



CPT/Inf (2019) 22

## **Response**

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

**from 28 May to 5 June 2018**

The Norwegian Government has requested the publication of this response. The CPT's report on the May/June 2018 visit to Norway is set out in document CPT/Inf (2019) 1.

Strasbourg, 28 June 2019

**Response of the Norwegian authorities to the report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment's (CPT) periodic visit to Norway from 28<sup>th</sup> May to 5<sup>th</sup> June 2018.**

- **Item 7 - 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.**

Reply:

Norway's interpretation of Article 8, paragraph 2, sub-paragraph (d) of the Convention is that it entails no obligation to grant the Committee unlimited access to documents and information, regardless of Norwegian rules of confidentiality. Both Article 8, paragraph 2, sub-paragraph (d) of the Convention and paragraph 64 of the Explanatory Report to the Convention acknowledge that member States have different rules concerning disclosure of information, and it is stated that the Committee shall take such rules into consideration when seeking information. Rules of medical secrecy is explicitly mentioned in paragraph 64 of the Explanatory Report. However, Norway's rules of confidentiality did not prevent the Committee from receiving any information it requested during its visit to Norway. It is our view that, under the current regulations, we will be able to arrange for the Committee to receive any information it needs in order to perform its important task during future visits.

- **Item 13 - 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. (Abolishment of restraint beds and straightjackets in police detention facilities).**

Reply:

We attach the new instructions regarding arrests issued by the National Police Directorate, which came into force on 9 November 2018. The guide to the instructions is also attached. Unfortunately, neither of the attachments is available in English.

- **Item 17 - The CPT wishes to recall that the right of notification should in principle be granted from the outset of deprivation of liberty.**

Reply:

The new arrest instructions contain rules on notification in chapter 8. The arrest records must detail who was informed or notified, or who the police attempted to inform or notify, or why this was not done. The arresting officers' communication with the prosecuting authority, the National Police Immigration Service or the police district linked to the notification and information must also be entered in the arrest records.

When the detainee requests so under *the Police Act*, the duty officer must notify relatives or others without undue delay; cf. *Police Instructions*, section 9-2, second paragraph.

Unless otherwise determined by the prosecuting authority, a person arrested under *the Criminal Procedure Act* is to be given the opportunity to notify relatives or others of the arrest; cf. *Criminal Procedure Act*, section 182.

The same applies for persons arrested under *the Immigration Act*, unless determined otherwise under the *Immigration Act*, section 106 (a), sixth paragraph, by the authority responsible for the foreign national's case.

The arresting officers must provide assistance with informing others when necessary. The duty officer must ensure that the circumstances deemed relevant for the assessment to be made by the prosecuting authority, the National Police Immigration Service or the police district is communicated to them and that this communication is entered in the arrest record.

If the detainee is a minor, the parents or guardians must be notified. The same applies for minors who are arrested, unless otherwise decided by the prosecuting authority. If no contact is made, the Child Welfare Service must be notified.

In principle, details of whether a person has been arrested constitute confidential information. If relatives or others make enquiries to find out whether the detainee has been arrested, the detainee must immediately be informed accordingly and be allowed to make his/her own decision as to whether such information may be disclosed. The arresting officers' communication with the detainee regarding this matter must be entered in the arrest record.

- **Item 18 - 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.**

Reply:

The notification of family members of detained foreign nationals who reside outside Norway, is as a general rule expected to be conducted by the relevant consular station. The police are generally not required to notify relatives who are located in other countries, so such requests seem to be handled in different ways. The National Police Directorate will be asked to clarify how the various police districts respond to such cases, and assess the need for changes in relevant rules.

- **Item 19 - The CPT trusts that the Norwegian authorities will take appropriate steps to prevent such cases from occurring in the future.**

Reply:

If the detainee is a foreign national, he/she must be informed of his/her rights to consular information and assistance. If the detainee wants the consular station to be informed, the police must immediately arrange for this. There have been occasions when it was impossible to contact the consular station in question, but such cases are rare.

- **Item 20 - 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.**

Reply:

Pursuant to *the Criminal Procedure Act*, section 98, first paragraph, a defence counsel shall, as far as possible, be appointed – at public expense – for a person who is charged and arrested 'as soon as it is clear that he will not be released within 24 hours of the arrest'. If the person charged was under 18 years of age at the time of the offence, the time limit is within 12 hours of the arrest.

Pursuant to *the Criminal Procedure Act*, section 98, first paragraph, the right to a defence counsel comes into effect at the latest when 24 hours have passed and the person charged has not been released. Nonetheless, a defence counsel shall, as far as possible, be appointed 'as soon as' it is clear that the arrest will last more than 24 hours. Therefore, it is assumed that the police will consider at an early stage whether the person charged will be detained for more than 24 hours. In cases where it is clear at the outset that it will take more than 24 hours before the person charged is released or brought before a court, a defence counsel must be appointed at this early stage.

The right to be appointed a defence counsel pursuant to Section 98, first paragraph of *the Criminal Procedure Act* applies regardless of the severity of and the sentencing framework for the offence(s) of which the accused is suspected of having committed. It follows from *the Criminal Procedure Act*, section 98, second paragraph that the person charged shall as far as possible have a defence counsel at the court sitting held to decide the question of remand in custody, and that he/she shall have a defence counsel as long as he/she is held in custody.

*The Criminal Procedure Act*, section 100, second paragraph provides a general legal basis for appointing a defence counsel at public expense when 'special grounds exist for doing so'. The provision applies regardless of the stage in the criminal proceedings, and thereby allows for a defence counsel to be appointed also during the investigation. An increasing focus has recently been placed on the issue of appointing a defence counsel during investigations, particularly with regard to legal assistance in connection with police questioning. Two Supreme Court rulings from 2015 established that the phrase 'special grounds' must be interpreted based on the developing view of the importance of assistance from a public defence counsel at the early stages of the process – as well as on the developing view of this issue internationally.

The Criminal Procedure Act is currently undergoing revision. In 2016, an expert committee – the Committee on Criminal Procedure – presented its proposal for a new Criminal Procedure Act; see NOU 2016: 24 *Ny straffeprosesslov* [New Criminal Procedure Act]. The Committee on Criminal Procedure proposes, inter alia, amendments be made to the rules on appointing a public defence counsel in connection with arrests and police questioning. Firstly, the committee proposes lowering the threshold for appointing a public defence counsel in connection with an arrest. Under this proposal, the public defence counsel must be appointed as soon as 'there is reason to believe' that a suspect will be deprived of his liberty beyond 24 hours. As mentioned above, the provision for appointing a defence counsel currently requires that it be 'clear' that the person charged will not be released within 24 hours. Secondly, the committee proposes that the right to a defence counsel at public expense to be further extended. According to the committee's proposal, the suspect should have an unconditional right to a defence counsel during investigative interviewing if there is a genuine risk of him/her being given a sentence of immediate imprisonment, community sentence or youth sentence.

The Ministry of Justice and Public Security will, as part of its work on the new Criminal Procedure Act, review the rules on appointing a public defence counsel in connection with arrests and investigative interviewing.

- **Item 21 - 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.**

Reply:

It follows from *the Criminal Procedure Act*, section 94, first paragraph, second sentence, and from *the Prosecution Instructions*, section 8-1, second paragraph, first sentence, that the suspect or person charged must be informed of his/her right to receive assistance from a defence counsel of his/her choice at every stage of the case, including during police questioning. Information on the right to receive assistance from a defence counsel must be provided before questioning takes place. Moreover, the person charged ought to be asked about who he/she wishes to be appointed as his/her defence counsel when he/she is entitled to

such; cf. *Prosecution Instructions*, section 8-1, second paragraph, second sentence. The duty to inform of the right to a defence counsel applies regardless of whether the person charged or suspected is a Norwegian or a foreign national. This information must in all cases be communicated in such a way as to enable the person in question to effectively protect his/her own interests. An interpreter must be used in situations where the person to be questioned is not proficient in the Norwegian language.

- **Item 22 - 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.**

Reply:

Chapter 9 of *the arrest instructions* prescribes that the detainee must be allowed to contact a physician for medical attention during the arrest period. The detainee's request to contact medical personnel must be complied with without undue delay. If the need for medical attention is acute, medical attention must be provided immediately. An interpreter must be used when necessary.

