes the commitment of the Norwegian authorities to review the provisions concerned.

Material conditions of detention were good at Oslo Police Headquarters and generally acceptable at Bodø Police Headquarters. In contrast, conditions were clearly substandard at Bergen Police Headquarters where many cells were extremely small (i.e. measuring less than 5 m²) and poorly ventilated. The CPT recommends that the Norwegian authorities implement as a matter of priority the existing plan to construct a new police detention facility in Bergen.

*Trandum Police Immigration Detention Centre*

The follow-up visit to Trandum Police Immigration Detention Centre confirmed previous positive findings regarding the treatment of foreign nationals by custodial staff, with no detainee alleging any form of ill-treatment.

Material conditions were of a high standard in the Centre, which had been considerably enlarged since the 2011 visit. It is noteworthy that all detention rooms had been equipped with a television and a radio.

Within ordinary detention units, foreign nationals benefited from an open-door regime for most of the day and the establishment also comprised a very well-equipped activity centre. That said, as compared to 2011, access to the activity centre was no longer offered daily, lock-up periods were slightly longer, and association with other detainees was limited to fellow-inmates from the same unit. It is particularly regrettable that outdoor exercise had been limited to an hour and a half per day. The CPT encourages the Norwegian authorities to further develop the regime activities, in particular, for foreign nationals detained for prolonged periods.

Whilst welcoming the daily presence of nursing staff, the CPT notes with concern that several specific recommendations made after the 2011 visit regarding the provision of health care have not been implemented. In particular, medical screening upon admission was still not always conducted promptly and often did not include a physical examination of the person concerned. Further, the Committee recommends that a needs assessment be carried out by the management with a view to reinforcing the provision of psychological/psychiatric care to foreign nationals.

As regards security measures, the CPT recommends that every placement of a foreign national in the security unit (Unit S) as well as every use of a body cuff be recorded in a dedicated register. Further, the CPT considers that the systematic practice of handcuffing and strip-searching all foreign nationals during/after every movement outside the Centre is clearly disproportionate and unacceptable.

*Prisons*

The delegation carried out full visits to Bodø and Ullersmo Prisons, as well as targeted visits to Bergen, Ila and Oslo Prisons. At Bergen, Oslo and Ila Prisons, the delegation mainly focused on prisoners subjected to restricted regimes. At Bergen and Oslo Prisons, it also interviewed remand prisoners.

The delegation did not receive any allegations of physical ill-treatment or verbal abuse by prison staff in any of the prisons visited, and inter-prisoner violence did not seem to be a major problem.

Material conditions were of a high standard in the prisons visited. That said, at Ullersmo Prison, a number of prisoners, who were accommodated in cells without in-cell sanitation, complained about problems accessing the toilet during the night.

The CPT is pleased to note that, at Bodø and Ullersmo Prisons, the vast majority of both remand and sentenced prisoners were engaged in a variety of purposeful out-of-cell activities for most of the day. However, at Bergen Prison (Block A), a number of sentenced prisoners, who were not subjected to any formal restrictions and who, according to the management, did not pose a security risk, were nevertheless locked up in their cells for 22 to 23 hours per day (with only one hour of outdoor exercise), without being offered any purposeful activities. A few prisoners had been held for several years in a *de facto* solitary-confinement-type regime. Such a state of affairs is not acceptable. In the aftermath of the visit, the Norwegian authorities provided information on the initial steps taken to improve the situation of the prisoners concerned.

As regards the specific situation of prisoners subjected to complete exclusion from company as a security measure or to court-ordered full isolation, the CPT notes that the frequency of the actual imposition of such measures was relatively low and usually for a limited duration. Legal safeguards surrounding these measures existed and were duly implemented, with prisoners receiving a reasoned and individualised decision in writing, as well as information on appeal procedures. As far as the delegation could ascertain, placement decisions were reviewed in a timely manner.

The CPT welcomes the considerable efforts made by the Norwegian authorities at Ila Prison to provide prisoners subjected to *complete exclusion from company under Section 17, paragraph 2, of the Execution of Sentences Act (ESA)*, with a range of purposeful activities and meaningful human contact. To this end, a 'Resource Team' had been created in 2014, with a view of to improving the quality of life of prisoners with mental disorders who were subjected to prolonged exclusion from company, and to prevent them being held in isolation. Notwithstanding these efforts, the CPT notes with concern that some of the prisoners were suffering from serious mental disorders and thus had great difficulties in coping with life in prison. Both the management of Ila Prison and staff of the Resource Team stressed the urgent need to find a more sustainable solution for prisoners with severe mental disorders by creating a high-security facility where the prisoners concerned are provided with appropriate treatment and psycho-social care.

As regards prisoners subjected to *complete exclusion from company under Section 37 of the ESA*, possibilities to associate with fellow inmates or to take part in activities varied significantly from one establishment to another. In this regard, the situation was more favourable at Ullersmo Prison than at Ila Prison were the regime of such prisoners was impoverished and human contact limited. It is a matter of particular concern that, at Bodø, Ila and Ullersmo Prisons, remand prisoners subjected to *court-ordered full isolation under Section 186a of the Criminal Procedure Act* were usually locked up in their cells for 22 hours per day, had very limited contact with staff and were offered one hour of outdoor exercise (alone) and access to a fitness room (alone) for one hour. Consequently, most remand prisoners under court-ordered isolation were held in solitary confinement. Given the potentially harmful effects of such a regime, the CPT recommends that the Norwegian authorities take the necessary steps to ensure that prisoners subject to complete exclusion from company or to court-ordered full isolation benefit from a structured programme of purposeful and preferably out-of-cell activities and are provided, on a daily basis, with meaningful human contact. The aim should be that the prisoners concerned benefit from such contact for at least two hours every day.

As regards the provision of health care, several shortcomings identified during the 2011 visit regrettably persisted. In particular, it remained the case that the medical screening of newly-arrived prisoners was often limited to an interview without a proper physical examination of the person concerned, and the recording and reporting of injuries to an outside body also remained deficient. It is a matter of serious concern that the delegation once again observed major problems in the prisons visited in transferring severely mentally-ill prisoners to psychiatric hospitals. The CPT urges the Norwegian authorities to implement as a matter of priority the long-standing plan to construct a new regional psychiatric security department in the Oslo area.

In the report, the CPT also formulates a number of specific recommendations regarding various other issues (such as discipline, placement in security cells, use of restraint beds, the situation of foreign prisoners and complaints procedures).

*Psychiatric establishments*

The delegation carried out a targeted visit to the Psychiatric Clinic of Haukeland University Hospital in Bergen, where it focused mainly on the legal procedures and safeguards in the context of involuntary placement, involuntary treatment and the use of means of restraint.

Overall, the delegation gained a very positive impression of the Clinic. The establishment provided a calm and caring environment for patients, and staff seemed to be very committed. In particular, the delegation received no allegations of physical ill-treatment or verbal abuse of patients by staff, and many patients spoke very positively about the staff.

Material conditions in the entire Clinic were of a very high standard. Patients were accommodated in clean, spacious and well-equipped single-occupancy rooms. That said, following the closure of one ward (S2) in January 2018, the acute wards (PAM 1 and PAM 2) were frequently operating above their official capacity. As a consequence, it was not uncommon for patients to be compelled to sleep overnight in the corridor. The CPT recommends that measures be taken to prevent any recurrence of this practice.

Given that the number of instances of resort to means of restraint has drastically increased in the Clinic in recent years, the CPT recommends that a comprehensive policy on restraint be developed and implemented at the Clinic and, where appropriate, in other psychiatric establishments in Norway. Further, the delegation observed a number of shortcomings regarding the use of restraint measures (in particular, the supervision of patients subjected to mechanical restraint or seclusion not always being continuous, incomplete recording, no systematic debriefing). A number of specific recommendations have been formulated in this regard.

From the examination of numerous patients' files and interviews with patients and staff, it transpired that procedures for involuntary placement and involuntary treatment were generally carried out in accordance with the above-mentioned legal requirements. That said, the CPT recommends once again that the Norwegian authorities take the necessary steps – including at the legislative level – to ensure that, in all psychiatric establishments, decisions on involuntary hospitalisation are always based on the opinion of at least one qualified psychiatrist.

*Social welfare establishments*

The delegation visited Os Nursing Home (in the vicinity of Bergen). As it emerged from interviews with residents and staff that no resident was *de iure* or *de facto* deprived of his/her liberty, a decision was taken on the spot not to carry out a comprehensive visit but to focus only on particular issues.

The CPT wishes to stress that its delegation received no allegations of ill-treatment or disrespectful behaviour of staff. On the contrary, all residents interviewed spoke positively about the manner in which they were treated by staff, and they expressed great satisfaction with the care provided to them.

Living conditions in the nursing home were excellent in all respects. Whilst acknowledging that the level of use of means of restraint in the nursing home was very low and usually only consisted of holding an agitated resident for a short while, the CPT nonetheless recommends that, in all nursing homes in Norway where persons may be placed on an involuntary basis, every instance of restraint of a resident (manual control, mechanical or chemical restraint and shielding) be recorded in a specific register.

# I. INTRODUCTION

## A. The visit, the report and follow-up

1. In pursuance of Article 7 of the European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (hereinafter referred to as “the Convention”), a delegation of the CPT carried out a visit to Norway from 28 May to 5 June 2018. The visit formed part of the CPT’s programme of periodic visits for 2018 and was the Committee’s sixth visit to Norway.[1]

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

- Therese Maria Rytter (Head of Delegation)
- Vincent Delbos
- Per Granström
- Matthías Halldórsson
- Marika Väli.

They were supported by Michael Neurauter, Head of Division, and Aurélie Pasquier of the Committee's Secretariat, and assisted by:

- Veronica Pimenoff, former Head of Department at Helsinki University Psychiatric Hospital, Finland (expert)
- Inger-Johanne Bauer (interpreter)
- Radhia Ben Hassine-Zribi (interpreter)
- Hanne Mork (interpreter)
- Nina Reier (interpreter)
- Richard Sciaba (interpreter)
- Helle Snellingen (interpreter).

3. A list of all the places visited by the delegation is set out in Appendix I to the report.

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[1] The CPT has previously carried out four periodic visits (in 1993, 1999, 2005 and 2011) and one ad hoc visit (in 1997) to Norway. All visit reports and related Government responses are available on the CPT’s website: www.coe.int/en/web/cpt/norway

4. The report on the visit was adopted by the CPT at its 97th meeting, held from 5 to 9 November 2018, and transmitted to the Norwegian authorities on 21 December 2018. The various recommendations, comments and requests for information made by the CPT are set out in bold type in the present report. The CPT requests the Norwegian authorities to provide within six months a response containing a full account of action taken by them to implement the Committee's recommendations and replies to the comments and requests for information formulated in this report.

## B. Consultations held by the delegation and co-operation encountered

5. In the course of the visit, the delegation held consultations with Knut Morten Johansen, State Secretary at the Ministry of Justice and Public Security, Anne Grethe Erlandsen, State Secretary at the Ministry of Health and Care Services, and senior officials from the aforementioned Ministries. Further, the delegation had meetings with Ivar Husby, Assistant Chief of Police and Head of the Section of Investigation at the Norwegian Police University College and officials of the Hordaland County Governor's Office (*Fylkesmannen*) in Bergen.

In addition, it had meetings with Aage Thor Falkanger, Parliamentary Ombudsman, and staff of the National Preventive Mechanism Department of the Ombudsman's Office, as well as with representatives of non-governmental organisations active in areas of concern to the CPT.

A list of the national authorities, other bodies and non-governmental organisations met by the delegation is set out in Appendix II to the report.

6. The co-operation received throughout the visit was excellent at all levels. The delegation enjoyed rapid access to all the establishments visited (including those which had not been notified in advance), was promptly provided with all the requested information and was able to speak in private with all the detained persons it wished to interview. In addition, it received an impressive amount of documentation prior to and during the visit.

The CPT's gratitude extends to the management and staff of the establishments visited. It would also like to express its appreciation for the invaluable assistance provided before and during the visit by the CPT's liaison officer, Ms Linda Drazdiak, from the Ministry of Justice and Public Security.

7. That said, at the outset of the visit, the delegation was informed by the Norwegian authorities that a decision had been taken at the national level to allow it to consult individual medical files only with the express consent of the patient or prisoner concerned. Whilst acknowledging that, in the various establishments visited, no difficulties were encountered to have unrestricted access to all relevant data (including medical files), the CPT wishes to reiterate the crucial importance of its delegations to have such unrestricted access in order to enable them to carry out their work effectively. The Committee acknowledges that Norway is at the forefront when it comes to the protection of personal data and, more specifically, of medical data of detained persons. However, the prevention of torture and other forms of ill-treatment under an international treaty that Norway has ratified and incorporated into its law must not be subordinated to domestic data protection rules.

**The CPT trusts that the Norwegian authorities will take all necessary steps to ensure that, also in the future, visiting delegations of the Committee will have unrestricted access to medical files in all types of establishments where persons may be deprived of their liberty, as had been the case during this and all previous visits by the CPT to Norway.**

8. By letter of 1 October 2018, the Norwegian authorities provided detailed information in response to specific requests for information, as well as observations on various other issues raised by the delegation during the end-of-visit talks. The CPT welcomes the constructive spirit of the authorities' letter the contents of which are examined in the relevant sections of this report.

## C. National Preventive Mechanism

9. The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) was signed by Norway in 2003. Following the ratification of the OPCAT by the Norwegian Parliament on 21 June 2013, the Parliamentary Ombudsman was designated as National Preventive Mechanism (NPM). The NPM Department within the Office of the Parliamentary Ombudsman became operational in 2014 and is nowadays composed of a multidisciplinary team of three lawyers, two psychologists, one criminologist and one sociologist. In addition, the NPM has an Advisory Council and relies whenever needed on the services of external experts.

The NPM regularly carries out comprehensive visits as well as targeted thematic and follow-up visits to various public and private institutions where persons may be deprived of their liberty, including on an unannounced basis. To date, it has carried out a total of 19 visits to 16 prisons, twelve to mental health-care institutions, six to police custody facilities, two visits to Trandum Immigration Detention Centre and nine to child welfare institutions. Other types of places which may fall within the mandate of the NPM have not yet been visited, such as nursing homes and housing for persons with intellectual disabilities.

After every visit, the NPM prepares a comprehensive report with detailed recommendations, which is usually published on the website of the Parliamentary Ombudsman. In addition, the NPM has drawn up thematic reports on the basis of its findings.

The CPT has gained the impression that the NPM is carrying out its mandate in a very professional and effective manner, hereby contributing significantly to strengthening the protection of persons deprived of their liberty from ill-treatment. The Committee also welcomes the fact that in many respects action has been taken by the relevant authorities – including at the legislative level – in order to follow up specific recommendations made by the NPM.

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

## A. Police custody

### 1. Preliminary remarks

10. The delegation visited Bergen, Bodø and Oslo Police Headquarters and interviewed many persons who were or had recently been detained by the police. During the visit, it also examined the techniques of investigative interviewing by the police (*politiavhør*).[2]

11. The legal framework governing the deprivation of liberty of persons by the police is set out in the 2006 Criminal Procedure Act[3] (CPA) and the 1995 Police Act,[4] as well as in the 2006 Regulations on the Use of Police Holding Cells (hereinafter: "Police Regulations") and a new Circular[5] issued by the Police Directorate in 2016.

*Criminal suspects* detained by the police have to be brought before the competent district court "as soon as possible and no later than on the third day following the arrest". At the same time, the Police Regulations stipulate that persons detained by the police shall be transferred within 48 hours of apprehension to a prison "unless this is impossible for practical reasons". It is noteworthy that, following an amendment of 2013 to the Police Regulations[6], juveniles detained by the police must be transferred to prison "as soon as possible and no later than the day after the arrest".[7]

Further, persons may be deprived of their liberty by the police *under the Police Act*[8], for example, for disturbing the peace, refusing to obey an order issued by the police, for identification (for up to four hours) or to recover from intoxication. In addition, the police may take into custody ill persons unable to take care of themselves and who might pose a danger for themselves or others for a period as brief as possible, and not exceeding 24 hours.

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

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2 For further details, see paragraphs 26 to 32.
3 Section 183.
4 Sections 8 and 9.
5 Circular 2016/14.
6 Revised Section 3-1.
7 According to Section 174 of the CPA, persons under the age of 18 should not be arrested "unless it is especially necessary".
8 See Sections 8 and 9 of the Police Act.