Concerning the information sheet used at Bodø Police Headquarters, we point to our comments under item 25, where we mention that The National Police Directorate will be asked to consider an overhaul of all existing information sheets.

- **Item 23 - 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.**

Reply:

When the detainee is presented to a physician/emergency unit, the detainee and the physician must be informed that the detainee has been brought to the physician for necessary medical attention. The arrest instructions prescribe that the police officers who accompany the detainee must contribute to maintaining the neutrality of the medical personnel. The detainee must be allowed to speak directly and uncensored to medical personal without police officers being able to hear what is said. Nor can police officers be present in or be able to look into the patient treatment room unless other medical personnel request this or if there is a risk of absconding. If the treating physician decides that the detainee should be hospitalised, this must be carried out with police guards if this is necessary to ensure that the arrest is carried out.

The time of the detainee's request for medical attention and the time when the police officers facilitate contact with medical personnel must be entered in the arrest record. The same applies for any measures instructed by medical personnel for which the police are responsible for carrying out or following up. If a request for medical attention or medication is not accommodated, the reason for this must be entered in the arrest record.

- **Item 25 - 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 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.

Reply:

*The arrest instructions* prescribe that it must be ensured that all relevant information regarding the detainee's period of arrest be recorded in a clear and explicit manner. This means that all relevant times, all assessments and decisions, including measures, reasons for and outcomes of measures, and all communication pertaining to the detainee must be recorded. The names of the persons who made the individual assessments and decisions must also be stated. The information recorded must be sufficiently complete and detailed to give an accurate description of a detainee or situation. Furthermore, the information must be correct and updated based on the situation as it stands at the time of it being recorded. The record must be kept in such a way as to render it possible to determine whether the detainee's rights were communicated and safeguarded.

In the process of drafting the instructions, The National Police Directorate weighed whether to require the police to ask the detainee to sign a form. However, the directorate considers the custody records, which are digitalised, to be a better source for verification. The explicit requirement to enter into the records remarks on how the detainee was informed is to ensure verifiability.

The duty officer must ensure that the detainee be informed of the reason for detention as soon as possible and, where appropriate, how the case will be pursued by the police or the prosecuting authority. As a general rule, such a briefing must take place at the time of detention. If the detainee does not understand Norwegian, the detainee must be briefed in a language he/she understands. An interpreter must be used if there are reasons to believe that the

detainee would otherwise not understand or has not understood the content of the briefing. The detainee must also be informed of his/her rights and obligations, and must be provided with this information in written form. These measures must be entered in the arrest record. The arrest record must show how the detainee was informed, and in which language the information was given.

The detainee must otherwise be continually informed about conditions that have significance for his/her detention.

We have taken note of the recommendation that Norwegian authorities should carry out a complete overhaul of the existing information sheets for people deprived of their liberty. The National Police Directorate will be asked to consider this.

- **Item 32 - The Committee would like to receive updated information on the ongoing progress of revising the Criminal Procedure Act.**

Reply:

See the response to item 20.

**Item 34 - 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 m<sup>2</sup> are no longer used for overnight stays.**

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.**



Reply:

We fully acknowledge the need for a new police detention facility in Bergen, and take note of the recommendation from the Committee to give priority to the construction of such a facility. Requirements for the design of new police establishments take into account the relevant demands for conditions of detention.

Further, section 10.4 of *the arrest instructions* prescribe that detainees who stay overnight in police detention cells must be provided with necessary toiletries and, as a general rule, daily access to a shower. The detainee must be provided with his/her own clothes and access to a shower before meeting his/her lawyer and before being brought before a court.

- **Item 35 - Steps should be taken to remedy this shortcoming.** (The quality of custody record keeping at Bodø Police Headquarters).

Reply:

The provisions in the new *arrest instructions* clarify requirements for record-keeping that will require more measures to be entered in the record than previously in all police districts. This is an explicit intention of the instructions.

- **Item 36 - 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.**

Reply:

The use of force and forcible means in the police arrest facilities is prescribed in chapter 15 of *the arrest instructions*, and must be applied in accordance with the basic conditions stated in section 6 of *the Police Act* and sections 3-1 and 3-2 of *the police instructions*. These state that the use of force must be necessary, appropriate and proportionate. These requirements must be assessed continually as long as the police uses force or forcible means. The National Police Directorate's *circular letter 2017/010* concerning certain types of forcible means used by the police also applies to the use of forcible means in police detention facilities, with the adjustments and specifications that apply here.

The following forms of forcible means may be used during police arrests:

- Handcuffs
- Strips
- Body cuffs
- Spit guards
- OC (*Oleoresin Capsicum*) pepper spray
- Expandable batons and long batons

In police arrest facilities the police may use such forms of forcible means in order to:

- Avert personal attack on or injury
- Prevent serious threats from being carried out
- Prevent serious riots or disturbances
- Prevent absconding from arrest
- Avert illegal entry to arrest facilities
- Gain access to blocked or barricaded rooms.

The use of shields is permitted for the same purposes.

If handcuffs/strips or body cuffs are used, the detainee must be placed under the constant supervision of a police officer in the same room as or in immediate proximity of the detainee.

OC pepper spray may only be used for self-defence. A detainee who is exposed to OC pepper spray must immediately be administered necessary treatment and supervision. When OC pepper spray is used in a cell, the detainee must immediately be removed from the cell.

The use of forcible means must be entered in the arrest record, including who made the decision to use it, who administered it, any dialogue that was conducted with medical personnel while it was administered, the duration of the intervention, and the effect of its use.

The use of forcible means inside a cell is only permitted if the circumstances render it absolutely necessary. The duty officer assesses the need for and decides the use of forcible means inside a cell, unless it is used only briefly. If the duty officer decides that further forcible means should be administered in a cell, medical personnel must be contacted immediately to supervise the detainee.

Handcuffs/strips and body cuffs may only be used inside a cell to prevent self-harm and only when a police officer or medical personnel supervise the detainee by remaining in the cell. In such cases the arresting officers may place a spit guard on the detainee when supervision is necessary and to avoid being spat on by the detainee.

If deemed absolutely necessary in order to avoid self-harm, a detainee on which handcuffs/strips or a body cuff is used may also be compelled to wear a helmet that does not cover the eyes.

- **Item 37 - 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).**

Reply:

A strip search involves partially or fully undressing the person to be searched and performing an external examination of the body, which may include examining objects that are found on the body. It is not permitted to examine body cavities during a strip search.

Section 6.8.1.3 of *the arrest instruction* prescribes that a strip search performed during an arrest must be carried out as considerately as possible and in such a way that the detainee is at no point completely naked.

A strip search must be performed in an area that is screened off and has no camera surveillance or, if this is not possible for practical reasons, with the camera turned off or set to automatic redact mode. A strip search must, as far as possible, be performed by a police officer of the same gender as the detainee and with a police officer present outside the screened-off area.

The arrest record must detail who made the decision to perform the strip search, the reason for doing so, who performed the strip search and what findings, if any, were made.

- **Item 39 - The CPT recommends that the Norwegian authorities introduce an absolute time limit for such cases.** (Detention of foreign nationals who are subjected to a judicial expulsion order as a penalty or special sanction).

Reply:

An appeal case was recently brought before the European Court of Human Rights in which the length of detention was two years and seven months (Jamal against Norway, March 2018). The European Court of Human Rights found the application to be 'manifestly ill-founded', and the case was not accepted for further examination by the court. Thus, there are no grounds for Norway to introduce a time limit of, for example, 18 months, in cases where a foreign national is expelled due to being sentenced to a penalty or special sanction, nor was it proposed that any other time limit be prescribed. The fact that the question of detention must regularly be submitted to the courts for renewal provides sufficient legal safeguards. We would also point out that a review of the legality of such cases is always carried out and that the number of cases is extremely small. Since 2013 this issue has applied to only five individuals, and the reason for the extended detention period was that they did not cooperate with the Norwegian authorities in clarifying their identity or in verification and return.

- **Item 41 - 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.**

Reply:

Efforts are continually being made to establish a permanent facility for families. Meantime, the police are negotiating to extend the contract with Haraldvangen.

The number of unaccompanied minors that are returned is extremely low. Detention of this group therefore only occurs in exceptional cases.