12. The CPT is pleased to note that the Police Directorate has issued instructions to abolish the use of restraint beds[9] and straightjackets[10] in police detention facilities (see also paragraph 36).

13. The delegation was informed that, at the time of the visit, a number of legislative changes were under way. In particular, an amendment to the CPA was being prepared according to which it shall be the aim to bring criminal suspects detained by the police before the court within 48 hours of apprehension. In addition, an amendment to the Police Regulations was pending before Parliament, with a view to permitting persons in police custody to keep personal belongings and have access to reading material in their cell, to allowing some association between detained persons (unless there was a risk of collusion) and to receiving visits by family members. These measures were intended to avoid situations of *de facto* solitary confinement of persons in police custody.

Further, a new Instruction on the Use of Police Holding Cells (together with Guide on its implementation) was being finalised and planned to be issued by the Police Directorate shortly after the visit. Among other things, the new instruction sets out stricter requirements for the keeping of custody records (e.g. all movements outside the cell must be recorded).

The delegation was also informed that discussions were ongoing at the level of the Ministry of Justice and Public Security about the proposal put forward by a committee of experts to elaborate a new Criminal Procedure Act.[11]

**The CPT welcomes the above-mentioned initiatives; the Committee would like to receive updated information on their implementation, as well as copies of any new instructions issued regarding the deprivation of liberty of persons by the police.**

14. The CPT is pleased to note that, contrary to the situation found in 2011, the 48-hour time limit for accommodating (adult) detained persons in police detention facilities was generally respected in all the police establishments visited.[12] Moreover, juveniles were usually held in police detention facilities for less than 24 hours.

### 2. Ill-treatment

15. As during previous visits, the delegation did not receive any allegations of deliberate physical ill-treatment or verbal abuse by police officers. On the contrary, the overwhelming majority of those interviewed stated that they had been treated correctly by the police.

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9 Instruction of the Police Directorate dated 21 August 2013.

10 Instruction of the Police Directorate dated 12 December 2014.

11 See also paragraph 32.

12 A significant number of detained persons had been transferred to a remand prison and placed in designated 'custody cells' before they were seen by a judge.

### 3. Safeguards against ill-treatment

16. The CPT attaches particular importance to the fundamental safeguards against police ill-treatment, namely the right of notification of custody and the rights of access to a lawyer and a doctor. According to the relevant legal framework, the aforementioned rights apply in principle to all persons detained by the police, including those deprived of their liberty under the Police Act.

That said, it is regrettable that, despite specific recommendations made by the Committee in the report on the 2011 visit, a number of shortcomings still persist.

17. The great majority of detained persons interviewed by the delegation confirmed that they had been able to exercise their right of notification of custody[13] to a relative or another trusted person shortly after their apprehension (mostly through a police officer).

That said, as during the 2011 visit, several detained persons claimed that they were not informed at the outset of their deprivation of liberty that they had the right to contact a relative or another trusted person. In this regard, reference is made to the remarks and recommendation in paragraphs 24 and 25.

Further, the CPT has misgivings about the fact that, according to the information sheet provided to detained persons in the police establishments visited, they have the right to notify their family or other persons of their choice of their detention only ‘within two hours’ of being brought to the police station. **The CPT wishes to recall that the right of notification should in principle[14] be granted from the outset of deprivation of liberty.**

18. At Oslo Police Headquarters, the delegation was informed that there was no possibility of notifying family members residing outside Norway. As a result, in particular foreign nationals were prevented from the exercise of the right of notification of custody.

**The CPT recommends that the Norwegian authorities take the necessary steps to ensure that the right of notification of custody also applies to detained persons whose family members reside outside Norway.**

19. Moreover, one foreign national interviewed by the delegation claimed that she had requested the police to inform the Embassy of her home country, but that no such contact had been made.

**The CPT trusts that the Norwegian authorities will take appropriate steps to prevent such cases from occurring in the future.**

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[13] See Section 182, paragraph 1, of the CPA. According to Section 182 (2) of the CPA, notification may be delayed in the interest of the investigation. In this regard, Circular No. 4/2006 of the General Prosecutor stipulates that the decision to delay notification must be taken by a prosecuting case lawyer or a police lawyer (or, if this is not possible, a senior police officer).

[14] Unless there are exceptional circumstances that may justify a deferral of the exercise of notification (see footnote 13).

20. Whilst acknowledging that detained persons who wished to have access to a private lawyer could usually do so without delay, the CPT notes with concern that detained persons without financial resources still did not under all circumstances have access to an *ex officio* lawyer, free-of-charge, from the outset of deprivation of liberty. Criminal suspects detained by the police were only entitled to benefit from legal aid if it was expected that the period of police custody would last more than 24 hours (for adults) or twelve hours (for juveniles).[15] As a consequence it was not uncommon for criminal suspects to be subjected to police questioning without the presence of a lawyer. The delegation was told by police officers that this could also be the case for juveniles, although at least a family member or an official from the child welfare authority would normally be present during police questioning.

At the outset of the visit, the Norwegian authorities informed the delegation that, after the 2011 visit, the rule that access to a lawyer may be postponed until the following morning in case a person has been apprehended after 10 p.m. had been abolished, but the information sheets available at the police establishments visited still contained an explicit reference to that abolished rule.

The CPT has also misgivings about the fact that the aforementioned information sheets indicated that persons detained by the police could have access to a lawyer 'within two hours' of being brought to the police station. Moreover, these information sheets contained no information about the rights of detained persons to meet a lawyer in private and to have a lawyer present during police questioning (see also paragraphs 24 and 25).

**The CPT reiterates its recommendation that the Norwegian authorities take the necessary steps – including at the legislative level – to ensure that the right of access to a lawyer is formally granted as from the outset of deprivation of liberty and that all detained criminal suspects who are indigent can effectively benefit from the services of an *ex officio* lawyer during the entire period of police custody (including during any police questioning), irrespective of the seriousness of the suspected offence or the expected duration of police custody.**

Further, **steps should be taken to ensure that juveniles are neither questioned nor asked to make any statements or sign documents related to the offence of which they are suspected without the presence and assistance of a lawyer and, in principle, of another trusted adult.**

21. The right of access to a lawyer also seemed to be problematic for criminal suspects who were foreign nationals. Firstly, information sheets in foreign languages (e.g. in English) contained no information whatsoever about the possibility of indigent persons to have access to an *ex officio* lawyer.[16] Secondly, the delegation could observe for itself during the questioning[17] of a female foreign national that she was asked by the police investigator only half-way through the interview, whether she had a lawyer. When responding (via interpreter) that she knew no lawyers in Norway, she was (still) not informed about her right to have an *ex officio* lawyer appointed free-of-charge.

[15] See Section 98 of the CPA.
[16] See paragraphs 24 and 25.
[17] See also paragraph 30.

**The CPT recommends the Norwegian authorities to ensure that foreign nationals are able to benefit from the right of access to a lawyer free-of-charge in practice. In cases where police interviews are initiated without the presence of a lawyer, the foreign national concerned should be asked – at the very outset of the interview – whether s/he wishes to have a lawyer, and, if so, the police interview should be postponed.**

22. The right of persons detained by the police to have access to a doctor (including to one of their own choice) is set out in the Police Regulations.[18] Requests to consult a doctor were usually promptly followed up by police officers, and no complaints were received in this respect from detained persons interviewed by the delegation.

That said, it is a matter of concern that, according to the information sheet available in the police establishments for criminal suspects, the persons concerned have the right to contact a medical practitioner only ‘within two hours’ of being brought to the police station. Further, at Bodø Police Headquarters, an information sheet was in use for persons detained under the Police Act, which stated that “[b]efore you are placed in custody, the police will decide whether you need medical assistance. If the police decide that this is necessary, they will make sure that you get it.” Such wording can easily be understood as if detained persons have no right to have access to a doctor and that police officers are empowered to filter requests to see a doctor.[19]

**The CPT trusts that the Norwegian authorities will take the necessary steps to ensure that detained persons always have unrestricted access to a doctor (including to one of their own choice) as from the outset of their deprivation of liberty.**

23. Further, at Oslo Police Headquarters, the delegation was informed that, for security reasons, detained persons were sometimes examined by a doctor, while the door to the medical office was kept open and a police officer stood next to it. In such cases, the police was able to hear what is being said, although they could not see the detainee.

**The CPT recalls that all medical examinations should be conducted out of the hearing and – unless the doctor concerned expressly requests otherwise in a given case – out of the sight of police staff. Alternative solutions can and should be found to reconcile legitimate security requirements with the principle of medical confidentiality. One possibility might be the installation of an alarm system, whereby a doctor would be in a position to rapidly alert police officers in those exceptional cases when a detained person becomes agitated or threatening during a medical examination.**

24. According to the Police Regulations[20] and a new Circular[21] of the Police Directorate, persons detained by the police shall ‘as soon as possible’ be informed of their rights, verbally and in writing.

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[18] Section 2-3.
[19] See, in this regard, paragraph 25.
[20] Section 2-10.
[21] Circular No. 2016/14, Section 6.

That said, a significant number of persons interviewed by the delegation claimed that they had not received written information about their rights and several of them said that they had not received any oral information either (apart from the right to have access to a lawyer). As in 2011, the delegation was not in the position to verify these allegations, since detained persons were still not required to sign a statement that they had been informed of their rights.

25. In their letter of 1 October 2018, the Norwegian authorities provided the following information:

> "The National Police Directorate will shortly publish national instructions […] to the police on detention in police custody. The instructions require the police to provide the detainees with written information about their rights. The instructions also explicitly require the police to enter remarks into the custody records not only *whether* information was given, but also on *how* the detainee was informed of this or her rights."

This is a welcome development. Notwithstanding that, **the CPT recommends that the Norwegian authorities carry out a complete overhaul of the existing information sheets for persons deprived of their liberty under criminal or police legislation (in Norwegian and in relevant foreign languages), in the light of the remarks made in paragraphs 17 and 18 (notification of custody), paragraphs 20 and 21 (access to a lawyer) and paragraph 22 (access to a doctor).**

Further, **the Committee reiterates its recommendation that verbal information be given systematically to all persons apprehended by the police, at the very outset of their *de facto* deprivation of liberty and that a copy of the relevant information sheet be given to them as soon as they are brought into a police establishment. In addition, they should be asked to sign a statement attesting that they have been informed of their rights and that have received a copy of the information sheet. Particular care should be taken to ensure that detained persons – including foreign nationals and illiterate persons – actually understand their rights; it is incumbent on police officers to ascertain that this is the case.**

### 4. Police interviewing

26. The CPT wishes to recall that, for the prevention of physical and psychological ill-treatment of criminal suspects, it is essential that police interviews are always carried out in a professional non-coercive manner. The aim of such interviews should be to obtain accurate and reliable information in order to seek the truth about the matter under investigation, not to obtain a confession from somebody already presumed, in the eyes of the interviewing officers, to be guilty.

27. As already indicated in paragraph 10, the delegation looked into Norway's research-based techniques of investigative interviewing by the police (*politiavhør)*. Departing from confession-based interrogation, Norway has adopted the paradigm of investigative interviewing (the so-called 'KREATIV' model), which aims at obtaining accurate and reliable information, rather than a confession. The delegation had the opportunity to meet with the Head of the Investigation Section of the Police University College and acquaint itself with the curriculum on investigative interviewing. In addition, the delegation had the opportunity to directly observe two police interviews of criminal suspects and to speak with detained persons who had recently been interviewed by the police.

28. The concept of investigative interviewing directs officers into conducting interviews in a systematic manner with an open mind, preventing common pitfalls associated with relying on preconceived conclusions.[22] Equally importantly, it assists communication and the flow of information and consequently the detection of crime. Furthermore, it reduces the risk of human error and false confessions, which can occur with techniques designed to make the suspect confess and confirm what the interviewer thinks they already know to be the truth. Research into the causes of wrongful convictions has documented that problems associated with 'tunnel vision' or 'confirmation bias' (i.e. an unconscious tendency to look only for information that 'fits' and ignore or explain away information that does not confirm what the interviewer believes to be true) are the underlying causes of miscarriages of justice in most cases.[23]

In 2000, the Police University College launched a training programme on investigative interviewing which was inspired by the British PEACE model, a non-accusatory, information-gathering approach to investigative interviewing, developed in the 1990s.[24] The following year, the Police University College launched a one-week intensive post-graduate course in investigative interviewing (so-called 'KREATIV'), which was the first Norwegian version of the PEACE course.[25] KREATIV was made compulsory for every detective seeking further specialisation at the Police University College. In effect, if a police officer wants to undertake advanced/specialised training (e.g. organised crime, homicide investigation, sexual violence, economic crime, Senior Investigation Course), s/he must undertake KREATIV training first. Since 2004, the KREATIV course has formed part of the Bachelor's programme in Policing, and it is also integral to the Master's programme in Police Investigations. Moreover, since 2017, it has formed part of the mandatory annual ongoing training of police officers.

29. In 2016, the Director of Public Prosecutions issued an Instruction (*rundskriv*) on Police Interviews, applicable to all forms of interviews conducted as part of a criminal investigation.[26] After noting that Norway's interviewing methodology relies on scientific methods for reliable and objective information gathering, the Instruction affirms the various aims of police interviews, notably to gather relevant and reliable information in an adequate and efficient manner with a view to informing the investigation and determining whether a criminal act has been committed, who is responsible and whether s/he should be prosecuted. Importantly, the Instruction endorses the investigative interviewing paradigm and effectively makes the Police University College training course in Investigative Interviewing mandatory for all police detectives seeking specialisation in police investigations. The Instruction also prescribes how fundamental principles of criminal justice shall be integral to the police interview (e.g. the right to a lawyer and an interpreter). Notably, the Instruction provides clear directions on electronic recording of interviews: audio recording shall, as far as possible, be used at all interviews, while video recording shall, as far as possible, be used in serious criminal cases, such as rape, gross violence, intra-family violence. Finally, the Instruction sets out how police investigators shall prepare, implement and document a police interview.

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22 In the context of investigative interviewing, the methodology to be used for the police questioning of criminal suspects is in principle the same as the one to be used for the questioning of witnesses or victims.

23 See Council of Europe publication 'A brief introduction to investigative interviewing – a practitioner's guide' (prepared by Michael Boyle and Jean-Claude Vullierme, October 2018) and Convention against Torture Initiative (CTI), Investigative interviewing for criminal cases, CTI Training Tools 1/2017, available at: https://cti2024.org/content/docs/CTI-Training_Tool_1-Final.pdf.

24 The PEACE Model was developed in the early 1990s by the law enforcement and psychologists in England and Wales. PEACE stands for: Preparation and Planning; Engage and Explain; Account; Closure; and Evaluation.

25 See latest version, *Politihøgskolen, Kursplan, KREATIV-oplæring for politiutdannede,* 24 November 2016.

26 *Rigsadvokatens rundskriv* 2/2016, dated 11 May 2016.

30. As indicated above, the delegation also had the opportunity to observe two police interviews of criminal suspects (one female foreign national and one male juvenile) at Oslo Police Headquarters and to speak with numerous detained persons who had recently been interviewed by the police.

In the light of the information gathered during the visit, the CPT considers that Norway's model of investigative interviewing represents an example of good practice, which ensures non-coercive interviewing of criminal suspects, provided that fundamental safeguards against ill-treatment are respected in practice (see, in this regard, paragraphs 16 to 25).[27]

31. That said, the Committee is concerned that some provisions in the criminal legislation may run counter to the paradigm of investigative interviewing. Firstly, the police are obliged to inform the suspect that if s/he decides to confess, this may lead to a reduced sentence.[28] Secondly, suspects who remain silent or respond hesitantly may be instructed that such silence may be used against them.[29]

During the end-of-visit talks, the delegation expressed its doubts as to whether the above-mentioned provisions, which may incite the persons concerned to confess to the offence(s) they were suspected of, were fully compatible with the investigative interviewing paradigm.

32. In their letter of 1 October 2018, the Norwegian authorities provided the following information:

> "As noted by the Committee, the Norwegian Criminal Procedure Act stipulates that the police shall inform the suspect that if he or she decides to confess, this may lead to a reduced sentence and that suspects who remain silent may be instructed that such silence may be held against them. The Committee has raised doubts as to whether these provisions are compatible with the paradigm of investigatory interviewing.
>
> It may be deemed to be in the interest of the suspect to be informed of the legal implications of remaining silent or giving an unconditional confession. From a structural point of view, however, informing the accused of such implications may create – as the Committee points to – some inevitable tension with the paradigm of investigatory interviewing, as far as it may be considered that the suspect by being given such information, is put some form of structural pressure to confess.
>
> Pursuant to the current Criminal Procedure Act it is the duty of the police to inform the suspect of such consequences prior to an investigatory interview. The criminal procedural law is, however, currently being revised, and a committee of experts has submitted to the Ministry of Justice a proposal for a new criminal procedure code. The committee has proposed some changes in the above-mentioned rules. It follows from Section 2-7 of the proposal that the defence counsel shall provide guidance and advice to the suspected person on the legal defence, including on the implications of giving statements or remaining silent. The committee does not, however, propose that the police give such instructions, which is the case under the current regulation.