*The Immigration Act* was amended with effect from 15 May 2018, and now clearly prescribes that deprivation of liberty of minors for the purpose of ID verification in the arrival phase may only take place in extraordinary situations where the measure is absolutely necessary as a last resort. Regarding detention prior to deportation, this may only occur if it is absolutely decisive as a measure of last resort. Moreover, it is stipulated that a minor who is apprehended shall normally not be detained for more than 24 hours.

- **Item 43 - Steps should be taken to remedy this shortcoming.** (Outdoor shelter against inclement weather).

Reply:

We have noted the Committee's recommendation, and efforts are being made to erect a shelter or similar structure. However, such a structure could create security challenges because it increases the risk of absconding.

- **Item 44 - 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.**

Reply:

We note the Committee's recommendation that the time spent in the exercise yard should be prolonged. However, constraints on resources make it difficult to reduce the lock-up period and extend the time spent in the exercise yard.

Detainees in the ordinary units have access to the activity centre three times a week, and efforts are being made to expand the range of activities offered in both the activity centre and the exercise yard.

- **Item 46 - 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.**

Reply:

All detainees are offered a physical examination by a nurse within the first three days of their stay, and we emphasise that the detention unit for foreign nationals has three specialist mental health nurses.

- **Item 47 - The specific recommendations made in paragraphs 93 and 94 apply mutatis mutandis to Trandum Detention Centre.** (Procedures for recording and reporting of injuries),

Reply:

Guidelines already exist for registering and reporting injuries.

- **Item 48 - 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.**

Reply:

Medicines are usually dispensed by physicians or other medical personnel unless security reasons dictate otherwise. All non-health care employees who handle medicines at Trandum have completed the relevant courses.

We will also ensure that all medical examinations as a general rule are conducted out of hearing and sight of custodial staff unless circumstances dictate otherwise.

- **Item 49 - 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.**

Reply:

Three out of four nurses at the detention centre have specialist training in mental health care. Should the healthcare personnel at Trandum find it necessary, the detainees are referred to the special healthcare service.

At the request of the management of the detention centre in 2018, the Norwegian Board of Health Supervision, via the county governor, reviewed all relevant documentation pertaining to the provision of health care at Trandum. They found no reason to conduct further investigations or to suggest improvements.

- **Item 50 - 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.**

Reply:

The reasons why the detention centre does not allow foreign nationals to keep or have regularly access to their mobile phones or internet are mainly related to security considerations. Furthermore, access to mobile phones or internet without close supervision from employees can severely damage ongoing identity investigations. Foreign nationals who are being held at the detention centre for prolonged periods are often those who have unresolved identities. NPIS/The management at the detention centre have therefore decided to restrict access to mobile phones and internet communication.

- **Item 54 - 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.**

Reply:

All use of coercive measures at the detention centre are stored digitally, and the record includes the abovementioned information. The statistics are submitted monthly to the Supervisory Council for Trandum Detention Centre.

- **Item 55 - 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.**

Reply:

All security cells used to be furnished with tables bolted to the floor, but these were destroyed in riots. Efforts are being made to find tables made from a more robust material.

Regarding the right to privacy, this is something the staff have great respect for and are highly conscious of. However, security considerations dictate the need to have visual control of the toilet, including the need to prevent self-harming.

However, in order to see the toilet, staff members would have to perform a deliberate act, such as stand on a step.

Food and drinks are only served through the door hatch in exceptional cases.

- **Item 56 - The CPT would like to be informed of the arrangements made to provide foreign nationals subjected to regime level 2 with appropriate human contact.**

Reply:

Ensuring appropriate human contact is one of the primary tasks of the staff at the detention centre. Hence, staff members are present day and night to ensure human contact and the safety of the detainees.

- **Item 57 - 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.**

Reply:

No separate decisions are made regarding placements in this unit, since this is a unit for individuals who, due to physical or mental problems, cannot be in units with large numbers of detainees. The detainees in this unit have the same rights as those staying in the ordinary units, but no organised activities are provided here, since the unit is primarily designed for short-term stays. Should a stay be prolonged, i.e. activities in the activity centre would be offered.

- **Item 58 - 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).**

Reply:

The *Regulations of 23 December 2009 No 1890 relating to the police immigration detention centre* are currently being reviewed by the Ministry of Justice and Public Security. *The General Instructions for the police detention centre* (given by the National Immigration Police Service) will subsequently be revised. The recommendation will then be taken into consideration.

- **Item 59 - The CPT recommends that an immediate end be put to such practices.** (Handcuffed during medical consultations).

Reply:

We note the Committee's concern and the recommendation will be taken into consideration. Handcuffs should only be used as a last resort measure during medical consultations. However, the need to use handcuffs does arise in exceptional cases, particularly if there is a risk of someone injuring himself/herself or others.

- **Item 60 - The CPT recommends that a partition be installed in order to protect the dignity and privacy of the person being strip searched.**

Reply:

The protection of the dignity and privacy of the person being strip searched is fundamental, hence the staff is trained to protect the dignity and privacy of the person being strip searched.

There are plans to renovate the room mentioned in the report, and we have noted the Committee's recommendation that a partition should be installed.

- **Item 61 - Steps should be taken to remedy this shortcoming.** (Lack of information about the possibility to lodge complaints to an outside body).

Reply:

We have noted the Committee's comment on the lack of information about the possibility to lodge complaints to an outside body. Thus, the information brochure will be revised.



- **Item 64 - The CPT would like to receive further information on the introduction and application of non-custodial measures.**

Reply:

Community sentencing

Many convicted persons serve their sentence outside prison, and the goal is for more offenders to serve their sentence out in the community, provided that the safety of society is safeguarded at all times. Last year, more sentenced persons served their sentence in the community than inside a prison. Community sentences, a programme to prevent driving under the influence, and a drug treatment program under court control are some of the penal sanctions that are executed out in the community. The same applies for the execution of sentences with electronic monitoring (ankle bracelets), where individuals sentenced to prison may execute their sentence outside prison.

More information on community sentencing is available on the Norwegian Correctional Service's website:

<https://www.kriminalomsorgen.no/straff-i-samfunn.237837.no.html>

Execution of sentence with electronic monitoring in more detail

The execution of sentences with electronic monitoring was launched as a pilot project in 2008. The intention behind the scheme was to create more ways of executing sentences and more opportunities for progression in the execution of sentences. Initially the capacity for electronic monitoring corresponded to 130 prison beds, distributed across selected counties. The scheme was gradually expanded and finally adopted nationwide in 2014. The capacity for electronic monitoring was expanded to correspond to 500 prison beds in 2018.

Pursuant to the *Execution of Sentences Act*, section 16, second paragraph, execution of sentences with electronic monitoring may be approved for convicted persons who are sentenced for up to four months' immediate imprisonment and for convicted persons who have four months left until their expected release.

The conditions for electronic monitoring are prescribed in more detail in *Regulations relating to the Execution of Sentences*, chapter 7. The preconditions for executing sentences with electronic monitoring are that the convicted person has a suitable residence and is engaged in an activity such as employment or education. If the convicted person shares a residence with others, another precondition is that all co-habitants over the age of 18 give their consent to the convicted person being permitted to execute his/her sentence with electronic monitoring. If the convicted person has been convicted for a violent or sexual offence, executing the sentence with electronic monitoring shall generally not be approved. If the violent or sexual offence was committed against a person with whom the convicted person lived or still lives, execution of the sentence with electronic monitoring shall not be approved. In addition, a convicted person must have served at least one-third of his/her sentence before electronic monitoring may be approved. Finally, execution of a sentence with electronic monitoring shall not be approved if the purpose of the sentence or the security conditions for its proper execution argue against it.

During execution of a sentence with electronic monitoring, the convicted person is monitored using an electronic ankle bracelet with radio frequency technology (RF). This technology shows whether or not the convicted person is at home, and notifies the Norwegian Correctional Service when the convicted person is not at home or when he/she leaves home for planned activities. It is currently impossible to track the convicted person's geographical location once he/she leaves home. The convicted person shall in principle remain at home except for when he/she travels to his/her place of work or education, and must comply with a plan for executing the sentence prepared by the Norwegian Correctional Service.

Furthermore, the convicted person must refrain from using intoxicants, anaesthetics, hormone preparations or other chemical substances that are not lawfully prescribed. The convicted person must also meet with the Norwegian Correctional Service at least twice a week and provide urine and breath samples when requested to do so.