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27 See, however, paragraph 21 concerning the lack of information about legal aid during the police interview of a female foreign national, which was observed by the delegation at Oslo Police Headquarters.

28 See Sections 78 and 80a, paragraph 2, of the Criminal Code. For instance, during the above-mentioned police questioning of a juvenile suspect (which was audio- and video-recorded), the interviewing police officer explained at the outset that the juvenile would benefit from a 30% lower sentence "if he gave an unreserved confession and helped quickly clarify the facts".

29 See Section 93 of the CPA.

> The Ministry of Justice and Public Security will as part of the process of revising the Criminal Procedure Act, consider whether the proposed regulation provides a better balance between the interest of the accused to be properly informed and that of not being subject to any form of structural pressure to confess."

The CPT appreciates the above-mentioned initiatives of the Norwegian authorities; **it would like to receive updated information on the ongoing progress of revising the Criminal Procedure Act.**

### 5. Conditions of detention

33. Material conditions of detention were good at Oslo Police Headquarters and generally acceptable at Bodø Police Headquarters.

That said, conditions were clearly substandard at Bergen Police Headquarters, where many cells were extremely small (i.e. measuring less than 5 m²) and poorly ventilated. Further, it is regrettable that, at Bergen and Bodø Police Headquarters, cells had no access to natural light[30] and that neither of the two establishments had designated outdoor exercise yards. Moreover, at Bergen and Oslo Police Headquarters, several detained persons interviewed by the delegation claimed that they had not been able to take a shower and that they had not been provided with personal hygiene products (such as a soap and a tooth brush/paste), although they had been held in custody for more than 24 hours.

On a positive note, it should be added that, in all police establishments visited, watches were installed in the corridors of the detention areas, in order to allow detained persons to remain oriented in time.

34. In their letter of 1 October 2018, the Norwegian authorities informed the CPT that the "Western Police District wants to initiate an agreement with the Bergen Prison in order to establish a faster transfer of detainees to prison, also in the afternoon and evening. Additionally, the Western Police District is adapting two of the District's prison cells in order to make them more suitable to prevent the damaging effects of isolation."

The CPT welcomes these initiatives to alleviate the conditions under which persons are being held in police custody at Bergen Police Headquarters. Notwithstanding that, **the CPT recommends that the Norwegian authorities implement as a matter of priority the existing plan to construct a new police detention facility in Bergen. Pending the implementation of this plan, steps should be taken to ensure that cells measuring less than 5 m² are no longer used for overnight stays.**

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30 With a few exceptions at Bergen.

Further, **the Committee recommends that steps be taken at the Police Headquarters visited and, where appropriate, in other police establishments in Norway to ensure that:**

- **all cells are adequately ventilated;**
- **all detained persons are offered adequate washing facilities and provided with basic personal hygiene products;**
- **all persons detained for 24 hours or more are as far as possible offered at least one hour of outdoor exercise per day, in facilities of adequate size and possessing the necessary equipment (such as a shelter against inclement weather and a means of rest.**

Finally, **the Committee wishes to stress that all police detention facilities constructed or reconstructed in the future should have access to natural light inside cells and comprise an outdoor exercise yard; these requirements should already be borne in mind at the design stage of any future premises of police establishments.**

### 6. Other issues

35. At Bergen and Oslo Police Headquarters, custody registers were generally well kept. That said, at Bodø Police Headquarters, the quality of record keeping left a lot to be desired. In a considerable number of cases, the custody register lacked relevant information (e.g. date/time of arrival; whether notification of family or access to a lawyer was requested). **Steps should be taken to remedy this shortcoming.**

36. The use of force and means of restraint is regulated in the Police Act[31] and the Police Regulations[32]. As already indicated in paragraph 12, the use of restraint beds and straightjackets inside police detention facilities has been abolished. The delegation was informed that for the purpose of preventing self-harm and/or harm to others, a body cuff (which allows the person concerned a certain degree of mobility) may be applied to violent and/or agitated detained persons, in the case of which a member of staff must remain present inside the cell.

That said, at Bergen Police Headquarters, use of means of restraint was not recorded in a dedicated register, but only in the individual files.

**The CPT recommends the Norwegian authorities to ensure that a dedicated register is kept at Bergen Police Headquarters as well as at all other police establishments to record all instances in which detained persons are subjected to a body cuff inside a cell. Such a register is an important management tool to provide oversight of the frequency and duration of the use of body cuffs and to enable measures to be taken, where appropriate, to reduce their resort. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, and an account of any injuries sustained by the detained person or staff.**

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31 Section 6.
32 Sections 3-1 and 3-2.

37. In all police establishments visited, newly-arrived detained persons where subjected, on the basis of a risk assessment, to a pad-down or a strip search which, according to police officers, was always conducted in two stages. However, several detained persons interviewed by the delegation claimed that they had undergone a strip search fully naked, and, allegedly, one had to lift up his testicles and another had to squat.

**In the CPT's view, every reasonable effort should be made to minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time (for instance, by allowing the person concerned to remove clothing above the waist and redress before removing further clothing).**

## B. Trandum Police Immigration Detention Centre

### 1. Preliminary remarks

38. The delegation carried out a follow-up visit[33] to Trandum Police Immigration Detention Centre (hereinafter: "Trandum Detention Centre"), which remains the only immigration detention centre in Norway.[34] The current policy in Norway is to accommodate asylum-seekers only in open reception centres; thus, Trandum Detention Centre functions primarily as a removal centre.

39. Since the 2011 visit, the relevant legal framework, which is set out in Sections 106 to 107 of the Immigration Act[35] and the Detention Centre Regulations,[36] as well as in General Instructions for the Police Immigration Detention Centre (hereinafter: "General Instructions")[37] and Internal Guidelines,[38] has undergone certain changes. In particular, the list of legal grounds for immigration detention has been extended significantly and the criteria for assessing the risk of absconding have been specified.[39] Further, according to a recent amendment,[40] foreign nationals who are minors (whether accompanied or not) may be deprived of their liberty under aliens legislation for up to 24 hours and, with the approval of a court, for up to 72 hours; only under exceptional circumstances may their detention be extended twice for 72 hours. Thus, the maximum detention period for minors is now nine days.[41]

As regards adults, the maximum detention periods remain unchanged. As a general rule, immigration detention shall not exceed twelve weeks.[42] Under certain circumstances (e.g. refusal of a foreign national to co-operate with the immigration authorities or delays in obtaining necessary documents from the authorities of another country), the detention period may be extended to a maximum of 18 months.

That said, it is matter of concern that the Norwegian legislation does not provide for any time limit for the detention of foreign nationals who are subjected to a judicial expulsion order as a penalty or special sanction and that the persons concerned may thus be detained for an indeterminate period after having served a prison sentence.[43] **The CPT recommends that the Norwegian authorities introduce an absolute time limit for such cases.**

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33 The Centre had previously been visited by the CPT in 2005 and 2011.

34 In addition, a short-term (residential) holding facility was used on a temporary basis for families (see paragraph 41).

35 2008 Act on the Entry of Foreign Nationals into the Kingdom of Norway and their Stay in the Realm.

36 *Forskrift om Politiets utlendingsinternat (Utlendingsinternatforskriften),* issued by the Ministry of Justice and the Police on 23 December 2009.

37 *Hovedinstruks for Politiets Utlendingsinternat,* issued by the Chief of the Immigration Police on 10 August 2016.

38 *Interne retningslinjer ved Politiets utlendingsinternat,* issued by the Director on 29 January 2018.

39 New Section 106a of the Immigration Act.

40 New Section 106c which entered into force on 15 May 2018.

41 See paragraph 41.

42 Generally after the renewal of four-week periods.

43 The delegation was informed that one such person had been held at Trandum for three years.

40. Since the 2011 visit, Trandum Detention Centre has been enlarged and the official capacity increased from 70 to 220 places. At the time of the visit, the Centre was accommodating 63 adult foreign nationals (57 men and six women; representing 29 different nationalities).

The Centre now counted three accommodation buildings (“Modules”), divided into several detention units. At the time of the visit, nearly all male foreign nationals were accommodated in Module 1, while Module 2 was not in use. Module 3 comprised *inter alia* a unit for female detainees, as well as a new security unit (Unit S - see paragraphs 51 to 56). The delegation was informed that, as a general rule, male detainees were allocated to different units depending on their expected length of stay (i.e. Module 3 for stays of up to two weeks, Module 1 for stays of more than two weeks), although, at the time of the visit, it appeared that units often accommodated a mix of short- and longer-term detainees.

In recent years, the Centre had never operated at full capacity, despite the large number of admissions (i.e. some 4,800 in 2017 and more than 1,200 during the first five months of 2018). The return rate, as well as the overall turnover at the Centre, was very high (nearly half of the foreign nationals admitted in 2018 had been deported within three days of admission). In practice, this meant that the vast majority of foreign nationals admitted to the Centre were rapidly returned and spent only a short time in the Centre. However, on any given day, the majority of detainees present in the Centre had been detained there for longer periods. At the time of the visit, more than two thirds of those had spent more than three weeks in the Centre, including five who had been detained for more than six months and another five for more than a year.

41. The Committee welcomes the fact that, in early 2018, the Norwegian authorities took a policy decision to no longer accommodate families with children at Trandum Centre. Instead, it was planned to construct a special detention facility for families with a design of a “more civilian character”. Pending its construction, the authorities have created a temporary facility with a capacity of two five-person families on the premises of a former resort in Hurdal (without fences or locked doors), staffed by plain-clothed police officers and employees of the child welfare services. The delegation was informed that no family was being held in that facility at the time of the visit and that families would never be accommodated there for more than a couple of days prior to their removal.

Unaccompanied minors apprehended by the police were usually promptly referred to the competent child welfare authority. In recent years, such minors had reportedly been detained and held at Trandum Centre only very rarely and for very short periods (on average, once a year for up to 24 hours). According to the Norwegian authorities, it was planned to use the future special facility for families for holding unaccompanied minors as well.

**The CPT would like to receive updated information on the implementation of the above-mentioned plans.**

Further, **the Committee urges the Norwegian authorities to put a definitive end to the detention of unaccompanied minors at Trandum Centre; it also trusts that every effort will be made to avoid resorting to the deprivation of liberty of any irregular migrant who is a minor.**

### 2. Ill-treatment

42. The CPT delegation received no allegations of ill-treatment of immigration detainees by custodial police officers. Overall, relations between inmates and staff appeared to be reasonably good, and the majority of foreign nationals interviewed by the delegation spoke positively about the attitude of the staff and their interaction with them.

### 3. Conditions of detention

43. Material conditions of detention were very good.[44] All foreign nationals were accommodated in well-equipped single rooms, measuring some 10 m² (including a fully-partitioned sanitary annexe). Ordinary detention units comprised up to 18 rooms as well as a communal space with a kitchenette, dining and living areas. Further, foreign nationals were provided with sufficient supplies of personal hygiene items and clothing if needed.

That said, it is regrettable that the outdoor exercise yards were not equipped with any shelter against inclement weather. **Steps should be taken to remedy this shortcoming.**

44. Within ordinary detention units, foreign nationals benefited from an open-door regime for most of the day, meaning that they could freely associate with other detainees (within the same unit), stay in their room, or move from their room to the communal area. Notwithstanding this, the CPT wishes to recall that, as a matter of principle, conditions of detention for irregular migrants should reflect the nature of their deprivation of liberty with limited restrictions in place, including in terms of freedom of movement. In this regard, it is regrettable that, despite the existence of six outdoor exercise yards, most of them adjacent to the living units, detainees could only go outside for 1 ½ hours per day (i.e. one hour and twice 15 minutes). Detainees were locked up in their rooms at night (from 9 p.m. to 8 a.m. on weekdays and from 7.45 p.m. to 10.15 a.m. on weekends) but also at certain times of the day.[45] This meant that immigration detainees were locked up in their rooms for longer periods of time than most prisoners in Norwegian prisons (see also paragraph 85).

The delegation was informed by the management that, following several security incidents in recent years involving large groups of detainees, steps were being taken to avoid the association of detainees from different detention units. However, in the CPT's view, there is clearly room for improvement without compromising legitimate security considerations, bearing also in mind that the Centre frequently operates far below its official capacity.

Since the 2011 visit, all detention rooms have been equipped with a television set (with channels in various foreign languages) and a radio. Board games and reading materials were also available in the units. In a very well-equipped activity centre, located in a separate building, various options for sports and recreation were offered.[46] Access was arranged by unit, several times per week, for one or 1 ½ hours each time. This was considerably less than in 2011 when all detainees could access the activity centre for at least four hours each day. The activities on offer were the same for all detainees, although in theory access was to be granted more frequently to those staying for longer periods.

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44 See however, the remarks and recommendation made in paragraph 55 regarding the security cells.

45 Two lock-up periods of up to one hour each.

46 It comprised a large gymnasium, a well-equipped fitness room (with treadmills, spinning bikes, table tennis), a television room, a communal kitchen, a multi-faith "silence room", and a couple of computers with a restricted internet connection.

**The CPT encourages the Norwegian authorities to take steps at Trandum Detention Centre to ensure that:**

- **the foreign nationals' daily entitlement to outdoor exercise is increased and that the total amount of time during which foreign nationals are locked in their rooms is reduced (including at weekends);**

- **all foreign nationals are granted more frequent and, preferably, daily access to the activity centre and that those detained for prolonged periods are provided with a wider range of purposeful activities (such as educational activities). To this end, the involvement of external service providers such as charity associations and/or NGOs should be explored.**

### 4. Health care

45. The CPT welcomes the fact that qualified nursing staff were present in the Centre on a daily basis (including at weekends), as recommended by the Committee after the 2011 visit. Four full-time nurses worked in two shifts from Monday to Friday (7.30 a.m. to 4.30 p.m. and 4.15 p.m. to 10 p.m.) and one nurse was on duty during weekends (from 9 a.m. to 4.15 p.m.).Further, the presence of doctors had been increased from three to five times a week (for three hours each time), and one doctor remained on call outside working hours.

However, several specific recommendations made in the report on the 2011 visit have not been implemented.

46. In particular, medical screening upon admission was still not always conducted promptly,[47] and such screening was not systematically performed after the re-admission to the Centre of a foreign national following a failed deportation attempt. Further, the screening was usually limited to a questionnaire-based interview on the person's medical history, with no physical examination. The CPT wishes to stress once again the importance of medical screening, *inter alia* for the timely provision of somatic and mental health care, as well as for the detection and recording of possible injuries.

**The CPT reiterates its recommendation that the Norwegian authorities take steps without further delay to ensure that all newly-admitted foreign nationals at Trandum Detention Centre benefit from a prompt physical examination carried out by a doctor or a nurse reporting to a doctor. In this connection, particular attention should also be paid to the possible existence of mental disorders and other vulnerabilities.**

47. Further, there were still no clear procedures in place for the recording and reporting of injuries. In this regard, **the specific recommendations made in paragraphs 93 and 94 apply *mutatis mutandis* to Trandum Detention Centre.**

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[47] One of the foreign nationals met by the delegation had been seen by a member of the health-care staff for the first time two months after his admission.

48. Another shortcoming observed was the fact that medical confidentiality was still not (fully) respected. Despite the daily presence of a nurse, it remained the case that custodial police officers were tasked with the distribution of prescribed medicines. Further, on several occasions, a custodial police officer had been present in the room during medical consultations.

**The CPT reiterates its recommendation that steps be taken at Trandum Detention Centre to ensure that medical confidentiality is fully respected in practice. In particular, prescribed medicines should, as a rule, only be distributed by qualified health-care staff.**

Further, **the Committee recommends that steps be taken to ensure that all medical examinations of foreign nationals (whether upon arrival or at a later stage) are conducted out of the hearing and – unless the doctor or nurse concerned expressly requests otherwise in a particular case – out of the sight of custodial staff.**

49. The CPT remains concerned about possible mental health issues remaining undetected and/or not being addressed adequately. Given the sheer volume of foreign nationals transiting through the Centre, the personal histories of many migrants, the stress incurred by the prospect of deportation and sometimes prolonged detention, a number of persons inevitably presented symptoms of mental disorders. In their response[48] to the report on the 2011 visit, the Norwegian authorities indicated that arrangements had been made to include a psychiatrist in the team of part-time doctors working at the Centre. Regrettably, this was no longer the case at the time of the 2018 visit, and no psychologist was visiting the centre on a regular basis.

The CPT welcomes the fact that the nurses had received some training in psychiatry. However, it transpired from interviews with detainees (several of whom presented possible symptoms of psychological or psychiatric disorders) and members of the health-care staff that there were detainees for whom psychological assistance would have been required.

**The CPT recommends that a needs assessment be carried out by the management of Trandum Detention Centre – in co-operation with the relevant health authorities – with a view to ensuring appropriate psychological/psychiatric care to foreign nationals.**

[48] See CPT/Inf (2012) 20, page 10.

### 5. Other issues

a. contact with the outside world

50. The CPT welcomes the fact that all foreign nationals could in principle receive visits every day for 45 minutes (or more) and that they were offered the possibility to make (international) telephone calls free of charge for six minutes every day.

That said, the Centre was not easily accessible by public transport, and many detainees interviewed by the delegation considered that the existing possibilities for making telephone calls were insufficient.[49] Given that most foreign nationals received no visits, **the Committee invites the Norwegian authorities to consider extending the possibilities for foreign nationals to have contact with the outside world, in particular those who are being held at Trandum Centre for prolonged periods, by allowing them to keep or have access to their mobile phones, as is increasingly the practice in various other European countries, or by developing other cost-efficient internet options.**

b. security measures

51. According to Section 107, paragraph 5, of the Immigration Act, the police are authorised to use force and resort to other security measures vis-à-vis foreign nationals, including partial or full 'exclusion from company' and placement in a high-security section or a security cell.[50]

In practice, the above-mentioned security measures were implemented at Trandum Detention Centre in a designated security unit (Unit S) which comprised eight reinforced cells and three security cells (equipped with video surveillance). For the purpose of mechanical restraint, a 'body cuff' (with wrist and ankle straps) was available. Detainees could be placed in Unit S under three different security regimes (levels 1, 2, 3). Under regime level 1, foreign nationals were locked in a reinforced cell during the night but were still allowed to have some association with detainees from ordinary detention units during the day. Foreign nationals held under regime level 2 were accommodated in a reinforced cell without any possibility of association with other detainees, and virtually no human contact. Regime level 3 entailed placement in a security cell. Regime levels 2 and 3 amounted to solitary confinement.

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49 Personal mobile phones were stored away upon admission, and the computers which were available in the activity centre with restricted Internet access could not be used for communication with the outside world.

50 Section 10 of the Detention Centre Regulations contains an exhaustive list of conditions which may justify the placement of a detainee in a high-security section, a security cell or in isolation (including risk to his/her own safety or to the safety to others, risk of escaping, risk of damage to property, contagious disease, and the detainee's own request).

52. The General Instructions and Internal Guidelines contain detailed provisions regarding the procedures for applying the above-mentioned security measures and the supervision of the detainees concerned by custodial and health-care staff. In particular, every resort to such measures requires a formal administrative decision by the officer-in-chief of a module or the chief officer on duty at the Centre. In the decision, the foreign national concerned must be informed of the reasons for the measure, the right to appeal[51] and the right to contact his/her lawyer. Further, all placements under level 3, placements under level 2 exceeding one week and placements under level 1 exceeding two weeks must be reported to the police prosecutor, and every placement under level 3 lasting more than 24 hours must be approved by the latter.

In addition, a statement of the doctor shall as far as possible be obtained and taken into account when assessing the implementation and maintenance of any of the above-mentioned measures, and persons placed under levels 2 and 3 must be seen by a health-care professional at least once a day. Whenever a body cuff is applied to a detainee in a security cell, a doctor must be called upon immediately and a member of staff must be present in the cell at all times.

53. At the time of the visit, no foreign national was being held in Unit S. According to monthly statistics provided by the management, the number of placements in the security wing represented around 11% of the total number of admissions.[52] The measures had generally been imposed for short periods (usually less than a week in level 2 and less than one day in level 3). Body cuffs had been applied only rarely on detainees in the security cells (seven times between January 2017 and June 2018, and according to the individual files examined, this had been limited to a few hours).

54. As far as the delegation could ascertain, the procedural requirements set out in paragraph 52 were generally respected in practice, and the relevant decisions and their implementation (including monitoring logs) were well documented in the individual files of the detainees concerned.

It is commendable that monthly statistics were kept reflecting the resort to placement of foreign nationals in a regime levels 2 and 3 and the use of body cuffs, allowing for regular trend analyses by the immigration police. Notwithstanding that, **the CPT recommends that a dedicated register for the application of any of the aforementioned measures be created at Trandum Detention Centre. The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the person who ordered or approved it, the involvement of a health-care professional and an account of any injuries sustained by the detained person or staff.**

55. Material conditions of detention were generally adequate in all the cells in Unit S in terms of state of repair, access to natural light and ventilation. The reinforced cells had the same design as ordinary detention rooms (including with a fully-partitioned sanitary annexe) and had more or less the same furnishings and equipment (including a television set and a radio).

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51 Decisions may be appealed to the Police Directorate within three weeks. Foreign nationals may also request that the appeal be granted suspensive effect.

52 There had been 576 placements in level 2 since January 2017 and 109 placements in level 3, with a significant decrease between 2017 and 2018 so far. Since January 2017, some 6,000 foreigners had been detained at the centre.

That said, a number of shortcomings were observed by the delegation. Firstly, in several reinforced cells, there was no furniture apart from a bed.[53] Secondly, in the security cells, the floor toilet area was, on the one hand, located in the middle of the cell and was thus fully displayed on the CCTV monitor screen and, on the other hand, located in close proximity to the floor-level hatch of the cell door through which food and drinks were served. This is manifestly unsatisfactory both in terms of hygiene and respect for the detainee's dignity.

**The CPT recommends that the Norwegian authorities take steps to ensure that:**

- **all reinforced cells are equipped with a table and a means of rest (if necessary, fixed to the floor);**
- **the privacy of detainees placed in a security cell is guaranteed whenever s/he is using the toilet, for instance, by pixelating the image of the toilet area;**
- **food and drinks are as far as possible not delivered through the floor-level hatch.**

56. Given that Unit S was not in use at the time of the visit, the delegation was not in a position to obtain a comprehensive picture of the activities which were normally offered to foreign nationals held in that unit. According to the management, all detainees (including those placed in a security cell) were offered at least one hour of outdoor exercise per day in one of the two adjacent exercise yards, and detainees accommodated in reinforced cells were provided with reading materials.

That said, given the potentially harmful effect of solitary confinement, **the CPT would like to be informed of the arrangements made to provide foreign nationals subjected to regime level 2 with appropriate human contact.**

57. Further, the CPT notes that foreign nationals considered difficult to manage were accommodated in a separate unit (Unit I or "India", with a capacity of ten places) and kept under strict surveillance.[54] **The Committee would like to receive additional information about the decision-making process regarding placements within Unit I, and subsequent reviews of such placements, as well as possibilities for detainees to challenge them.**

58. The CPT has serious misgivings about the systematic practice of conducting strip searches of all foreign nationals (upon admission as well as after every open visit and upon return from every outside movement, such as transfer to a court, hospital or consulate) and about the systematic practice of handcuffing foreign nationals during transportation outside the Centre. In the CPT's view, such practices are clearly disproportionate and as such not acceptable.

**The CPT recommends that the Norwegian authorities take steps, if necessary, by amending the relevant legislation, to ensure that strip searches and handcuffs are henceforth applied vis-à-vis immigration detainees on the basis of an individual risk assessment (see also paragraphs 37 and 60 regarding the manner in which strip searches should be performed).**

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53 It was explained that these had been damaged or destroyed by detainees and not been replaced.

54 During the day, the door between the communal/living area and the individual rooms of the unit was locked. Detainees therefore had to choose between associating in the communal/living area (in full view of the staff) or being locked up in their room. They could, however, move from one to the other at any time of the day upon request.

59. Further, several foreign nationals alleged that they had remained handcuffed during medical consultations outside the Centre. In the CPT's view, to apply handcuffs to a prisoner undergoing a medical consultation/intervention contravenes medical ethics and fails to respect human dignity. **The CPT recommends that an immediate end be put to such practices.**

60. During strip searches, detainees were requested to stand in a dedicated corner of the rather large admission room. The area had a mirror on its floor and was not partitioned from the rest of the room. **The CPT recommends that a partition be installed in order to protect the dignity and privacy of the person being strip searched.**

c. access to information

61. The CPT welcomes the fact that many of the staff members at Trandum Detention Centre spoke foreign languages. Interpretation was arranged (if necessary via telephone interpretation services) in order to explain the main elements of judicial and administrative decisions, and during medical consultations if needed. Newly-arrived foreign nationals were provided with an information brochure, available in several foreign languages, which summarised the internal rules and detainees' rights.

That said, it is regrettable that the above-mentioned information brochure contained no information about the possibility to lodge complaints to an outside body (such as the Parliamentary Ombudsman or the Supervisory Board). **Steps should be taken to remedy this shortcoming.**

## C. Prisons

### 1. Preliminary remarks

62. The delegation carried out full visits to Bodø and Ullersmo Prisons as well as targeted follow-up visits to Bergen, Ila and Oslo Prisons.[55] At Bergen and Oslo[56], the delegation mainly interviewed remand prisoners and prisoners subjected to restricted regimes and, at Ila, it focused on the situation of prisoners subjected to court-ordered full isolation or complete ‘exclusion from company’ imposed as an administrative security measure.

63. *Bodø Prison*, located in Nordland county, was entirely refurbished in the 1990s on the premises of a pre-existing prison. With an official capacity of 56 places, it was accommodating 51 male prisoners (36 sentenced and 15 on remand) at the time of the visit.

*Ullersmo Prison*, which was constructed in the early 1970s, primarily accommodated prisoners serving longer sentences, as well as remand prisoners charged with serious crimes. As the second largest prison in Norway (after Oslo Prison), with an official capacity of 213 places, it was accommodating 172 prisoners (139 sentenced and 33 on remand) at the time of the visit.

64. Norway had a total prison capacity of 4,130 places distributed over 65 prisons, with approximately 2,500 places in closed (‘high-security’) prisons. In the past, a large number of convicted prisoners were placed on a “waiting list” before they could serve their sentence, due to lack of prison space. This insufficient capacity had prompted the Norwegian authorities to conclude an agreement with the Dutch authorities to rent, as from September 2015, Norgerhaven Prison (with 242 places) in the Netherlands. The delegation was informed that this agreement, which was due to expire at the end of August 2018, would not be renewed. Consequently, the repatriation of prisoners back to Norway had started in April 2018 and was expected to be completed by August 2018[57]. In order to accommodate the prisoners concerned, pending the opening in 2020 of a new prison in Agder (180 places), other prisons were required to temporarily double the capacity of a number of single-occupancy cells. Since the 2011 visit, the number of persons on the “waiting list” for admission to a prison had been drastically decreased from almost 1,500 to some 150.

The delegation was informed that various non-custodial measures were being taken as an alternative to imprisonment, for instance, applying electronic monitoring (approximately 500 persons). Further, at the time of the visit, electronic monitoring was being used as a possible substitute for short prison sentences (up to four months) as well as for the last four months of imprisonment. The delegation was informed of existing plans to increase the four-month limit to six months.

**The CPT would like to receive further information on the introduction and application of non-custodial measures.**

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55 All establishments are closed (high-security) prisons. It was the CPT’s first visit to Bodø Prison, while Ullersmo Prison had been visited once in 1993. Bergen, Ila and Oslo Prison had been visited by the CPT in 2011.

56 At Oslo Prison, the delegation also examined some health care-related issues.

57 At the time of the visit, 110 prisoners convicted in Norway were serving their sentence in the Netherlands. Ullersmo Prison was used as the main transit place to and from the Netherlands, with a number of its staff involved in the transfers.

## 2. Ill-treatment

65. As during previous visits, the delegation did not receive any allegations of physical ill-treatment or verbal abuse by prison staff in any of the prisons visited. Relations with staff were generally described by prisoners as being respectful.

66. Further, inter-prisoner violence did not seem to be major problem in the prisons visited. Overall, the level of inter-prisoner violence was relatively low, and incidents seemed to be both contained and adequately addressed by prison staff.

## 3. Situation of prisoners subjected to complete exclusion from company as a security measure or to court-ordered full isolation

### a. introduction

67. At Ila Prison, the delegation paid particular attention to the situation of prisoners subjected to 'complete exclusion from company' as an administrative security measure, as well as to prisoners subjected to court-ordered 'full isolation' for the purpose of protecting an ongoing criminal investigation.

### b. legal grounds

68. According to Section 17, paragraph 2, of the Execution of Sentences Act (ESA), prisoners placed in a 'high-security department'[58] (in particular, prisoners held in preventive detention[59]) may be subjected to complete exclusion from company 'in the interests of peace, order and security, or if this is in the interests of the inmates themselves or other inmates, and does not appear to be a disproportionate measure'.

Pursuant to Section 37 of the ESA, prisoners may be subjected to complete exclusion from company *inter alia* for preventative reasons (i.e. to prevent inmates from continuing to influence the prison environment in a particularly negative manner, to prevent inmates from injuring themselves or acting violently or threatening others, to prevent considerable material damage, to prevent criminal acts, or to maintain peace, order and security) or for protection purposes at the request of the prisoner concerned.

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[58] See Section 10, paragraph 2, of the ESA.

[59] Preventive detention (*forvaring*) is the only potentially indefinite sentence in Norway. It may be imposed by the court if a person is found guilty of having committed or attempted to commit either one serious violent offence (or arson) or more than one less serious offence of a similar nature and if it considers that there is an imminent risk of reoffending (Section 39c of the Criminal Code).

According to Section 186a of the Criminal Procedure Act (CPA), the court may decide that a person remanded in custody shall be excluded from the company of other prisoners (complete isolation) when there is an imminent risk that the person concerned will interfere with evidence in the case. The time-limit shall be as short as possible and must not exceed two weeks. It may be prolonged for (renewable) periods of two weeks. Additionally, the prisoner concerned may be subjected to a court-ordered ban on contacts with the outside world except for contacts with the defence lawyer (Section 186 of the CPA).

As regards the imposition of 'immediate exclusion from company' of prisoners who are suspected of having breached prison rules (Section 39 of the ESA) and the placement of a prisoner in a security cell (Section 38 of the ESA), see paragraphs 104 and 107.

69. The CPT must express its misgivings that Section 37, paragraph 9, of the ESA allows prisoners to be subjected to complete exclusion from company "if building or staff conditions necessitate this".

According to statistics provided by the management of Ila Prison (covering the period 1 January 2017 to 31 March 2018), this type of measure had been applied 122 times to a total of 84 prisoners. In almost all cases, the prisoners concerned were excluded from the company of other prisoners for short periods (i.e. one to four hours), presumably due to staff absences. That said, two prisoners had been subjected to complete exclusion from company for five days and three days respectively.

In the CPT's view, it is not acceptable that prisoners may be completely excluded from the company of other prisoners for days, due to logistical reasons (i.e. staff absences or layout of buildings). **The Committee recommends that the Norwegian authorities take appropriate measures at Ila Prison, as well as in all other prisons in Norway, to prevent such instances from recurring in the future.**

c. nationwide practice

70. At the outset, the CPT wishes to acknowledge that, in the recent times and according to the information available, the number of cases of <u>court-ordered full isolation</u> had been low and the duration of this measure relatively short (usually not exceeding a few weeks). At the beginning of the visit, the delegation was informed that, in the entire prison system, two remand prisoners were being held under court-ordered full isolation for more than one month, one for five weeks and one for six weeks.