The Norwegian Correctional Service carries out unannounced control visits to the home or place of work/education and maintains contact with the employer/place of activity to verify that the convicted person is complying with the plan for executing the sentence. The convicted person may also be ordered to avoid having contact with certain individuals if deemed necessary for security reasons to ensure proper execution of the sentence with electronic monitoring.

The execution of sentences with electronic monitoring was evaluated by Vista Analyse AS, a firm of analysts, in March 2016. The overall results of the evaluation were positive. They showed that the rate of recidivism for convicted persons with electronic monitoring is between 1 and 5 percentage points lower than the corresponding rate for convicted persons serving their sentence in prison, depending on how the control sample is selected. They also showed that executing sentences with electronic monitoring has benefits for the convicted persons, their relatives and for society as a whole.

In November 2017, the Ministry of Justice and Public Security distributed for consultation a proposal to expand the limit on the sentence length and execution period for executing sentences with electronic monitoring to six months. The consultation also included proposed amendments to the rules to allow convicted persons who are permanently unfit to serve their sentence to execute their sentence with electronic monitoring, and to give the Norwegian Correctional Service the possibility to use tracking technology etc. to monitor the conditions for executing sentences with electronic monitoring in cases where RF technology is insufficient. The majority of the consultative bodies that have expressed an opinion has responded positively to these amendments. The matter is still being processed by the Ministry of Justice and Public Security.

- **Item 69 - 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.** (Exclusion from the company of others due to logistical reasons).

Reply:

Exclusion for reasons of building or staff conditions is only permitted in acute cases; cf. the wording 'necessitate' in *the Execution of Sentences Act (ESA)*, section 37, ninth sentence. Examples of this include fire, damage or unexpected staff shortages. The Directorate of Norwegian Correctional Service agrees that decisions on full exclusion based on such grounds should not be applied over several days. The guidelines to the ESA, section 37.17, state that this provision does not allow for excluding prisoners from company due to prolonged resource or staff shortages. In this context it should be underscored that decisions on exclusion under the ESA, section 37, ninth paragraph refer to exclusion for brief periods, and that they generally last a matter of hours, not several days. Nonetheless, it must be taken into account that the ESA, section 37, eighth sentence, may be applied as the legal basis for exclusion for longer periods in extraordinary circumstances, for example, if a whole unit burns down.

- **Item 71 - 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.**

Reply:

*See separate attachment (Attachment no.1)*

- **Item 80 - Reference is made to the remarks and recommendation in paragraph 97.** (Regarding prisoners suffering from serious mental illness and thus have great difficulties in coping with life in prison).

Reply:

*See the reply to item 97.*

- **Item 82 - 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. 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.**

Reply:

The Norwegian Correctional Service is constantly aware that exclusion must be used with caution so that prisoners are not subjected to unnecessary injury or suffering.

In this connection it should be pointed out that the Norwegian Correctional Service practices relative exclusion, which means that prisoners are excluded from company with other *prisoners*. Prisoners who are excluded have (or in any case are intended to have) extensive contact with prison officers, social consultants, representatives from the prison health service, recreational units and other occupational groups in the prison, including teaching staff and/or workshop staff. It is being stressed in the guidelines that various measures must be implemented to compensate for the isolation of persons who are excluded.

The Directorate points out that guidelines to the ESA, section 37, have already been amended to reduce the use of exclusion and increasing the use of measures to prevent detrimental effects of isolation. In addition, the Directorate will impose a stronger obligation on the units by making sure that prison staff, as standard procedure, use their working hours to converse with/keep excluded prisoners occupied, making sure that the activities officer gives priority to excluded prisoners, and making sure that the unit's management are more actively involved in cases of exclusion, etc.

Furthermore, the Directorate has appointed a working group to draw up a plan suggesting different types of measures to prevent the use and negative effects of isolation in Norwegian prisons, regardless of the grounds for isolation. The plan will be completed in the first half of 2019 and will contain proposals for reducing isolation in the short and long term.

In other words, the Directorate of Norwegian Correctional Service is focusing heavily on the challenges of using exclusion from company with other prisoners in the Norwegian Correctional Service, and will work to end the use of exclusion which is caused by lack of activities or of space or staff shortages. However, the Directorate acknowledges that some prisoners will, for various reasons, always represent a serious and unacceptable risk that is incompatible with participating in a community of fellow prisoners.

The Directorate agrees with the Committee that the aim should be for prisoners who are completely excluded from the company of others to be offered at least two hours of meaningful human contact every day. Again, it should be emphasised that relative isolation, which is used in Norway, normally does not qualify as "isolation" as defined in international standards. The working group

charged with drawing up a plan to reduce the use of isolation in Norwegian prisons will also propose amendments to existing legislation. In this connection the group will look to the international standards and norms governing isolation.

Prisoners who are excluded from the company of others must be offered measures to compensate for isolation. It follows from the regulations to the ESA, section 3-35, that potential negative effects of exclusion shall, as far as possible, be prevented or remedied. This is specified in more detail in section 37.14 of the guidelines, which states that this can mean that prisoners are allowed more access to the exercise yard, company with prison staff, more visits from friends and family, more access to physical activities or to other measures that can prevent the negative effects of being excluded from the community. The working group must also make different proposals for reducing the negative effects of isolation.

- **Item 83 - 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.**

Reply:

It is regrettable that not all prisoners in Norwegian prisons have access to in-cell toilets. There are still 27 cells at Ullersmo which do not have in-cell toilets. The main reason for this is the age of the building stock. Some of them might be renovated in 2020/2021, but not all. It is, however, the clear impression of the Directorate that the prison officers do their utmost to ensure the prisoners are being let out of their cells to access the toilets as soon as possible. All new units in the Norwegian Correctional Service are being built with in-cell sanitation.

- **Item 84 - Steps should be taken to remedy this shortcoming.** (Lack of shelter against inclement weather).

Reply:

All exercise yards should be designed in such a way as to provide prisoners with shelter from rain, snow and inclement weather. Regarding the outdoor areas at Romerike Prison, the Directorate of Norwegian Correctional Service would point out that a working group has been appointed to examine how these areas could be used more appropriately, including the construction of a shelter where prisoners can seek cover in inclement weather.

As to Bodø Prison, plans are under way.

- **Item 87 - 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.**

Reply:

In February this year, the Directorate of Norwegian Correctional Service visited Bergen Prison, Block A. One of the reasons for the visit was the reports received from the CPT and the Parliamentary Ombudsman following their visits to Bergen Prison.

Bergen Prison has made the following changes since the visit and the subsequent letter from the Directorate of Norwegian Correctional Service:

- Changed its practice for making decisions on exclusion based on the prisoner's own wishes; cf. ESA, section 37, ninth paragraph. This is in accordance with the Directorate's expressed recommendation and understanding.
- Changes are being made to the daily routine in Block A. A one-day seminar was held for all the staff, and a working group has since worked on improving the structure and daily programme. All convicted persons will be offered a minimum of half a day of activities from Monday to Friday. This is in addition to the daily outdoor exercise sessions. At weekends all convicted persons will be offered more than two hours of company. Efforts are being made to further expand the offer of company at weekends. Bergen Prison will give priority to keeping convicted persons in this unit occupied.
- For some time now Bergen Prison has been running a project in which six prison officers working in shifts have been tasked with keeping convicted persons in Block A occupied. The aim is to prevent isolation and to improve the way in which particularly vulnerable prisoners are monitored. The project will be evaluated when it finishes in mid-June, but the perception at the prison is that the project has been a success. More convicted persons have been offered activities and good efforts have been made to prevent effects of isolation. The challenge has been room capacity.

The Directorate of Norwegian Correctional Service considers the general part of the above-mentioned letter to be a matter of principle. The content of the letter was therefore forwarded to all regions in the Norwegian Correctional Service in a letter dated 4 April this year. The general part of the letter contains the Directorate's comments on community, activities and exclusion. The letter was sent to prevent a practice similar to that in Block A in Bergen Prison from occurring in other units and to ensure uniform practice in the Norwegian Correctional Service.

Further, we refer to the Directorate's appointment of a working group to draw up a plan to suggest measures in order to prevent the use and negative effects of isolation; cf. item 82.