71. In order to obtain a more comprehensive picture, **the CPT would like to receive the following information for all Norwegian prisons, in respect of the period from 1 January 2017 until the present time:**

- **(a) the total number of remand prisoners subjected to court-ordered full isolation (with or without prohibition/restrictions of contact with the outside world), with a breakdown by duration;**
- **(b) the number of remand prisoners subjected to court-ordered full isolation combined with a prohibition of contact with the outside world, with a breakdown by duration.**

72. At the beginning of the visit, the Norwegian authorities further indicated that, in the whole country, a total of 14 prisoners were being subjected to complete exclusion from company as a security measure for more than one month: twelve under Section 37 (including eight between one and three months, four between three and six months, one for eight months and one for 14 months) and two under Section 17, paragraph 2, of the ESA, one for 13 months and the other for seven years and ten months.

d. prisons visited

73. At Ila Prison, prisoners subjected to court-ordered full isolation and prisoners subjected to complete exclusion from company under Sections 17, paragraph 2, and 37 of the ESA were accommodated in a special security unit (Unit G), with a capacity of eight persons.[60] On the day of the delegation's visit, the unit was accommodating six prisoners. Three of them had been placed there under Section 17, paragraph 2, of the ESA (including one who had recently been transferred from another prison and had requested to be segregated and two who were suffering from a serious mental disorder; one of the latter two prisoners was being subjected to complete exclusion for nine months and the other for three years and five months; see, in this regard, paragraph 80); three prisoners were subjected to complete exclusion from company under Section 37 of the ESA (including two who had requested to be segregated (respectively, one month and six months earlier) and one who was being held there on an involuntary basis for six weeks). No remand prisoner was being held in the establishment in court-ordered full isolation.

According to statistics provided by the management, there had been a total of 89 instances[61] of complete exclusion from company under Section 37 of the ESA from 1 January 2017 until 20 March 2018. In 16 cases, the placement lasted more than two weeks, the longest duration being six months in one case and four months in two cases).

74. Bodø Prison had a segregation unit which, at the time of the visit, was accommodating two remand prisoners subjected to court-ordered full-isolation (for 14 days). No prisoners were being subjected to complete exclusion from company under Section 37 of the ESA.

The delegation was informed that there had been a total of 44 placements under Section 37 of the ESA in 2017 and eight in 2018. In a few cases, the measure lasted several weeks (in one case, 46 days), while in all other cases, prisoners were excluded from company for less than one week.

75. Ullersmo Prison had one special unit (Z-East, with a capacity of eight places) for prisoners subjected to exclusion from company under Section 37 and another special unit (Z-North, with a capacity of ten places) for remand prisoners subjected to court-ordered isolation. At the time of the visit, five prisoners were being held in Unit Z-East and two in Unit Z-North.

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60 The unit also comprised three security cells and one restraint cell, in which no prisoners were being held at the time of the visit.

61 Without counting the instances of exclusion from company for logistical reasons, which are referred to in paragraph 69.

According to the management, there had been a total of 180 placements under Section 37 of the ESA in 2017 and 50 in 2018. In 2017, twelve placements lasted longer than two weeks (including four more than one month, the longest being two months); in 2018; there had been two placements under Section 37 which lasted longer two weeks (18 and 20 days). In all other cases, prisoners were subjected to complete exclusion from company for less than one week.

e. placement and review procedures

76. Section 37 of the ESA sets out a number of safeguards aimed at limiting resort to complete exclusion from company and preventing any potentially harmful effects of the measure. In particular, the prison administration must assess whether partial exclusion is sufficient to prevent any of the above-mentioned acts. If a prisoner is subjected to complete exclusion, a doctor must be notified without undue delay, and staff shall monitor the prisoner more than once a day. Further, if the measure of complete exclusion is imposed, the prison administration must constantly consider whether the grounds for the exclusion continue to exist, and exclusion must be used with such care that no person is caused unnecessary harm or suffering. Exclusion from company pursuant to Section 37 may only extend beyond one year if the inmate him- or herself so wishes. There is no maximum time limit for exclusion from company under Section 17, paragraph 2, of the ESA.

Moreover, if complete exclusion from company exceeds 14 days, the regional level shall decide whether the prisoner shall continue to be excluded. If the total period of exclusion exceeds 42 days, the measure shall be reported to the Norwegian Correctional Service. After that, reports shall be made to the Norwegian Correctional Service, at 14-day intervals.

77. From the consultation of various individual files and interviews with prisoners and staff, it transpired that the above-mentioned requirements were effectively implemented in practice at Ila, Bodø and Ullersmo Prisons. It is also noteworthy that prisoners received a reasoned decision in writing, which also contained information on the possibility to lodge an appeal (within seven days) to the superior prison administration. Further, reviews were carried out in a timely manner. Placement decisions were always reasoned and individualised.

f. regime

78. The CPT wishes to recall that a solitary confinement-type regime, which the security measure of exclusion from company and all the more so court-ordered full isolation may entail, can have an extremely damaging effect on the mental, somatic and social health of those concerned, and can, in certain circumstances, lead to inhuman and degrading treatment. Therefore, it should only be imposed in exceptional cases and as a last resort, and for the shortest possible period of time.

79. As regards prisoners subjected to complete exclusion from company under Section 17, paragraph 2, of the ESA, the CPT welcomes the considerable efforts made by the Norwegian authorities at Ila Prison to provide the prisoners concerned with a range of purposeful activities and meaningful human contact. To this end, a ‘Resource Team’ had been created in 2014, which was composed of a team leader, nine prison officers and two occupational therapists and supported by a psychologist, an ‘activity organiser’ and a ‘programme instructor’. Their task was to improve the quality of life of prisoners with mental disorder who were subjected to prolonged exclusion from company, and to prevent them being held in isolation.

At the time of the visit, the Resource Team primarily catered for prisoners with mental disorder in preventive detention held in Unit G of Ila Prison.[62] For each prisoner, an individual goal and action plan as well as a weekly activity plan were drawn up and reviewed on a monthly basis.

By way of illustration, one of the prisoners concerned was offered a total of 14½ hours per week of organised activities (Monday-Sunday) undertaken together with staff or fellow prisoners, notably outdoor exercise in company of others (eight hours/week), school (1½ hours/week), cooking (2½ hours/week) and training with leisure instructor (2½ hours/week). In addition, the prisoner was offered work five times per week for approximately three hours/day.

80. Whilst acknowledging all the above-mentioned measures, the CPT notes with concern that some of the prisoners concerned were suffering from serious mental disorders and thus had great difficulties in coping with life in prison. For instance, due to his mental condition, one of these prisoners rejected all opportunities to engage in activities and contacts with staff and fellow inmates. He had been held in the unit for several years. On numerous occasions, he had been transferred to a psychiatric hospital, but returned back to the prison after a short period, because he was assessed by the hospital as not being psychotic or otherwise suffering from a mental illness which would have justified longer-term hospitalisation.

Both the management of Ila Prison and staff of the Resource Team emphasised that one the main challenges regarding prisoners who were excluded from company for prolonged periods, was the difficulties in arranging adequate inpatient care for them. They stressed the urgent need to find a more sustainable solution for prisoners with severe mental disorders by creating a high-security facility where the prisoners concerned are provided with appropriate treatment and psycho-social care.

In this regard, **reference is made to the remarks and recommendation in paragraph 97.**

81. As regards prisoners subjected to <u>complete exclusion from company under Section 37 of the ESA</u>, the CPT acknowledges that, in the establishments visited, the duration of the application of the measure on an involuntary basis was usually relatively short, lasting days rather than weeks. Notwithstanding that, it was not uncommon for certain prisoners to be subjected to complete exclusion from company for significantly longer periods (in particular in cases where prisoners had requested to be segregated from other prisoners).

At Ullersmo Prison, the prisoners concerned were offered one hour of daily outdoor exercise and were able to associate with prisoners of the same unit for 1 ½ hours per day. In addition, they had access to the gym three times a week and to the library once every two weeks.

At Ila Prison, the possibilities for ‘Section 37’ prisoners to associate with fellow inmates were much more limited. The delegation was informed that the Resource Team would in principle provide support also to ‘Section 37’ prisoners, but that, due to limited capacities, it could effectively deal only with prisoners who were subjected to the measure for prolonged periods. As a result, the regime for those excluded from company for shorter periods was often impoverished (i.e. one hour of outdoor exercise and one hour of access to a gym (usually alone) and human contact was limited to regular conversations with staff. As a result, some of the prisoners concerned were held in a solitary-confinement-type regime.

62 In addition, some support was provided to one prisoner held in Unit L of Ila Prison.

82. In the establishments visited, court-ordered full isolation under Section 186a of the CPA[63] had hardly ever been applied in recent years for more than two weeks.

That said, it is a matter of concern that, at Bodø, Ila and Ullersmo Prisons, remand prisoners subjected to court-ordered full isolation were usually locked up in their cells for 22 hours per day and were offered one hour of outdoor exercise (alone) and access to a fitness room (alone) for one hour, with very limited contact with staff.[64] Consequently, most remand prisoners under court-ordered isolation were held in a solitary-confinement.

Given the potentially harmful effects of solitary confinement, **the CPT recommends that the Norwegian authorities take the necessary steps at Ila Prison and, where appropriate, in other prisons in Norway to ensure that prisoners subjected to complete exclusion from company under Section 37 of the ESA or to court-ordered full isolation under Section 186a of the CPA:**

- **benefit from a structured programme of purposeful and preferably out-of-cell activities;**
- **are provided – on a daily basis – with meaningful human contact.[65] The aim should be that the prisoners concerned benefit from such contact for at least two hours every day and preferably more.**

**The longer the measure of complete exclusion from company continues, the more resources should be made available to attempt to (re)integrate the prisoner into the main prison community.**

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63 Section 46, paragraph 2, of the ESA stipulates that the Norwegian Correctional Service shall give priority to measures for remedying negative effects of isolation pursuant to Section 186a of the CPA.

64 At Ila Prison, the delegation was informed that members of the Resource Team made use of free capacities when prisoners in preventive detention refused to take part in an organised activity.

65 See, in this regard, pages 88 and 89 of the Essex paper 3 on the "Initial guidance on the interpretation and implementation of the Nelson Mandela Rules" (Penal Reform International/Human Rights Centre, Essex University, February 2017). The term "meaningful human contact" is referred to as "the amount and quality of social interaction and psychological stimulation which human beings require for their mental health and well-being. Such interaction requires the human contact to be face to face and direct (without physical barriers) and more than fleeting or incidental, enabling empathetic interpersonal communication. Contact must not be limited to those interactions determined by prison routines, the course of (criminal) investigations or medical necessity."

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

### a. material conditions

83. Material conditions of detention were of a high standard at Bodø and Ullersmo Prisons. The general rule was single accommodation cells, most of which measured between 8 and 10 m² and were well furnished. Within their unit, prisoners had access to a communal space (comprising a kitchenette, a dining and living area as well as individual storage lockers), where they could prepare food, eat and spend the leisure time in association with fellow prisoners (*fritidsfellesskap*). The delegation noted that the newer units had no window bars and that prisoners had a key to their cell.

At Ullersmo Prison, a new section (Post E) had opened in June 2017 and other sections (Sections E-H and Section U) were under renovation at the time of the visit. Regrettably, not all cells were fitted with toilets, including in the new section, and several complaints were received from prisoners that this sometimes caused considerable delays in accessing the toilets at night.

**The CPT reiterates its recommendation that steps be taken at Ullersmo Prison, as well as in other prisons in Norway lacking in-cell sanitation, to ensure that prisoners who need to use the toilet facility are able to do so without undue delay. Future renovation and construction plans should, when feasible, include in-cell sanitation needs.**

84. Further, it is regrettable that the outdoor exercise yards at Bodø Prison, as well as in the admission unit and the restricted units at Ullersmo Prison, were not equipped with a shelter against inclement weather. **Steps should be taken to remedy this shortcoming.**

### b. regime

85. Visits to Bodø and Ullersmo Prisons confirmed previous positive CPT findings regarding the diversified regime which was offered. It is commendable that, in both prisons, 80 to 90% of the inmate population, whether sentenced or on remand, were enrolled in a daily programme of either training, work or education, based on an individual plan[66]. Activities took place every Monday to Friday, from early morning to mid-afternoon with a break for lunch. Late afternoon and early evening were dedicated to structured recreational activities. In total, the vast majority of prisoners spent around twelve hours outside of their cell on weekdays, and seven to nine hours during the weekends. Access to the outdoors was granted for a minimum of one hour each day, and up to 2½ hours on weekends and during the summer months.

Work options included classic maintenance jobs (cleaning, maintenance, laundry, kitchen) as well workshop activities for woodwork (furniture making) and mechanics. Educational programmes were run by the local municipality and provided opportunities for detainees to pursue formal education, self-study and computer courses. A library was accessible in both prisons. Indoor sports facilities were also of good standard and other facilities observed included a music room, a small recording studio, a science laboratory, an arts and craft workshop.

66 An IT assessment tool ("BRIK"), had been generalised in Norwegian prisons in 2013. Focusing on the needs and resources of a prisoner, it was the basis for designing individual detention plans. It was co-ordinated through the personal officer scheme.

86. That said, it is matter of serious concern that in Block A-East at Bergen Prison, a number of sentenced prisoners, who were not subjected to any formal restrictions and who, according to the management, did not pose a security risk – were nevertheless locked up in their cells for 22 to 23 hours per day (with only one hour of outdoor exercise). They were not offered any education, work or other purposeful activities, but merely had four to nine hours per week of association with fellow inmates. A few prisoners had been held for several years *de facto* in a solitary-confinement-type regime which was neither a disciplinary nor a security measure and devoid of a legal basis. Some of the prisoners characterised their conditions as 'human storage' (*oppbevaring*). Such a state of affairs is not acceptable as prolonged isolation can have very harmful consequences for the persons concerned.

87. In their letter of 1 October 2018, the Norwegian authorities provided the following information:

> "The Correctional Services share the CPT's concerns regarding prisoners in Block A of Bergen Prison who remain locked up in their cells 22-23 hours per day; with little outdoor exercise and few purposeful activities. It is in the interest of the prison and a stated goal for the Correctional Services that the prisoners are being offered more time outside the cell, company with other prisoners and meaningful activities.
> After the CPT's visit, several measures have been implemented in order to improve the situation. Inter alia, a new control system has been introduced; where an activity scheme for every prisoner is being filled in on a daily basis. The aim is to detect as early as possible any prisoner who is voluntarily isolating him- or herself or does not part-take in the activities. This will enable the prison to conduct targeted mapping and seek and implement individual measures.
> Further, Block A has – as a trial-project - established a part-time position to follow-up prisoners who do not want to part-take in ordinary prison activities.
> As a result of the perceived increase in the use of exclusion from company with other prisoners, the Directorate of Norwegian Correctional Service has decided to initiate a project with the aim to reduce the use of exclusion; as well as to minimize the negative effects of it. (The Action Plan shall be finalized within 1 April 2019)."

The CPT welcomes the prompt and constructive reaction of the Norwegian authorities. However, from the information gathered by the delegation, it transpired that most of the above-mentioned prisoners had not refused to take part in activities and were thus not voluntarily isolated.

**The CPT recommends that the Norwegian authorities take steps to ensure that all prisoners held in Block A-East at Bergen Prison are offered a programme of purposeful out-of-cell activities of a varied nature (work, preferably with vocational value; education; sport; recreation/association) during a reasonable part of the day (i.e. eight hours or more).**

Further, **the Committee recommends that the Norwegian authorities carry out a nationwide review, in order to prevent a situation as observed in Block-A East at Bergen Prison from (re-)occurring.**

### 5. Health care

88. The delegation examined the health-care services[67] at Bodø, Oslo and Ullersmo Prisons.

89. At Bodø Prison, the health-care staff included two general practitioners working part-time (20% each), as well as four nurses (three full-time and one part-time 70%). Nurses were present from Monday to Friday from 8 a.m. to 3.30 p.m., and, at weekends, one nurse was on call. A dentist and a dentist assistant were each present one full day per week.

At Oslo Prison, two doctors shared a 70% part-time position. Out of a total of nine full-time nurses, two were usually present from 7.30 a.m. to 3.30 p.m. and one until 5 p.m. every day (including at weekends).[68] This represented about half of the health-care employed in 2011[69], reflecting the significant decrease in the prison capacity and population.[70]

At Ullersmo Prison, there were three part-time general practitioners (two working 50% and one 40%), as well as nine nurses (seven full-time and two 80% part-time). Nurses were present from Monday to Friday from 8 a.m. to 9 p.m., and, at weekends, one nurse was on call. Moreover, a dentist carried out consultations twice a week (from 9 a.m. to 5 p.m.).

90. The CPT considers the above-mentioned numbers of health-care staff to be adequate. However, whilst acknowledging that, in all the prisons visited, prison officers were trained to provide first aid (including resuscitation) and that prescribed medication (including psychotropic medication) was always prepared (in an individualised form) by nurses, the Committee has misgivings about the fact that medication was routinely distributed by custodial staff.

The CPT must stress that such a practice can violate medical confidentiality as medicines are visible to the distributing person. **In the Committee's view, prescribed medicines should preferably be distributed in all prisons by qualified health-care staff; in any event, a list of medicines to be distributed only by health-care staff (such as ant-psychotics) should be established.**

**As regards Bodø, Oslo and Ullersmo Prisons, the CPT considers that the shifts of nursing staff could be re-arranged, so that prescribed medication is as a rule distributed by a nurse also at weekends and, whenever needed, in the early evening.**

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67 It is recalled that municipalities are responsible for the provision of general health care in prison, while specialist health care is provided by the relevant regional health authorities.

68 At the time of the 2011 visit, a nurse was present every day until 9 p.m.

69 See CPT/Inf (2011) 33, paragraph 64.

70 The official capacity had been reduced to 243 places. At the time of the visit, the prison was accommodating a total of 232 prisoners (including 149 on remand).

91. As regards medical screening upon admission, newly-arrived prisoners were usually seen by a nurse (reporting to a doctor) within 24 hours of admission, with occasional delays of several days. In this regard, the situation has improved since the 2011 visit.[71] It is also noteworthy that newly-arrived prisoners were usually offered screening for transmissible diseases (such as tuberculosis, HIV and hepatitis B/C). At Oslo Prison, it was reported that detainees occasionally had refused to meet with the health-care staff upon arrival. In such cases, the information had been passed on to the nurse by a prison guard.

However, the CPT notes with concern that other major shortcomings identified by the CPT during the 2011 visit still persisted. In particular, it remained the case that the medical screening was often limited to an interview without a proper physical examination of the person concerned, who was not usually required to remove his/her clothes. Further, at Oslo Prison, the delegation was told by nursing staff that newly-arrived prisoners would not normally be asked whether they had any injuries.

Regrettably, the delegation was not in a position to assess the quality of the recording of injuries in the prisons visited, since there was no injury register and no indication of injuries could be found in the samples of medical files examined by the delegation's doctors. Nurses interviewed by the delegation indicated that if they observed injuries on a newly-arrived prisoner, they would record the injuries in the person's medical file along with the explanations of the person concerned regarding the cause of the injuries and that serious injuries would be reported to the prison doctor. That said, doctors were reportedly not required to indicate the consistency between any allegations of ill-treatment made and the observed injuries (whether serious or not).

The CPT acknowledges that the findings of this visit (as well as of previous visits) suggest that persons detained by the police in Norway generally run little risk of being subjected to physical ill-treatment. However, under the system of medical screening as performed at present in the prisons visited, injuries which are for instance the result of excessive use of force by police officers clearly run a high risk of remaining undetected and, as indicated below, also uninvestigated.

92. In their letter of 1 October 2018, the Norwegian authorities stated that "[t]he municipalities are free to decide how to organise health services in prison, either with the use of their own personnel or based on contracts with private health personnel. The Government cannot interfere in the municipalities' decisions without authority from the law, but it is expected that the municipalities follow the national guidelines for health and care services."

93. **The CPT calls upon the Norwegian authorities to take the necessary steps – including by amending the National Guidelines for Health and Care Services and, if necessary, the relevant legislation – to ensure that in all prisons in Norway:**

- **all newly-arrived prisoners benefit from a comprehensive medical examination by a doctor (or a qualified nurse reporting to a doctor) within 24 hours of admission. In the event that a prisoner refuses to attend the medical screening, the doctor (or nurse) should nevertheless visit the prisoner concerned as soon as possible;**

[71] In 2011, delays of several days and sometimes even weeks had been observed by the delegation.

- **the record drawn up after the medical examination of a prisoner contains: (i) a full account of objective medical findings based on a thorough physical examination by the doctor/nurse, (ii) an account of statements made by the person which are relevant to the medical examination (including his/her description of his/her state of health and any allegations of ill-treatment), and (iii) the doctor's observations in the light of (i) and (ii), indicating the consistency between any allegations of ill-treatment made and the objective medical findings. The record should also contain the results of additional examinations carried out, detailed conclusions of specialised consultations and a description of treatment given for injuries and of any further procedures performed. Further, the results of every examination, including the above-mentioned statements and the doctor's conclusions, should be made available to the prisoner and, upon request, to his/her lawyer.**

**Recording of the medical examination in cases of traumatic lesions should be made on a special form provided for this purpose, with "body charts" for marking traumatic lesions that will be kept in the medical file of the prisoner. Further, it would be desirable for photographs to be taken of the injuries; these photographs should also be placed in the medical file. In addition, a special injury register should be kept in which all types of injury observed should be recorded.**

94. Further, despite the specific recommendation made by the Committee after the 2011 visit, it remained the case in the prisons visited, that if injuries were found, which could be the result of ill-treatment by police or prison officers, the injuries would only be recorded in the medical file but usually not be <u>reported to any outside body</u> (unless the prisoner concerned explicitly asked for this to be done).

Therefore, **the CPT reiterates its recommendation that the Norwegian authorities take appropriate steps – including, if necessary, at the legislative level – to ensure that, whenever injuries are recorded by a health-care professional, which are consistent with allegations of ill-treatment made by a prisoner (or which, even in the absence of the allegations, are indicative of ill-treatment), the record should be systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.**

95. Another shortcoming lies in the fact that, in all prisons visited, <u>prison officers</u> were sometimes <u>present in the room during medical consultations</u> (including during medical entry examinations).

**The CPT recommends that the Norwegian authorities take the necessary steps to ensure that, at Oslo Prison, as well as in all other prisons in Norway, medical examinations of prisoners are conducted out of the hearing and – unless the doctor concerned requests otherwise in a particular case – out of the sight of prison officers.**

96. As regards the provision of mental health care, the psychiatric team at Oslo Prison was well-staffed with one full-time psychiatrist and five psychologists.[72] In addition to the comprehensive assessments, the team provided pharmacological treatment and psychotherapy.

At Bodø Prison, one psychologist was employed on a part-time basis (one day per week), and one of the two doctors and one nurse had received some training in psychiatry. At Ullersmo Prison, there were a visiting psychiatrist (one day per week) as well as two part-time psychologists. The delegation was informed of existing plans to employ a psychiatrist in the establishment on a full-time basis as from September 2018.

**The CPT recommends that the Norwegian authorities take the necessary steps to ensure that Bodø Prison is visited on a regular basis by a psychiatrist.**

Further, **the Committee would like to receive confirmation that a full-time psychiatrist has been recruited at Ullersmo Prison.**

97. It is a matter of serious concern that the delegation once again observed major problems in the prisons visited in transferring severely mentally-ill prisoners to psychiatric hospitals (especially for longer-term treatment). It was not uncommon for the prisoners concerned to be returned after only a few days from an acute psychiatric ward to the prison, where they did not benefit from the care and treatment required by their state of health. In particular at Oslo Prison, several severely mentally-ill prisoners had sometimes virtually been sent back and forth between the prison and a psychiatric hospital.[73]

At the outset of the visit, the Norwegian authorities indicated that the plan which had already existed in 2011 to construct a new regional psychiatric security department in the Oslo area had not yet materialised. Although a definitive policy decision had meanwhile been taken to construct such a facility with a capacity of 32 beds, the precise location still remained to be determined.

**The Committee urges the Norwegian authorities to implement the above-mentioned plan as a matter of priority. Pending the construction of a new regional psychiatric security department, urgent steps should be taken jointly by the Ministry of Justice and Public Security and the relevant health authorities to ensure that prisoners suffering from a severe mental disorder are transferred to an appropriate psychiatric unit/hospital for as long as is required by their state of health.**

98. At Oslo Prison, the delegation was informed that the medical service had repeatedly encountered problems in organising escorts by prison/police officers with the result that outside appointments for medical consultations/examinations had to be cancelled. **The CPT would like to receive the Norwegian authorities' comments on this matter.**

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[72] The psychiatric team also covered Bredtveit Prison.

[73] As regards Ila Prison, see paragraph 80.

99. On a positive note, the delegation gained a positive impression of the drug rehabilitation programmes conducted at Bodø and Ullersmo Prisons where the engagement of multidisciplinary teams was commendable. The delegation was informed however that budget cuts had recently affected these units. **The CPT would like to receive the comments of the Norwegian authorities on this point along with any available information regarding the results achieved so far in these units.**

### 6. Other issues

#### a. contact with the outside world

100. Prisoners were entitled to receive at least one one-hour visit every week, and were regularly granted visits for longer (1½ to two hours at a time). In practice, the first two or three visits after admission were supervised before unsupervised visits became the rule.[74] Visiting rooms, as noted previously, provided very good material conditions and arrangements were respectful of privacy. Only exceptionally were closed visits imposed for security reasons.

101. That said, it is regrettable that, at Bodø and Ullersmo Prisons, newly-admitted prisoners were sometimes prevented from receiving visits for several weeks, due to delays in obtaining the necessary clearance for the visitors they had proposed. **Steps should be taken to remedy this shortcoming.**

102. The standard entitlement for telephone calls was 20 minutes per week, with additional time for prisoners with children. At Ullersmo Prison, the maximum duration was 30 minutes, while it reached 42 minutes at Bodø Prison. Prisoners had to pay for their phone calls, which limited the possibility of maintaining contact with the family, especially for foreign prisoners whose family lived abroad. In this regard, the CPT welcomes the fact that internet communications (Skype) have been introduced in both prisons, albeit to a limited extent.

**The CPT invites the Norwegian authorities to further develop possibilities regarding the use of (free of charge) internet communications in all prisons, so as to increase the weekly allowance of calls. Special attention should be paid to prisoners who do not receive regular visits and whose family resides abroad or far away from the prison.**

[74] According to Section 31 of the ESA, visits to a prison with a high-security level should be controlled, but such controls may be waived if security reasons do not contraindicate this.

b. discipline

103. Applicable disciplinary sanctions are defined and listed in Section 40 of the ESA[75].

Norwegian law does not provide for disciplinary solitary confinement as such. Under Section 40 d) of the ESA, a prisoner may however be excluded from the company of others during the “leisure time” of the day, meaning that the person can still attend work or educational activities. The maximum possible duration of this measure is twenty days.[76] From the examination of several disciplinary decisions it transpired that, contrary to the situation observed during the 2011 visit, the sanction of exclusion of company also covered the one-hour period of outdoor exercise. As a consequence, and even though the delegation did not come across such cases in practice, prisoners who were not enrolled in an activity programme could *de facto* be held in solitary confinement.

**The CPT trusts that the Norwegian authorities will take the necessary steps to ensure that, in all prisons, prisoners punished with exclusion from company during leisure time are not subjected to a solitary confinement-type regime exceeding 14 days. The Committee also wishes to stress that, whenever a prisoner is placed in solitary confinement, he/she should be visited daily by a member of the health-care staff.**

104. Further, the CPT must once again express its misgivings regarding Section 39 of the ESA (“provisional disciplinary measure”), whereby a prisoner may be excluded (fully or partly) from company for up to 24 hours, if it is probable that s/he has committed an act that may result in a sanction provided for in Section 40 of the ESA.

The CPT still fails to understand the rationale for excluding a person from company, solely on the basis that s/he may have committed a disciplinary offence. A disciplinary sanction should only be imposed following a disciplinary process with the necessary accompanying safeguards, not in anticipation of the outcome of such a process. Although an exclusion measure under Section 39 is not *per se* a disciplinary sanction, it seemed to be perceived as such in practice.

A review of files at Ullersmo Prison revealed that there had been seven placements under this provision in 2017 and three so far in 2018. The grounds which were stated were mostly linked to suspicion of intoxication,[77] in one case it was motivated by the fact that the prisoner had started a hunger strike, in yet another that he had requested to be placed under this provision for his own safety.

In their response to the report on the 2011 visit, the Norwegian authorities stated that “such exclusions are especially relevant for preventive purposes or when there is a need for an immediate reaction to undesirable behaviour. Exclusion may only last for 24 hours. During this time, the situation regarding the breach must be clarified further”.

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75 Possible disciplinary measures are: a) written reprimand, b) loss of daily pay for a specified period, c) loss of privileges, d) exclusion from leisure group or other activities for a period of up to 20 days for breaches that are assessed in the same sanctions case, or e) loss of entitlement to leave of absence for a period not exceeding four months.

76 In the cases reviewed, this was typically the retained sanction in cases when a prisoner refused a urine test.

77 Suspicion of cannabis (3), positive exhalation test (2), possession of Subutex (1), refusal to exhale (1).

The CPT is of the view that, should there be a need to exclude a person for preventive purposes or other security reasons, this could be done pursuant to Section 37 of the ESA (see paragraph 68), thus rendering Section 39 superfluous. This seemed to be backed by the fact that in practice, a number of decisions under Section 39 were in effect followed, not by disciplinary measures under Section 40, but by security measures pursuant to Section 37.

**The CPT encourages the Norwegian authorities to abrogate Section 39 of the ESA and to clearly differentiate between disciplinary and security measures.**

105. Regrettably, at Bodø and Ullersmo Prisons, the application of disciplinary sanctions was not consistently recorded in a dedicated register, and therefore the delegation could not gain a complete overview of their implementation. Individual decisions were however attached to the prisoners' electronic files, and a review of these, along with the supporting documentation, suggested that disciplinary procedures were generally carried out in a satisfactory manner in both establishments. Disciplinary decisions contained information about the possibility to lodge an appeal within 48 hours with the regional prison administration.

That said, despite a specific recommendation repeatedly made by the Committee in the report on the 2011 visit, it remained the case that prisoners facing disciplinary charges were often not interviewed by the person who decided on the imposition of a disciplinary sanction (in most cases the director), but a decision was usually taken on the basis of a statement given by the prisoners to another senior officer. Further, at Bodø and Ullersmo Prisons, copies of disciplinary decisions provided, by way of example, by the management to the delegation were not signed, and it remained unclear whether the prisoners concerned had actually received a copy of it.

**The CPT recommends that a dedicated register (listing the different disciplinary measures imposed, and featuring the name of the prisoner, the type of sanction, its motivation, and the beginning and end of the measure) be established and maintained at Bodø and Ullersmo Prisons and, where appropriate, in other prisons in Norway.**

Further, **the Committee recommends that steps be taken in all prisons to ensure that:**

- **prisoners facing disciplinary charges are always heard in person by the decision-maker;**
- **prisoners subjected to a disciplinary sanction are systematically provided with a copy of the disciplinary decision and that they are requested to sign a statement that they have received a copy of it.**

c. security-related issues

106. The CPT has misgivings about the systematic practice of subjecting prisoners to strip searches after all unsupervised visits. Moreover, during these examinations, prisoners were usually required to remove all their clothes at once (unless the prisoner requested otherwise), and it was not uncommon that searches were conducted in the presence of an officer of the opposite sex (unless the prisoner refused this).

**The Committee recommends that strip searches be conducted only on the basis of an individual risk assessment. In addition, steps should be taken to ensure that whenever they are considered a necessity, strip searches are only performed by staff members of the same sex as the prisoner and the prisoners concerned are informed in advance about the possibility to undress in stages.**

107. The use of coercive measures is regulated by Section 38 of the ESA which allows placements in security cells as well as the use of restraint beds. Resort to these measures was recorded in specific manual registers which included the observations annotated by the supervising staff throughout the measure. At Ullersmo Prison, there had been 38 placements in security cells since the beginning of 2017, lasting for up to four days. At Bodø Prison, there had been ten placements, for a maximum duration of 24 hours and usually for a few hours. From a review of the available registers at Bodø and Ullersmo Prisons, it transpired that these measures were, generally, adequately documented. The staff entries demonstrated that the state of the prisoner was monitored (by custodial staff) at least every hour and that a nurse did indeed visit the prisoner concerned daily. Outdoor exercise was offered at least once a day. In contrast, at Oslo Prison, it appeared that the medical surveillance was not systematic and sometimes subject to the assessment of custodial staff.

That said, in all three prisons, although the medical service was usually immediately informed of the placement in a security cell, health-care staff did not always promptly examine the prisoner concerned in the prisons visited. Furthermore, at Oslo Prison, the delegation was informed that any subsequent visit by health-care staff rested on the decision of the prison officer in charge. The initial decision was reviewed every eight hours on week days and every twelve hours on weekends. In principle, a prisoner could stay in a security cell for a total of 72 hours without being seen by a member of the health-care staff.