**Item 90 - 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 anti-psychotics) should be established.**

Reply:

The healthcare authorities are responsible for the health service provision in prisons. It follows from the current guidelines that the prison physician assesses prisoners' medication use upon entry. If the medicines prescribed by the general practitioner, prison physician or other doctor are considered to be self-managed by the patient, he/she may also manage them during the imprisonment.

Should the Norwegian Correctional Service deprive a prisoner of medicines for safety reasons, the dispensing of medicines by prison officers is considered practical assistance rather than health care provision. The Norwegian Correctional Service will in such cases be responsible for the practical organisation, for training employees and for handling nonconformities.

The health and care service in the municipality should, at the request of the Norwegian Correctional Service, assist in the practical training of prison officers, including the distribution of medicines as practical assistance; for example when organising medication training courses.

The possibility to make these rearrangements is also limited by available personnel (capacity) from the responsible healthcare authorities.

**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.**

Reply:

Prison staff must receive training from the municipal health service as a condition for being allowed to dispense medicine, including medication-assisted rehabilitation.

Few prisons in Norway have health and care services present during weekends. This means that prison staff must dispense medicines at weekends, including medication-assisted rehabilitation, which is a specialist healthcare service. Prison staff also have to dispense medicines in the evenings, when healthcare personnel normally is not present.

- **Item 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;**

**- 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.**

The Ministry of Health and Care Services has taken note of the recommendation. The recommendation will be forwarded to The Directorate of Health for further consideration.

- **Item 94 - 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.**

Reply:

Secrecy is a patient's right and a duty of the professional, especially when it comes to interpersonal relations in healthcare. Healthcare professionals are bound by professional/medical secrecy, and must treat all the information they receive in confidence. As a rule, they may not forward information to third parties without the prisoners consent. Only if it's necessary to prevent serious harm to prisoners life or health, health-care professionals have an obligation to notify the police.

- **Item 95 - 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.**

Reply:

The recommendation will be taken into consideration. The Directorate of Norwegian Correctional Service agrees with the Committee that prison officers should not be present in the room when a medical examination is being carried out, as this involves sensitive and confidential information. There will, however, be cases where a prisoner's behaviour necessitates the presence of a prison officer, out of consideration for the safety of the staff and the prisoner.

In this connection, we would mention that the Ministry of Health and Care Services is considering commissioning the Norwegian Directorate of Health to revise and update the national guidelines for providing healthcare services to prisoners in 2020.

- **Item 96 - 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.**

Reply:

The question addresses the responsible unit for specialist health services in the northern region, the Northern Regional Health Authority and the Nordland Hospital Thrust. The Ministry has noted the concern and forwarded it to the regional health authority in the north. The Committee will be notified when we receive an answer.

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

Reply:

This question has been forwarded to the South-Eastern Norway Regional Health Authority for a reply. The Committee will be informed when a reply is received.

- **Item 97 - 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.**

Reply:

The Directorate of Norwegian Correctional Service and the Norwegian Directorate of Health have cooperated on preparing a report on the follow-up of prisoners with mental health disorders and/or substance abuse problems and proposed further measures to strengthen the services provided to prisoners in need of mental health care and cross-disciplinary specialist treatment for substance abuse issues from the specialist health care services. Measures were also proposed to enhance cooperation between agencies and measures within the Norwegian Correctional Services, such as increased activation of prisoners and measures for vulnerable groups in prison. The Ministry of Health and Care Services has commissioned the Centre for Research and Education in Forensic Psychiatry and Psychology (SIFER) to prepare a report on how the healthcare service offering can be strengthened and organised. The Ministry will follow up both of these reports.

Furthermore, there are separate outpatient clinics providing mental health care at the largest prisons.

The available capacity in mental health treatment for prisoners will be improved over the coming years by building more new hospitals/units for individuals with serious mental health illness.

- **Item 98 - The CPT would like to receive the Norwegian authorities' comments on this matter.** (Appointments outside prison are being cancelled due to problems in organising law enforcements escorts).

Reply:

The Directorate of Norwegian Correctional Service is aware of the challenge of having to cancel appointments for medical consultations, treatment and examinations etc. due to a shortage of escorts, and finds this highly regrettable. The Directorate is currently revising the guidelines for providing escorts. The revised guidelines should be ready in the course of 2019.

- **Item 99 - 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.** (Drug rehabilitation programmes).

Reply:

The substance treatment units represent a good measure that is linked to goals to improve healthcare services provided to prisoners with substance abuse issues and to improve their re-entry into society on completion of their prison sentence. In 2018 a total of 447 applied to one of the country's 13 substance treatment units, and 227 were admitted. The large number of applicants in proportion to the number of admissions indicates that the service is considered good overall. The substance treatment units receive no funding directly, but are given more weight than ordinary prison units in the budget allocation model. However, it is estimated that the reduction in the block funding to the Norwegian Correctional Service will also affect the substance treatment units. In 2016, the Directorate of Norwegian Correctional Service and the Directorate of Health prepared a guide for the substance treatment units, providing advice and recommendations on sound professional practice. The Directorate of Norwegian Correctional Service receives a report every four months from the substance treatment units, which enables us to monitor the work of the units. The substance treatment unit in Romerike, in Ullersmo Prison, had 35 applicants and 16 admissions in 2018. The substance treatment unit at Bodø Prison admitted 21 prisoners in 2018.

- **Item 101 - Steps should be taken to remedy this shortcoming.** (Delays in clearance for visitors).

Reply:

Visitors to prisoners in prison have to be granted a visitor's permit from the prison in question; cf. the ESA, section 31 and pertinent guidelines, section 31.1. In connection with evaluating visit permits, information about the visitor's conduct record may be obtained; cf. ESA, section 27.

The Directorate of Norwegian Correctional Service agrees with the Committee that it is regrettable when a visitor's permit takes time to obtain and results in the prisoner not receiving visits. However, obtaining a visitor's permit can sometimes be a time-consuming process because it requires a detailed investigation of the proposed visitor, including obtaining a record of the visitor's conduct. The Directorate's opinion is that in these cases security considerations

take precedence over prisoners' right to receive visitors. The Directorate emphasizes that visitor permits for foreign prisoners are often more time-consuming because they often involve requesting background checks from police authorities in other countries.

Nonetheless, the Director will see to it that Bodø and Ullersmo Prisons give priority to processing applications for visits to newly admitted prisoners. The Directorate will prepare a letter to the above-mentioned prisons to this effect. A copy of this letter will also be sent to all regions, urging them to give priority to applications to visit newly admitted prisoners in all of the Norwegian Correctional Service's prisons.

- **Item 102 - 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.**

Reply:

Skype is available as a communication tool in several of the Norwegian Correctional Service's prisons, cf. *circular no. KDI 3/2017*. This particularly applies to foreign prisoners and prisoners serving their sentence far from their place of residence.

The Directorate sees no need to amend the provision in the ESA, section 32 and pertinent regulations, section 3-29, regarding the permitted weekly duration of telephone calls. As justification for this, the Directorate would point out that time restrictions on telephone calls only apply in prisons with a high security level. The Directorate would also point out that, under the current rules, dispensation from the above-mentioned rule may be granted as long as no special grounds or capacity considerations prevent it; cf. guidelines to the ESA, section 32.7. Dispensation may apply for an unlimited period or may be limited to a specific period. Consequently, prisoners in the same unit may in practice be granted different telephone times, depending on whether or not they are granted dispensation.

Prisoners' opportunities to communicate via Skype/video chat must be viewed in connection with the options available to them to communicate with close relatives by other means. The resources and capacity available at each prison determine the frequency and duration of prisoners' video chats. When capacity is limited, weight must be given to whether a prisoner and the relative in question have a particular need for contact, for example if the prisoner is aged under 18, has young children, or if illness or other weighty reasons exist. Video chats must be conducted at a time that is practical for the Norwegian Correctional Service out of consideration for staffing and other conditions. The needs of the prisoners and of their relatives must be taken into account as far as possible. The rules for monitoring telephone calls apply insofar as they are appropriate to video chats. Video chats may not be recorded.

- **Item 103 - 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.**

Reply:

The Ministry of Justice and Public Security will review the provisions in the ESA concerning exclusion and isolation, and will consider the Committee's recommendation concerning 'prolonged isolation' in this regard.