**The CPT recommends that steps be taken in all the prisons visited and, where appropriate, in other prisons to ensure that a member of the health-care team always visit persons placed under Section 38 as soon as possible after s/he is informed of the placement and at least every day until the placement ends. This should be systematic and in no case depend on the opinion of custodial staff.**

108. At Bodø and Ullersmo Prisons, the security cells measured a mere 5m². Further, at Bodø Prison, the cells offered no access to natural light. **In the CPT's view, cells of such a size should not be used for accommodating prisoners for more than a few hours.**

109. In the prisons visited, the doors of the security cells had two hatches, used also for delivering food, one in the central part of the door, another at the bottom (at floor-level). **In the CPT's view, food and drinks should as far as possible not be delivered through the floor-level hatch.**

110. Further, at Oslo Prison, the delegation was informed that, due to the lack of suicide-proof clothing[78], prisoners at risk of self-harm or suicide had been placed totally naked in a security cell. In the view of the CPT, such a practice could be considered to amount to degrading treatment. **The CPT recommends that prisoners are never placed naked in a cell and that those at risk of suicide are always provided with clothing appropriate to their specific needs.**

111. As noted during previous CPT visits, prisons were equipped with a restraint bed, used to fixate particularly agitated prisoners (five-point restraint). While at Ullersmo Prison the bed had not been used since 2013[79], it had been resorted to on rare occasions at Bodø and Oslo Prisons[80]. Such occurrences were recorded in a special register. The entries in these registers confirmed that a member of the health-care staff was immediately informed of the imposition of the measure and that custodial staff were permanently present during the restraint. However, here again, the person was not immediately checked by health-care staff.

**The CPT recommends that the Norwegian authorities put a definitive end to the use of restraint beds in non-medical settings.**

d. foreign prisoners

112. Approximately half of the prisoners at Oslo and Ullersmo Prisons and a quarter of those at Bodø Prison were foreign nationals. It transpired that, due to language barriers, a number of them were unable to have any meaningful communication with the staff and could thus be prevented from accessing basic services. This state of affairs was confirmed by prison staff. For instance, at Oslo Prison, a Moroccan national had not been in contact with his family since his arrival 2½ months earlier, as he was not able to explain to staff that the phone numbers of his family were on his mobile, which the prison had confiscated. Consultations with prison officers on the wing revealed that they were unaware of this problem. Moreover, no written information, including the internal prison rules, was available in foreign languages.

**The CPT recommends that steps be taken to ensure that foreign prisoners benefit from interpretation services whenever required. In addition, internal regulations should be systematically provided to all prisoners, upon their arrival at a prison, in a language which they can understand. To this end, it would be desirable for brochures to be available in relevant foreign languages. Generally, proactive measures need to be taken by the authorities to address the specific needs of foreign prisoners.[81] In particular, this could include recruiting prison officers from different cultural and ethnic backgrounds and with specific linguistic skills.**

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[78] In normal circumstances, a set of clothing was provided for prisoners admitted to security cells (a t-shirt and underwear).

[79] Likewise at Ila Prison.

[80] At Bodø Prison, it had been used once in 2018, for five hours, since the beginning of 2017. At Oslo Prison, members of staff indicated that it was used on average once per year.

[81] See also Recommendation (2012)12 of the Committee of Ministers of the Council of Europe concerning foreign prisoners.

e. complaints procedures

113. According to the management of Bodø and Ullersmo Prisons, internal complaints lodged by prisoners were transmitted to management in sealed envelopes via custodial staff. They were followed up and kept in the prisoner's individual files without being recorded in a central register. In the CPT's view, each establishment should keep a record of complaints in a specific register, giving due consideration to the principles of confidentiality and safety. Such a register should include the names of the complainants, the type and the subject of complaints, the outcome of the complaints procedure and of any appeal procedure, follow-up action taken to remedy the situation complained of and any compensation provided to the complainants. These records should serve as a management tool; for instance, it may be the case that many of the complaints relate to recurrent issues.[82]

**The CPT recommends that the Norwegian authorities take steps to ensure that a specific complaints register is established in every prison.**

82 See pages 25-30 of the 27th General Report of the CPT and its substantive section on complaints mechanisms (https://rm.coe.int/16807bc668)

## D. Psychiatric establishments

### 1. Preliminary remarks

114. The delegation carried out a targeted visit to the Psychiatric Clinic of Haukeland University Hospital in Bergen (hereinafter: "Bergen Psychiatric Clinic"), where it mainly focused on the legal procedures and safeguards in the context of involuntary placement, involuntary treatment and the use of means of restraint ("coercive measures").

115. The relevant legal framework is set out in the 1999 Mental Health Care Act (MHCA – as amended in 2017), the 2011 Mental Health Care Regulation (MHCR) and the 1999 Patients' Rights Act. Following amendments enacted in 2017, both the MHCA and the MHCR underwent significant changes (for further details, see paragraphs 128 and 132).

116. The delegation was informed by the Norwegian authorities that a 'Legislation Commission' had been established with the task to review the entire legislation regarding all forms of coercive measures in the field of mental health and prepare a report by 2019 with concrete proposals for further amendments to the existing legal framework. Among other things, the commission was exploring the introduction of additional safeguards in the context of involuntary treatment, such as the involvement of a doctor who is independent of the psychiatric hospital where the patient concerned is treated.

The CPT welcomes this initiative; **it would like to be informed in due course of the conclusions of the report of the Legislation Commission and of the action taken by the Norwegian authorities as a result thereof.**

117. Bergen Psychiatric Clinic is located on two different sites, namely the main campus of Haukeland University Hospital with two open wards[83] and detached premises at Sandviken (on the outskirts of Bergen). The delegation only visited the latter premises, which comprised a total of nine closed wards (two for acute admissions, two for affective disorders and five for psychotic disorders). The number of beds per ward ranged from nine to 15. With an official capacity of 100 beds, the aforementioned wards were operating at full capacity at the time of the visit.

118. At the outset, the CPT wishes to stress that its delegation gained overall a very positive impression of the Clinic. The establishment provided a calm and caring environment for patients, and staff seemed to be very committed. In particular, the delegation received no allegations of physical ill-treatment or verbal abuse of patients by staff, and many patients spoke very positively about the staff.

119. Further, inter-patient violence did not seem to be a problem.

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[83] Department for eating disorders (with one open ward), Department for psychogeriatric disorders (with one open ward) and Department for psychosomatic disorders (outpatient service).

### 2. Living conditions

120. Material conditions in the entire Clinic were of a very high standard in terms of state of repair, hygiene and access to natural light. Patients were accommodated in well-equipped single-occupancy rooms measuring 10 to 12 m² (including a fully-partitioned sanitary annexe). The rooms were furnished with a bed, bedside table, chair, table, and shelves, and they were personalised. Every ward also had several communal rooms with sofas, armchairs, a table and a television set.

That said, it is a matter of concern that, following the closure of one ward (S2) in January 2018, the acute wards (PAM 1 and PAM 2) were frequently operating above their official capacity. As a consequence, it was not uncommon for patients to be compelled to sleep overnight in the corridor. In 2018 (until May), such a situation reportedly occurred 36 times. **The CPT recommends that the Norwegian authorities take appropriate measures to prevent such instances from recurring at Bergen Psychiatric Clinic.**

Further, **the Committee would like to be informed of the reasons for the closure of the above-mentioned ward.**

### 3. Means of restraint

121. According to the relevant legislation,[84] agitated/violent patients may be subjected to the following means of restraint (‘coercive means’): brief holding of the patient (manual control), mechanical restraint, forcible administration of medication with a short-term effect for the purpose of calming down the patient (chemical restraint) and seclusion.

In addition, patients may be segregated ‘for reasons related to the patient’s treatment or in the interest of other patients’ in a segregated area (so-called “shielding” (*skjerming*)). This type of measure was not examined in detail by the delegation.

122. Means of restraint shall only be applied to a patient when this is absolutely necessary to prevent him or her from injuring himself or herself or others, or to avert significant damage to buildings, clothing, furniture or other things. Coercive means shall only be used when milder means have proved to be obviously futile or inadequate. They shall be applied as briefly as possible and be carried out in the most gentle and careful manner. The use of coercion shall be assessed on a continuous basis and be immediately terminated if it does not appear to have the expected effects or has unforeseen negative consequences.

Further, patients who are subjected to coercive means shall be kept under continuous supervision by nursing staff. If the patient is subjected to mechanical restraint, nursing staff shall remain in the same room as the patient unless the patient objects to this. Coercive means may only be used pursuant to an administrative decision by the responsible mental health professional. The decision shall be recorded without delay. It shall be notified to the patient and his/her immediate relatives who may lodge an appeal against the measure before the competent Supervisory Commission (*kontrollkommisjonen*).[85]

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84 See Sections 4-3 and 4-8 of the MHCA and Sections 16 to 18 and 24 to 26 of the MHCR.

85 For further details about the work of the Supervisory Commission, see paragraph 96 of the report on the 2011 visit (CPT/Inf (2011) 33); see also paragraph 130.

123. The management of the Clinic indicated to the delegation that it had been monitoring the use of means of restraint closely over the past four years, and it acknowledged that, for several years, the Clinic had made increasingly frequent recourse to means of restraint compared to the nationwide average in Norway. As indicated in the table below (provided by the management), the use of all types of means of restraint had increased significantly between 2014 and 2018 (first quarter per year). While the use of mechanical and chemical restraint had doubled over the past four years, the recourse to seclusion had quadrupled, and instances of brief holding of patients were seven times higher in 2018 compared to 2014.

| **Instances of means of restraint pursuant to Chapter 4 of the MHCA at Psychiatric Clinic of Haukeland University Hospital ( 2014 – 2018; 1st quarter per year)[86]** | | | | | |
|---|---|---|---|---|---|
| **Year** | **2014** | **2015** | **2016** | **2017** | **2018** |
| § 4-8a Mechanical restraint | 47 | 114 | 83 | 46 | 87 |
| § 4-8b Seclusion | 9 | 21 | 18 | 20 | 34 |
| § 4-8c Chemical restraint | 24 | 37 | 32 | 53 | 53 |
| § 4-8d Brief holding | 20 | 94 | 67 | 118 | 138 |
| TOTAL | 100 | 266 | 200 | 237 | 312 |

The delegation was told by the management that this drastic increase was partially due to reforms within the mental health-care system, which meant that Bergen Psychiatric Clinic was receiving patients with the most severe types of mental disorder. In addition, the increased use of restraint measures was reportedly also prompted by the closure of one ward (see above), leading to a higher concentration of patients on the remaining wards, causing higher levels of restlessness and disturbance amongst the remaining patients.

124. In this connection, the delegation also observed that the number of instances of shielding had almost doubled in recent years (from 125 cases in 2014 to 223 in 2018). **The CPT would like to receive the Norwegian authorities' comments on this matter.**

125. In a Memorandum on quality assurance and reduction of the use of means of restraint, drafted by the Director of the Clinic in June 2018, the management introduced a number of specific measures, notably:

- 'mapping conversations' with patients in connection with their transfer from the admission ward (PAM) to their new ward, where staff and patients seek to jointly identify 'aggression triggers' and desirable measures to be put in place to deal with increasing agitation. These measures are recorded and form an integral part of the patient's treatment plan.
- application of a 'violence checklist' (BVC) on all patients (noting scores and initiating measures vis-à-vis patients with higher scores).

Quantitatively, the Clinic set the following goals for 2018:

- a reduction in the use of coercive measures by 10% compared to 2017;
- the use of mechanical restraint to last less than four hours in 80% of all such cases;
- a reduction in the proportion of patients subjected to coercion by 50% compared to 2014/15;
- all nurses to receive simulation training, focusing on the 'mapping conversation';
- a debriefing conversation with patient and debriefing of personnel to be implemented after each incident of belt fixation in at least 80% of all cases.

86 According to the management, the total number of patients remained stable during the entire reference period.

Whilst acknowledging the above-mentioned initiatives and plans, the CPT notes with concern that there was no comprehensive restraint policy aimed at preventing resort to means of restraint (including trying more lenient measures, modalities and documentation of the surveillance, duties and tasks of the monitoring staff, guidelines on debriefing)[87] and that its delegation gained the impression that data contained in restraint registers were not effectively used as a tool to identify deficiencies and possible ways to improve existing practices.

**The Committee recommends that the Norwegian authorities take the necessary steps to ensure that a comprehensive, carefully developed policy on restraint is developed and implemented at Bergen Psychiatric Clinic and, where appropriate, in other psychiatric establishments in Norway. The involvement and support of both staff and management in elaborating the policy is essential. Such a policy should be aimed at preventing as far as possible the resort to means of restraint and should make clear which means of restraint may be used, under what circumstances they may be applied, the practical means of their application, the supervision required and the action to be taken once the measure is terminated. The policy should also contain sections on other important issues such as: staff training; recording; internal and external reporting mechanisms; debriefing; and complaints procedures. Further, patients should be provided with relevant information on the establishment's restraint policy.**

126. Detailed restraint books[88] were maintained on every ward, and the Clinic also had a central electronic restraint register. From consultation of the aforementioned records/register, as well as from interviews with staff and patients, it transpired that mechanical restraint was usually applied for up to several hours (with a few cases of up to 24 hours and one case of 41 hours) and seclusion for less than one hour. Further, decisions on the use of means of restraint were always ordered by a psychiatrist, and during longer periods of mechanical restraint, the need for maintaining the measure was regularly re-assessed by medical staff.

That said, a number of shortcomings were observed by the delegation. Firstly, the supervision of patients subjected to mechanical restraint (with a nurse being present inside the room) or seclusion (with a nurse being present nearby outside the room) was not always continuous, but had in some cases been interrupted.

Secondly, in a number of cases, the recording of instances of restraint was incomplete (e.g. no mention of the name of the person who decided on the use of restraint or who applied it; no entry of the time when the measure ended; etc.), and in particular the quality of the running records of nurses on the supervision of patients subjected to mechanical restraint or seclusion frequently left a lot to be desired. In particular, information on the patient's condition was noted down only sporadically.

Thirdly, many patients did not benefit from a debriefing with a member of the health-care staff after having been subjected to mechanical restraint and/or seclusion. In the CPT's view, such a debriefing provides an opportunity for the patient concerned to explain his/her emotions prior to the restraint, which may improve the understanding of both the patient and of the staff of his/her behaviour. For the health-care staff, this will also provide an opportunity to explain the rationale behind the measure, and thus reduce the psychological stress of the experience, as well as restore a therapeutic relationship.

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87 See also paragraphs 126 and 127.

88 Entries in restraint books were usually checked by a member of the Supervisory Commission every two weeks.

127. In their letter of 1 October 2018, the Norwegian authorities acknowledged the above-mentioned shortcomings and indicated that "[t]he subject has been on the agenda for some time, both the importance that the clinic performs post-coercion dialogues and that the practice is recorded properly. These issues are addressed by each section in the hospital area as well as included in the clinic's internal training of health personnel."

Whilst acknowledging these measures, **the CPT recommends that the Norwegian authorities take the necessary steps to ensure that, at Bergen Psychiatric Clinic, as well as in all other psychiatric establishments in Norway:**

- **every patient who is subjected to mechanical restraint or seclusion benefits from continuous supervision by a qualified member of the health-care staff. In the case of mechanical restraint, the staff member should be permanently present in the room in order to maintain a therapeutic alliance with the patient and provide him/her with assistance. If patients are held in seclusion, the staff member may be outside the patient's room (or in an adjacent room with a connecting window), provided that the patient can fully see the staff member and the latter can continuously observe and hear the patient. Clearly, video surveillance cannot replace continuous staff presence;**

- **all instances of means of restraint are properly recorded in a dedicated restraint register. The entries in the register should include the time at which the measure began and ended; the circumstances of the case; the reasons for resorting to the measure; the name of the doctor who ordered or approved it; and an account of any injuries sustained by patients or staff;**

- **whenever a patient is subjected to mechanical restraint and/or seclusion, the nurse who supervises the patient maintains a log or journal, in which the condition of the patient is noted down at regular intervals (e.g. every 30 minutes);**

- **all patients subjected to means of restraint are offered a debriefing by a member of the health-care staff once the measure has ended and the feedback of the patient is recorded in his/her medical file.**

### 4. Safeguards in the context of involuntary placement

128. According to the MHCA, persons with a mental disorder may be subjected to two types of involuntary hospitalisation, namely placement for 'compulsory observation' for up to ten days[89] (with a possible extension to a maximum of 20 days[90]) and placement for 'compulsory mental health care' for a (renewable) period of one year.[91] In both cases, a decision has to be taken by the 'responsible mental health professional', on the basis of an examination by two physicians, one of whom must be independent of the hospital.[92]

Following the 2017 revision of the MHCA, the legal grounds for either of the two above-mentioned placement procedures have been modified. In particular, the lack of the patient's ability to consent[93] was introduced as additional requirement, which does not apply if there is an imminent and serious risk to his/her own life to the health or life of others.[94] Further, according to the new Section 3-3a of the MHCA, the responsible mental health professional must examine the patient and take a formal decision within 24 hours. Moreover, a new provision has been introduced requiring the admitting doctor to notify the family of the involuntary placement, unless this is opposed by the patient.[95]

It is recalled that, according to the MHCA,[96] the above-mentioned mental health professional may be a psychiatrist or a clinical psychologist with relevant practical experience and specialised training. Further, the patient concerned or his/her next-of-kin may appeal against the placement decision (or its continuation) to the Supervisory Commission, which has the power to terminate the placement if the conditions for placement are no longer fulfilled.[97] The decisions of the Supervisory Commission can be challenged before the court.[98] After three months, the Supervisory Commission must review whether the need for involuntary placement still exists. Further, a renewal of the placement order after one year is subject to the consent of the Supervisory Commission and can only be issued for one year at a time.[99]

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89 Section 3-2 of the MHCA; see also Sections 7 to 10 of the MHCR.

90 With the approval of the Head of the Supervisory Commission.

91 Sections 3-3 and 3-8 of the MHCA.

92 In practice, patients were often hospitalised on the basis of a referral by a doctor of a district psychiatric outpatient service (DPS) or the municipal emergency service (*Legevakten*) or by a general practitioner.

93 See, in this regard, Section 4-3 of the Patients' Rights Act.

94 According to Section 3-3, paragraph 3, of the MHCA, a person may be involuntarily placed in a psychiatric hospital, if s/he is suffering from a serious mental disorder and involuntary mental health care is necessary to prevent the person from either having the prospect of his/her health being restored or significantly improved considerably reduced, or it is highly probable that the condition will significantly deteriorate in the very near future, <u>or</u> constituting an obvious and serious risk to his/her own life and health or to those of others, due to his/her mental disorder. According to Section 3-2, paragraph 4, a person may be admitted to a psychiatric hospital for compulsory observation, if it is highly probable that s/he meets the aforementioned requirements.

95 Section 10 of the MHCR.

96 Section 1-4 of the MHCA.

97 Sections 3-3a, 3-7 and 6-4 of the MHCA.

98 Section 7-1 of the MHCA.

99 Section 3-8 of the MHCA.

129. From the examination of numerous patients' files and interviews with patients and staff, it transpired that the above-mentioned provisions were meticulously adhered to in practice at Bergen Clinic. In particular, the cases reviewed had corresponding decisions and, in those instances where patients had appealed the involuntary placement or treatment, procedural safeguards appeared to be respected. In other words, patients had access to a lawyer and were heard in person before the Supervisory Commission. The significant number of appeals clearly indicates that the patients were well-informed about their right to appeal. Furthermore, such appeals were in all cases accompanied by thorough assessment and reasoning by the hospital and the ensuing decision of the Supervisory Commission.

130. The CPT welcomes the fact that, in line with specific recommendations made by the Committee in the report on the 2011 visit, the 'responsible mental health professional' who took decisions at Bergen Clinic on involuntary placement was always a psychiatrist and that at least one member of the competent Supervisory Commission was usually a psychiatrist.

That said, it is regrettable, that, according to the information provided by the Norwegian authorities at the outset of the visit, the above-mentioned recommendations had not yet been implemented throughout the country.

Therefore, **the CPT must recommend once again that the Norwegian authorities take the necessary steps – including at the legislative level – to ensure that, in all psychiatric establishments, decisions on involuntary hospitalisation under Sections 3-2 and 3-3 of the MHCA are always based on the opinion of at least one qualified psychiatrist.**

**Further, it would be desirable for all Supervisory Commissions throughout Norway to have at least one member who is a qualified psychiatrist.**

131. All decisions on involuntary placement examined by the delegation at Bergen Clinic contained as standard text (a) a statement that the patient had received a copy of the decision, (b) a statement that the Supervisory Commission had received a copy of the decision and underlying documents, and (c) information about the right of the patient and his/her family to appeal the decision.

That said, some patients interviewed by the delegation claimed that they had only been informed orally of the placement decision or that they had not received any information about it at all. Regrettably, the delegation was not in a position to verify these allegations since no records were kept of the actual notification of the decision to the patient concerned.

**The CPT trusts that the Norwegian authorities take steps to ensure that, at Bergen Clinic and, where appropriate, at other psychiatric hospitals, all patients are given a copy of the decision on involuntary placement (or its prolongation), in addition to being informed of the measure orally. The patients concerned should also be requested to sign a statement (indicating the date) that they have received a copy of the decision.**

### 5. Safeguards in the context of involuntary treatment

132. Following amendments enacted in 2017 to the MHCA (revised Section 4-4 and new Section 4-4a) and the MHCR (revised Section 21), stricter criteria and procedural requirements for resort to involuntary treatment were introduced. In particular, patients who are treated involuntarily must lack the ability to take decisions[100] (unless there is an immediate and serious danger to their own lives or to the live or health of others). Further, alternative voluntary treatment measures must have been unsuccessful, the opinion of the patient about current voluntary treatment must be sought, and other qualified health-care professionals must be consulted. In addition, there must be a great likelihood that the involuntary treatment will lead to the cure or significant improvement of the patient's condition, or avoid a significant deterioration of the illness. Moreover, before an involuntary treatment order is issued, the patient concerned must be observed for at least five days (unless the postponement of the treatment would entail significant damage to the patient's health or the patient is well-known to the institution from previous treatment activities), and a list of eleven criteria set out in the law must be assessed. As a rule, an involuntary treatment order may only be implemented upon expiry of the 48-hour deadline for a possible appeal against the treatment order (to the County Governor) by the patient him/herself or a next-of-kin. An involuntary treatment order may be issued for a maximum of three months.

It is also noteworthy that, since 2017, patients are entitled to benefit from the assistance of a lawyer (including free legal aid) in the context of an appeal procedure against an involuntary treatment order, including during any hearing before the county medical officer.[101]

133. From the examination of numerous patients' files and interviews with patients and staff, it transpired that procedures for involuntary treatment were generally carried out in accordance with the above-mentioned legal requirements.

That said, it is a matter of concern that the patients concerned were apparently often not informed that their opinion was being recorded or that they were not given the opportunity to verify the contents of their statement, so that they did not know what had been written down by the doctor as their opinion. **Steps should be taken to remedy this shortcoming.**

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100 See also Section 4-3 of the Patients' Rights Act.
101 Revised Section 1-7 of the MHCA.

## E. Social welfare establishments

134. For the first time in Norway, the delegation visited a nursing home, namely Os Nursing Home (*Luranetunet bu og behandlingssenter),* which is administered by the municipality of Os (in the vicinity of Bergen).

With an official capacity of 155 places, the nursing home was operating at full capacity at the time of the visit. 40 residents were being accommodated in two care units (with 20 places each), Unit 1 for rehabilitation (for residents staying for briefer periods) and Unit 2 for treatment (for residents staying for longer periods). In addition, 115 residents were staying in care apartments (*omsorgsboliger*), which were not visited by the delegation.

135. The legal framework governing the admission of persons to and their stay in nursing homes is set out in the relevant provisions of the 2011 Municipal Health and Care Services Act (MHCSA), the 1999 Patient and User Rights Act (PURA) and the 1988 Regulations on Nursing Homes and Living Arrangements for 24-hour Care.

According to Chapter 4A of the PURA, persons may be admitted to the nursing home on an involuntary basis by decision of a general practitioner or other health-care professional. Placement decisions are subject to appeal to the County Governor and a court.

136. The nursing home had no closed units and, at the time of the visit, none of the residents had been placed there on an involuntary basis.[102] In practice, the placement usually took place according to an application procedure where the applicant would submit an application to the municipality, who would decide on whether or not a place was to be offered at the nursing home. Persons offered such placement would subsequently have to sign an agreement certifying that they accepted the offer. The delegation was informed that, during the previous year, not a single person had been subjected to an involuntary placement procedure. The delegation reviewed a random sample of electronic patient files, and it transpired from the review that the residents were all placed in the institution voluntarily, following the above placement procedure. Further, from interviews with numerous residents it emerged that no resident was *de facto* deprived of his/her liberty.

Therefore, the delegation decided not to carry out a comprehensive visit but to focus only on particular issues, notably treatment by staff, living conditions, use of means of restraint and inspection procedures.

137. The delegation received no allegations of ill-treatment or disrespectful behaviour of staff. On the contrary, all residents interviewed spoke positively about the manner in which they were treated by staff, and they expressed great satisfaction with the care provided to them.

[102] According to the management, on average one person was admitted to the nursing home on an involuntary basis per year.

138. Living conditions in the nursing home were excellent. Residents were accommodated in single rooms of 28 m² of a very high standard. All rooms were very well-equipped (with a (hospital) bed, bed table, arm chair, television, and a loft crane) and pleasantly decorated. Every room had an adjacent bathroom with raise-lower function for the wash basin and a toilet for disabled persons. The rooms also had their own terrace (with chairs). Couples residing in the home were offered two rooms, one which could be used as bed room and the other as living room. Moreover, residents had access to two large and pleasantly furbished living rooms (one with television) and a shared kitchen as well as to a large park-like yard covered with a glass roof.

139. According to Chapter 9 of the MHCSA, various types of means of restraint may be applied to residents in nursing homes, in order to prevent them from injuring themselves or harming others. More specifically, means of restraint may be used, as a last resort, in order to avoid damage in emergency situations or to fulfil the patient's basic needs for food, drink, dress, rest, sleep, hygiene and personal safety. Any use of means of restraint shall be proportionate and reasoned. All instances of restraint must be reported to the competent County Governor (*Fylkesmannen*) who shall examine the legality of the measure.[103] The resident (and family members) may appeal decisions of the County Governor to the District Court (*Tingsretten).*

From the information gathered, it transpired that the level of use of means of restraint was very low and usually only consisted of holding an agitated resident for a short while, sometimes pending his/her transfer to a hospital. The delegation was informed by the management that mechanical restraint and seclusion were never used and that, on very rare occasions, chemical restraint was applied by a doctor.

That said, it is regrettable that the nursing home did not have a dedicated register in which every resort to means of restraint was recorded (in addition to the resident's individual medical file).

**The CPT recommends that the Norwegian authorities take the necessary steps to ensure that, in all nursing homes in Norway where persons may be placed on an involuntary basis, every instance of restraint of a resident (manual control, mechanical or chemical restraint and shielding) is recorded in a specific register established for this purpose (as well as in the resident's file). The entry should include the times at which the measure began and ended, the circumstances of the case, the reasons for resorting to the measure, the name of the doctor who ordered or approved it, and an account of any injuries sustained by residents or staff.** This will greatly facilitate both the management of such incidents and an oversight as to the frequency of their occurrence.

Further, **the Committee would like to receive more detailed information on the different types of restraint and other measures to restrict the freedom of movement of residents in nursing homes in Norway, as well as on the procedures for their application and the supervision of residents subjected to such measures.**

[103] The delegation was informed by representatives of the Hordaland County Governor's Office that such reviews were carried out on the basis of the written notification by the nursing home. The residents concerned were usually not seen by an official of the County Governor's Office.

140. The County Governor is responsible for the supervision of all nursing homes under his/her jurisdiction and to carry out inspections.

That said, the delegation was told by representatives of the Hordaland County Governor's Office that nursing homes were not inspected regularly but only sporadically on the basis of a 'risk assessment'.[104] Moreover, the delegation was informed by the management of Os Nursing Home that the latter had received one inspection visit several years earlier and that during that visit inspectors had not spoken with any of the residents present in the nursing home.

**The CPT recommends that the Norwegian authorities take the necessary steps to ensure that all nursing homes in Norway where persons may be placed on an involuntary basis are regularly visited – including on an unannounced basis – by an independent body empowered to formulate recommendations to the management on ways to improve the care and conditions afforded to residents. Representatives of this body should also talk in private with residents.**

Further, **the Committee would like to be informed of the total number of nursing homes in Hordaland County and receive an account of all the inspections carried out by the Hordaland County Governor's Office since 1 January 2016 to nursing homes (including with an indication as to whether visits were (un)announced).**

141. Finally, in order to obtain a more comprehensive picture regarding nursing homes in Norway, **the CPT wishes to receive the following information (per County):**

- **the number of persons who are currently held in nursing homes on the basis of a decision on involuntary placement;**

- **the number of persons who are currently accommodated in a nursing home with the consent of their guardian.[105]**

[104] As indicated in paragraph 9, the NPM has thus far not carried out monitoring visits to nursing homes.

[105] In this connection, the CPT wishes to recall that the European Court of Human Rights has concluded in several cases concerning the placement in a closed establishment of a legally incapacitated person under guardianship from whose conduct it was obvious that he or she did not consent to his or her placement that he/she must be regarded as being "deprived of his or her liberty" within the meaning of Article 5, paragraph 1, of the European Convention on Human Rights, despite the approval of the guardian (see, for example, the Grand Chamber judgment in the case of *Stanev v. Bulgaria*, no. 36760/06, § 132, 17 January 2012, and *Červenka v. the Czech Republic*, no. 62507/12, §§ 103-104, 13 October 2016).

# **APPENDIX I:**

## List of the establishments visited by the CPT's delegation

*Police establishments*

- Bergen Police Headquarters
- Bodø Police Headquarters
- Oslo Police Headquarters
- Trandum Police Immigration Detention Centre

*Prisons*

- Bergen Prison
- Bodø Prison
- Ila Prison
- Oslo Prison
- Ullersmo Prison

*Psychiatric establishments*

- Psychiatric Clinic of Haukeland University Hospital in Bergen

*Social care establishments*

- Nursing Home (*Luranetunet bu og behandlingssenter*) in Os (near Bergen)

## APPENDIX II:

**List of the national authorities, other bodies and non-governmental organisations with which the CPT's delegation held consultations**

## A. National authorities

**Ministry of Justice and Public Security**

| | |
|---|---|
| Knut Morten Johansen | State Secretary |
| Anne K. Herse | Deputy Secretary General |
| Unni Gunnes | Director General |
| Toril Kristiansen Høyland | Deputy Director General |
| Jostein Haug Solberg | Deputy Director General |
| Jan Austad | Policy Director |
| Linda Katharina Drazdiak | Policy Director, CPT’s liaison officer |
| Ivar Husby | Assistant Chief of Police and Head of the Section of Investigation, Norwegian Police University College |
| Anne-Li N. Fergusson | Senior Advisor |
| Siri Eide Krosby | Senior Advisor |
| Kristian Kaspersen | Senior Advisor |
| Lars Jørgen Røed | Advisor |

**Ministry of Health and Care Services**

| | |
|---|---|
| Anne Grethe Erlandsen | State Secretary |
| Karine Skaret | Political Advisor |
| Cathrine Dammen | Deputy Director General |
| Øystein Gjeset Ellingsen | Deputy Director General |
| Geir Helgeland | Deputy Director General |
| Hans-Jacob Sandsberg | Deputy Director General |

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|---|---|
| Sjur Øverbø Andersen | Senior Advisor |
| Helene Hoddevik Mørk | Senior Advisor |
| Sissel Nordheim Skjæveland | Senior Advisor |
| Christian Sohlberg | Senior Advisor |
| Azra Hodzic | Advisor |
| Aira Din | Human Rights Co-ordinator |

## B. Other bodies

**Office of the Parliamentary Ombudsman**

| | |
|---|---|
| Aage Thor Falkanger | Ombudsman |
| Helga F. Ervik | Head of the National Preventive Mechanism (NPM) |
| Aina Holmén | Senior Advisor |
| Johannes F. Nilsen | Senior Advisor |
| Christian Ranheim | Senior Advisor |
| Mette J. Wannerstedt | Senior Advisor |
| Anette Hansen | Head of Communications |

**Equality and Anti-discrimination Ombudsman**

Guri Hestflått Gabrielsen

Anne Jorunn Ballangrud

Miriam Kveen

**Norwegian National Human Rights Institution**

| | |
|---|---|
| Petter Wille | Director |

## C. Non-governmental organisations

Amnesty International Norway

Jussbuss

Norwegian Association for Penal Reform (KROM)

Norwegian Bar Association

Norwegian Helsinki Committee

Norwegian Organisation for Asylum-Seekers (NOAS)