In the current national guidelines, the Norwegian Directorate of Health recommends that the employees in the healthcare service in the prison should visit excluded prisoners when there are medical reasons for supervision. It may be when the prisoner requests this or when information from the Norwegian Correctional Service or others gives reason to believe that the prisoner needs supervision.

The prison health service should pay special attention to the physical and mental health of prisoners who are isolated. This also applies to prisoners who, for various reasons, have chosen to isolate themselves from the community.

- **Item 104 - The CPT encourages the Norwegian authorities to abrogate Section 39 of the ESA and to clearly differentiate between disciplinary and security measures.**

Reply:

There are significant differences between the provisions in sections 37 and 39 of the ESA. Exclusion of prisoners under section 37 is applied as a preventive measure. Exclusion under section 39, on the other hand, has a 'disciplinary' purpose; in other words, exclusion is decided as an immediate (presumed) response to undesirable behaviour. Section 39 requires that specific circumstances exist that indicate a breach of discipline. This provision is not required under section 37. Consequently, different considerations apply for these two provisions. Nonetheless, the Directorate is of the opinion that the provision in section 39 of the ESA can be seen as somewhat superfluous, especially when viewed in light of the legal basis in sections 37 and 40 of the ESA. The Committee's recommendation (to abrogate section 39 of the ESA) will be considered in connection with the Ministry of Justice and Public Security's review of the provisions in the ESA governing exclusion and isolation.

- **Item 105 - 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.**

Reply:

If sanctions are imposed on a prisoner under section 40 of the ESA, the prisoner receives a written decision from the Norwegian Correctional Service to this effect. In addition, it must be entered in the Norwegian Correctional Service's registration system (Kompis) when the prisoner in question is notified of the decision. The decision is not put into effect before the appeal deadline has expired or until an appeal has been processed.

The Directorate of Norwegian Correctional Service will consider whether it would be appropriate to keep a register of imposed sanctions, including decisions made under section 40 of the ESA with details of the prisoner's name, type of sanction and duration. The Directorate is of the opinion that privacy considerations may prevent the creation of such a register at the prisons. Nonetheless, the Directorate will give this matter closer consideration.

- **Item 106 - 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.**

Reply:

Strip searches of prisoners in Norwegian prisons are performed in compliance with the training given at the University College of Norwegian Correctional Service and with applicable legislation.

It follows from section 28.3 of the guidelines to the ESA that searches must be performed in a way that causes least possible embarrassment or humiliation to the prisoner, and that the extent of the search must not be more than is necessary. The Directorate agrees with the Committee that a search conducted in stages would in most cases cause less embarrassment and/or humiliation than having to remove all the clothes in one go. However, several prisons in the Norwegian Correctional Service face specific challenges in maintaining security. A

two-stage strip search would create more security challenges because it would significantly increase the possibility to hide objects. In this context, account must be taken of the underlying purpose of the rules governing strip searches, which is to maintain security at the prisons.

The Directorate would stress that strip searches should in principle be carried out by staff of the same gender as the prisoner. Strip searches of prisoners performed by prison officers of the same gender will be impossible in some cases due to staffing schedules and available staff at the time of the strip search. This matter must also be viewed in connection with the high level of activity at the Norwegian Correctional Service's prisons, a factor which means that there is a need to conduct a large number of strip searches on a daily basis for security reasons. We would comment that if strip searches have to be performed by a person of the opposite sex, another prison officer must be present during the search; cf. section 28.3 of the guidelines to the ESA.

Examinations of prisoners, including strip searches, can be conducted as a matter of routine or on a random basis. This means that neither suspicion nor specific grounds are necessary conditions for conducting examinations. The Directorate is of the opinion that assessments of when a strip search should be carried out should not be a matter of individual assessment in each individual case, since body searches of prisoners – both routine and random – are a fundamental requirement for maintaining security in Norwegian prisons.

- **Item 107 - 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.**

Reply:

Section 38, second paragraph, of the ESA states that a medical opinion must be obtained insofar as this is possible, and must be taken into account when considering a decision to use a security cell or a restraint bed. If this cannot be done, the doctor must be notified as soon as possible and given the opportunity to offer advice on how the prisoner should be monitored; cf. section 38.7 of the guidelines to the ESA.

It follows from the same section in the guidelines that the prisoner must, insofar as this is possible, have medical supervision at least once a day. A record must be kept of the supervision and of what contact was conducted with healthcare personnel. The Directorate of Correctional Service is of the opinion that medical supervision of prisoners in security cells and restraint beds is given priority by the prison health service.

- **Item 108 - In the CPT's view, cells of such a size should not be used for accommodating prisoners for more than a few hours. (5m<sup>2</sup>)**

Reply:

In a letter dated 6 June 2017 sent to the Norwegian Correctional Service regions, the Directorate of Correctional Service issued a standard for security cells that applies to new security cells built in Norwegian prisons. The standard will also apply when rebuilding existing cells. It is specified that all security cells must be approved by the Directorate before they are put into use; cf. ESA, section 38; cf. Regulations to the ESA, section 3-11.

To comply with the standard, the design, shape and size of security cells must prevent prisoners from injuring themselves or vandalising the installations. Furthermore, the size of the cells must normally be the same as that of ordinary cells. This is a principle; cf. the word 'normally' used in the standard. The Directorate may therefore approve the use of security cells even if they are smaller than ordinary cells. Nonetheless, the Directorate agrees with the Committee that security cells smaller than five square metres should not be used to accommodate prisoners for more than a few hours.

According to the standards for security cells, cells must be located in such a way as to allow sufficient natural light. In addition, the cells must have a view, and the view afforded must be of more than just the sky. As stated in the Committee's report, the position of the windows in the security cells in Bodø Prison allowed no natural light. The Directorate will follow up this matter, and ensure that the security cells in Bodø Prison comply with the above-mentioned standard governing the design of security cells.

- **Item 109 - In the CPT's view, food and drinks should as far as possible not be delivered through the floor-level hatch.**

Reply:

The Directorate of Correctional Service agrees with the Committee that food and drink should not be delivered to prisoners in security cells via the floor-level hatch, since prisoners in security cells should have as much human contact as possible during the course of the day. In some cases, however, it is necessary to use the floor-level hatch for security reasons, such as when a prisoner's behaviour necessitates it.

- **Item 110 - 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.**

Reply:

Unless circumstances dictate otherwise, prisoners should in principle be allowed to wear their own clothes when staying in security cells. If using their own clothes is considered a security risk, they must wear clothes provided by the prison or, if deemed necessary, tear-proof clothes.



If, for security reasons, it is considered indefensible to let a prisoner keep his/her clothes while staying in a security cell, the prisoner may, under current regulations and in exceptional cases, be placed there without any form of clothing; cf. guidelines to the ESA, section 37.7.2. The Directorate of Norwegian Correctional Service stresses that a condition for placing a prisoner in a security cell totally naked is that it must be evident that access to the prisoner's own clothes would increase the risk of the prisoner carrying out the acts which placement in a security cell was intended to prevent. Furthermore, the Directorate would stress that placement in a security cell without any clothes may occur for a brief period in connection with implementing a measure that the prisoner strongly resists or if the prisoner seriously acts out. Finally, we would stress that tear-proof blankets must always be available for the prisoner.

- **Item 111 - The CPT recommends that the Norwegian authorities put a definitive end to the use of restraint beds in non-medical settings.**

Reply:

In some exceptional cases the Norwegian Correctional Service is reliant on using restraint beds. When placement in a security cell proves insufficient in preventing a prisoner from causing serious self-harm, such as banging his/her head against the cell wall, placement in a restraint bed is used as a preventive measure to avoid serious self-harm.

Restraint beds must only be used when absolutely necessary to prevent a prisoner from harming himself/herself. The conditions for using restraint beds are strict, and the beds are rarely used. It should be pointed out that the number of occasions on which restraint beds have been used for more than 24 hours between 2014 and 2018 is 11. Moreover, one condition for using restraint beds is that there must be continuous supervision. Prisoners are therefore considered to be taken care of during their placement in restraint beds.

- **Item 112 - 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. In particular, this could include recruiting prison officers from different cultural and ethnic backgrounds and with specific linguistic skills.**

Reply:

Foreign prisoners have the same rights as other prisoners while serving their sentences. The Directorate of Norwegian Correctional Service does, however, agree with the CPT that language difficulties can be a barrier for foreign nationals. The Directorate would in this connection refer to a new circular that came into force in January 2018 concerning the use of interpreters and translations in the Norwegian Correctional Service; cf. *circular no. KDI 1/2018*. In extension of this, the Directorate would point out that the Norwegian

Correctional Service has a duty to provide guidance and information under sections 11 and 17 of *the Public Administration Act*. The purpose of the above-mentioned circular is to give guidelines on how the Norwegian Correctional Service should cover the need for interpreters (including speech and sign-language interpreters) where this is necessary to ensure that the content or the Norwegian Correctional Service's measures and decisions is understood by all prisoners. The circular deals with the use of interpreters in administrative cases and during execution of sentences.

A brochure dealing with prison life has been prepared in 10 languages. The brochure provides written information about prisoners' rights during execution of their sentence. The Directorate has encouraged the prisons in the Norwegian Correctional Service to distribute this information to prisoners and to display it on the walls in the units.

- **Item 113 - The CPT recommends that the Norwegian authorities take steps to ensure that a specific complaints register is established in every prison.**

Reply:

Complaints that are received from prisoners must be registered in the Norwegian Correctional Service's case management system (DocuLive) for further processing. This is usually done by scanning a prisoner's complaint and entering it in the document record. The prison will then follow up the complaint, either by responding to the prisoner's complaint or by preparing a case for processing at a higher level. The Directorate of Norwegian Correctional Service is of the opinion that the existing case management system, including the handling of prisoners' complaints, works satisfactorily.

- **Item 116 – The CPT 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.**

Reply:

The Ministry of Health and Care Services received the proposal from the Legislation Commission mandated to review legislation on the use of coercion (*Tvangslovutvalget*) on 18<sup>th</sup> of June 2019. A short summary of the proposal may be found in English in chapter 1.7:

<https://www.regjeringen.no/no/dokumenter/nou-2019-14/id2654803/sec2#kap1-7>

The Ministry of Health and Care Services will now circulate the report among various bodies and institutions for their opinion (hearing) before the Ministry prepares a proposition with its underlying motives, which the Government will present to the Storting (the Parliament) as a bill.

- **Item 120 - The CPT recommends that the Norwegian authorities take appropriate measures to prevent such instances from recurring at Bergen Psychiatric Clinic.**

Reply:

There was dialogue with the Western Norway Regional Health Authority about this case in 2018. Ministry of Health and Care Services will request a status update from the Western Norway Regional Health Authority regarding the Committee's remarks about the capacity challenges in 2018.

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

Reply:

The Ministry of Health and Care Services does not intervene in the organisation of health service provision. The regional health trusts have an independent responsibility to cover the population's needs for specialist health care services. Within the scope of this responsibility, the health authorities are free to organise their healthcare provision in accordance with legislation, adopted budget frameworks and central government guidelines.

- **Item 124 - The CPT would like to receive the Norwegian authorities' comments on this matter.** (The increase in instances of shielding).

Reply:

The Ministry of Health and Care Services requires health trusts that show an increase in the use of coercion to examine the reasons for this and to work systematically to reduce the scope of coercion to a minimum.

- **Item 125 - 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.**

Reply:

All four health regions have plans and measures for reduced and appropriate use of coercion. This also applies to Bergen Hospital Trust. The Ministry of Health and Care Services will ask the regional health authorities about the current status of

the work being done to reduce the use of coercion, including how they are addressing the problem.

- **Item 127 - 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;**

Reply:

The Western Norway Regional Health Authority has been informed of this recommendation. Moreover, we refer to the provision in *the Mental Health Care Act* requiring that patients who are subjected to coercive measures be kept under continuous supervision by nursing staff. If a patient is strapped to a bed or a chair, nursing staff must 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, unless otherwise laid down in regulations. The decision must be recorded without delay. The decision may be appealed to the supervisory commission by the patient or his/her next of kin.

**- 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;**

Reply:

Comprehensive requirements already exist for keeping restraint registers and for registering and reporting all types of coercive measures. Moreover, the Ministry of Health and Care Services has closely monitored the situation in recent years to ensure that the use of coercive measures is correctly registered and reported. The quality of the data recorded in the restraint registers is considered to have improved.

**- 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);**

Reply:

*The Mental Health Care Act, section 4-8 and the Mental Health Care Regulations, section 26* require that patients subjected to mechanical restraint or seclusion be kept under continuous supervision. The restraint and/or seclusion must be used for as short a time as possible, and the use must be recorded in the medical records. The health personnel consider what needs to be recorded. If a change occurs in the execution/use of the restraint/seclusion or in the person's condition, this should be recorded. At regular intervals (every two hours for seclusion, and every eight hours for mechanical restraints), health personnel must justify why, in exceptional cases, the measure should continue. These reasons must be recorded. This will allow the supervisory commission to review the lawfulness of each measure and the justification for its continuation.

A prioritised task for the Norwegian Directorate of Health is to develop the concept of the patient pathway in mental health care and drug addiction treatment. The pathway will include guidelines on the use of coercive measures in mental health care. The guidelines will address the prevention of involuntary treatment and the use of necessary coercive measures, mechanical restraints and seclusion. The guidelines are scheduled for completion in 2020. Representatives from user organisations and organisations representing users' relatives participate in the work

The Government appointed a Legislation Commission to review the rules for use of coercion in the health and care services. The Commission will consider whether current legislation needs to be amended in order to comply with international human rights. Among other things, it will consider the procedures and measures mentioned above. The Legislation Commission issued its report on 18<sup>th</sup> of June 2019. A short English summary may be found as chapter 1.7 at <https://www.regjeringen.no/no/dokumenter/nou-2019-14/id2654803/sec2#kap1-7>.

As mentioned under item 116, the Ministry of Health and Care Services will now circulate the report among various bodies and institutions for their opinion (hearing) before the Ministry prepares a proposition with its underlying motives, which the Government will present to the Storting (the Parliament) as a bill.

**- 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.**

Reply:

The Ministry of Health and Care Services received, via the Western Norway Regional Health Authority, the following statement from Bergen Hospital Trust with reference to the recommendation:

'Bergen Hospital Trust agrees that the use of debriefing is an important measure for reducing the use of coercive measures. This topic has been on the agenda for some time, both with regard to the importance of the clinic carrying out debriefings and to ensure that records are kept. The topic is raised in the individual units, and has been incorporated in the clinic's in-house training programme. [...] Debriefings are also part of the seed project 'Reducing Coercion'. The project manager now gives monthly feedback to the units in the form of statistics, and issues newsletters on trends within the units.**Item 130 - 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.**

Reply:

*The Mental Health Care Act*, section 3-3, requires that two independent medical doctors examine the patient before a decision is made on involuntary hospitalisation. The first doctor will often be the referring GP or a doctor in an emergency unit. The second doctor will be from the mental health care institution. In Norway, the healthcare personnel responsible for deciding on involuntary hospitalisation can be either a psychiatrist or a specialist in clinical psychology. When it is a specialist in clinical psychology, the patient must also be examined by a medical doctor (not necessarily a psychiatrist) in the mental healthcare institution.

*The Regulations to the Mental Health Care Act*, section 5, require that, in addition to training in psychology, the psychologist must be a clinical specialist and have two years of relevant experience in a mental healthcare unit that employs involuntary measures.

In our opinion, a decision on involuntary hospitalisation made by a clinical psychologist may be equally adequate, based on the expertise and experience of the psychiatrist concerned.

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

Reply:

According to the *Mental Health Care Act*, all supervisory commissions must have four members, and one of them must be a doctor (physician). In 2007, when the Norwegian Directorate of Health revised the county governors' procedures for appointing commission members, the question of whether to prefer – or even require – the commission's doctor to be a psychiatrist was considered. Relevant bodies were asked for their opinion. Some stated that it should be a psychiatrist because only a psychiatrist can 'overrule' another psychiatrist's decision. Others (for instance the Norwegian Medical Association) stated that other doctors, not just psychiatrists, with experience in treating patients with mental health conditions could serve equally well as members of a commission. The relatively small number of psychiatrists in Norway could make it difficult to require that at least one member is a psychiatrist, including due to conflicts of interest.

The abovementioned legislative committee will, *inter alia*, consider the procedures for involuntary placement as mentioned above, and will also consider the composition of the appeal bodies.

- **Item 131 - 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.**

Reply:

According to *the Mental Health Care Act* Section 10, the patient and the next of kin should always have information about a decision on involuntary placement. The main rule is that this is given as a copy of the decision.

In order to improve the quality of the decisions on involuntary measures, and to improve the control and to make sure that every decision is reported properly to the national data base, the Directorate of Health and the Directorate of e-Health, has developed standards of how involuntary measures are to be registered in the electronic medical record. This new way of register involuntary measures, will hopefully assure that both the patient and the next of kin always get a copy of the decision- and its reasons - according to the law. This work was completed in December 2017, and the implementation of this new system is ongoing.

The Ministry of Health and Care Services has taken note of the Committee's recommendation. We are considering the possibility of following up in dialogue with the Norwegian Directorate of Health. **Item 133 - Steps should be taken to remedy this shortcoming.** (Lack of information to patients that their opinion was being recorded).

Reply:

The Ministry of Health and Care Services will forward the Committee's concern to the Regional Health Authority and ask for their response to the described shortcoming.

- **Item 139 - 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.**

Reply:

The Ministry of Health and Care Services takes note of the Committee's recommendation to create a specific register for recording the use of coercion in

nursing homes. As the Committee is already aware, the Government appointed a Legislation Commission to undertake an overall review of the rules governing coercion in the health and care sector.

As mentioned under item 116 and item 127, the Legislation Commission presented its report on 18th June 2019. In connection with following up the Committee's recommendation, it is natural to consider the recommendation of a specific register to record the use of coercion in nursing homes.

**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.**

Reply:

The information is presented in chapter 4A of *the Patients' Rights Act*. As stated in chapter 4A of the act, the purpose of the provisions is to ensure health care for patients who lack capacity to consent and who resist health care.

Pursuant to chapter 4 of *the Patients' Rights Act*, health care covers all acts which have a preventive, diagnostic, therapeutic, health-preserving or rehabilitating effect or whose purpose is to provide nursing and care, and which are performed by healthcare personnel. Health care is administered in different places: institutions such as nursing homes or hospitals, or in patients' homes, including care homes.

The chapter contains provisions under which health care may be administered to a patient who resists it, as well as provisions on administering health care, case processing rules, appeals, reviews, follow-up inspections and judicial reviews.

One condition before administering health care to a patient who resists is that trust-building measures must have been attempted, unless doing so would be clearly futile. This is a stringent condition, and there must be extremely good reason for healthcare personnel not to attempt trust-building measures.

The health care that the patient resists may only be administered if failure to do so would result in significant harm to the patient's health. This requirement entails that the injury must have considerable scope and/or severe consequences. By injury is meant both physical and mental injury. Furthermore, the health care must be necessary, a requirement which must be determined based on a specific professional assessment. Another requirement is that the measure must be proportionate to the patient's need for health care. Even if all these conditions are satisfied, health care may only be administered if an overall assessment shows it to be the best solution for the patient. The wording of the act specifies that when assessing whether or not such health care should be administered, weight must be given to the degree of resistance and to whether the patient can be expected to regain his/her capacity to consent in the near future. This requires healthcare personnel to assess all aspects of the situation and to weigh conflicting considerations against each other.



Decisions regarding health care which a person who lacks capacity to consent resists are made by the healthcare personnel responsible for administering the health care. The decision may only be made for up to one year at a time. Before a decision is made, information must be obtained wherever possible from the patient's next of kin about what the patient would have wanted. The act also regulates the duty to inform the patient and the patient's next of kin.

A copy of the decision must be sent to the county governor who, on their own initiative, may review the decision. This means that the county governor may review decisions even if no complaints are lodged. And on the instructions of the Norwegian Board of Health Supervision to county governors, this is done systematically. If the measure lasts longer than three months without an appeal being lodged, the county governor must always assess whether the need for health care still applies.

In addition, the patient and his/her next of kin may lodge a complaint with the county governor. The most comprehensive types of decisions (hospitalisation, involuntary placement in a healthcare institution, and decisions regarding health care lasting more than three months) may be brought before a court under special rules that allow for faster processing of a case. The state carries the legal costs.

- **Item 140 - 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.**

Reply:

The Norwegian Board of Health Supervision is charged with the tasks of supervision the health and care services. As a supervisory body, the Norwegian Board of Health Supervision has a particularly autonomous role, independent of the Ministry and ongoing political governance. By virtue of its particularly autonomous position, the Norwegian Board of Health Supervision decides what it will supervise and how it will organise its supervision. It is not for the Ministry of Health and Care Services to ask or request the Norwegian Board of Health Supervision to supervise specific services or objects.

The problem raised by the Committee is covered by the mandate of the Legislation Commission mentioned under item 116, item 127 and item 139, and it is natural to assume that the Commission also assessed this in its report. The Ministry received the report on the 18<sup>th</sup> June and will take the recommendation into account in the follow-up of the Commission's report.

Reply:

The Norwegian Board of Health Supervision has forwarded the following information from the county governors regarding the number of inspections of nursing homes in Hordaland since 1 January 2016:

Planned inspections are published on the Norwegian Board of Health Supervision's website [www.helsetilsynet.no](http://www.helsetilsynet.no)

A search using the search words 'Hordaland' and 'nursing home' produces the following results for each year since 2016:

2016, four inspections:

Vaksdal nursing home  
Knarvik nursing home  
Fitjar nursing home  
Fusa nursing home

2017, four inspections:

Bergen municipality, Ladegården  
Bergen municipality, Lyngbøtunet  
Kvinnherad municipality, Husnestunet  
Sund municipality, review of medication for long-term residents in nursing homes, 2017

2018, no inspections of nursing homes. So far in 2019 (as of 1 June), no inspections of nursing homes.

- **Item 141 - 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.**

Reply:

The Ministry of Health and Care has received the following information from Norwegian Board of Health Supervision regarding persons held in nursing homes (nationwide) on the basis of involuntary placement:

The county governors review decisions pursuant to *the Patients' Rights Act, chapter 4A Healthcare for patients without competence to give consent to healthcare*, etc. The patient's next of kin or guardian may lodge an appeal against an administrative decision with the county governor. The county governor may, on its own initiative, review an administrative decision three months after it was made, even if no appeal is lodged.

According to the provision in chapter 4A, the county governor must be notified of any decisions made to administer involuntary healthcare. The county governor may take note of it, revise it or repeal it on the grounds of procedural error.

As of 1 January 2019, county governors have taken note of initial appeals against decisions concerning 732 people in Norway who were held in and/or admitted to an institution.

The county governors' records pertaining to decisions they review under chapter 4A contain no information on the next of kin or guardians. Hence, we cannot say how many people are currently accommodated in a nursing home with the consent of their guardian.

Attachment 1 – Item 71

Duration of complete and partial exclusions shown in number of days.

<b>Complete exclusions</b>	<7	7 - 13	14 - 29	30 - 41	42 - 59	60 - 89	90 - 182	183-365	Sum
2008	28	57	283	11	19	6	0	0	404
2009	20	51	404	7	9	2	0	0	493
2010	14	54	455	3	14	3	0	0	543
2011	17	72	364	2	9	0	0	0	464
2012	20	52	313	9	18	4	0	0	416
2013	20	56	346	6	7	1	0	0	436
2014	15	37	367	13	15	1	1	0	449
2015	13	59	321	7	22	1	0	0	423
2016	30	51	301	7	10	1	0	0	400
2017	19	55	275	8	8	0	0	0	365
2018	27	37	278	4	14	1	0	0	361

<b>Partial exclusions</b>	<7	7 - 13	14 - 29	30 - 41	42 - 59	60 - 89	90 - 182	183-365	Sum
2008	6	19	69	4	17	6	1	0	122
2009	10	19	69	0	10	3	4	1	116
2010	4	12	72	7	13	11		3	122
2011	6	13	63	2	7	2	2	0	95
2012	1	8	92	2	10	6	6	0	125
2013	2	4	78	0	3	4	12	0	103
2014	6	12	76	4	20	15	2	6	141
2015	5	18	44	0	10		4	3	84
2016	5	5	55	0	4	5	3	4	81
2017	4	4	56	0	17	3	1	0	85
2018	5	5	70	0	14	3	2	5	104