



Human Rights Council
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Human Rights Council 7th session – presentation of report of the Working Group on Arbitrary Detention- mission to Norway- oral statement from the Norwegian Centre for Human Rights

Mr/Mrs Chairperson, distinguished members of the Council;

The Norwegian Centre for Human Rights is very pleased and honoured to have been given the opportunity to address the Human Rights Council here today, in connection with the presentation of the report of the Working Group on Arbitrary Detention.

The Norwegian Centre for Human Rights is a multi-disciplinary research institution, and a part of the Faculty of Law at the University of Oslo. The Centre is also Norway's fully A-status accredited National Institution for the Promotion and Protection of Human Rights. The Centre conducts research, monitoring, advisory services, educational programmes, information and networking in the field of human rights. Due to our independence and pluralism, the Norwegian Centre for Human Rights is neither conjunct with the government nor with non-governmental organisations.

The Norwegian Centre for Human Rights presents its compliments to the Working Group for its visit to Norway from 27 April to 2 May 2007, and for the comprehensive and thorough report following this visit.

The Centre will limit its address to the Council to some of the recommendations given by the Working Group.

VII. RECOMMENDATIONS

98a) The Working Group encourages the Government to continue to monitor the practise of imposing restrictions and deprivation of liberty to ensure that it is carried out on a case to case basis. In this context, it invites the government to arrange a survey by the Director of Public Prosecution on applications for remand and restrictions and partial and complete isolation in pre-trial detention to follow up the survey conducted in 1999 on the initiative of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. The Working Group would like to be informed of the results;

The Norwegian Centre for Human Rights notes with appreciation the emphasis made by the Working Group on the importance of knowledge in the form of statistics, documentation

and analysis of restrictions imposed on persons deprived of their liberty. It is important that these restrictions are well founded and decided upon on a case to case basis.

The need for more knowledge of the use of isolation and other restrictions both in remand and after sentencing has, as the Working Group mentions, also been emphasised by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)¹ as well as the UN Committee against Torture (CAT).²

Reference is made to the conclusions and recommendations issued 5 February 2008 from the Committee against Torture on Norway's fifth periodic report³ on the implementation of the Convention against Torture, where the Committee states:

"The Committee, while welcoming the recent adaptation of a legislative act to reduce the length of pre-trial detention and the use of solitary confinement as a preventative measure, remains concerned at the lack of adequate statistics validating the effectiveness of these measures.

The state party should compile detailed statistics on the application of pre-trial detention and the use of solitary confinement so as to verify the effectiveness of recent amendments to its relevant legislation in practise. The state party should also compile statistics relating to the application of recent amendments to the Immigration Act concerning the detention of foreign nationals."

Further, the Norwegian Centre for Human Rights has been informed by the Parliamentary Ombudsman for Public Administration that the Ombudsman is currently conducting an investigation on time spent in police holding cells before being brought to regular prison cells. The Norwegian Centre for Human Rights recommends that the results of this investigation is taken in to consideration or incorporated in the proposed survey by the Director of Public Prosecution.

As the Committee against Torture points out there is also a need for more information and statistics on the situation of the detained aliens at The Police Immigration Detention Centre in Trandum. The Committee against Torture has asked the Norwegian authorities to establish a supervisory board for the Centre to ensure that the rights of persons held there are respected at all times. The Norwegian Centre for Human Rights supports this establishment. The Parliamentary Ombudsman for Public Administration is also monitoring the conditions at the Centre and plans to make a follow-up visit to the Centre this fall.

¹ Reference is made to the Report to the Norwegian Government on the visit to Norway carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 3 to October 2005, published 11 April 2006. And the 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) from 3 to 10 October 2005, published 4 October 2006. Both reports are published on: <http://www.cpt.coe.int/en/states/nor.htm>.

² Conclusion and recommendations from the Committee against Torture: <http://tb.ohchr.org/default.aspx>

³ Conclusions and recommendations to Norway's fifth periodic report CAT/C/NOR/CO/5 : <http://daccessdds.un.org/doc/UNDOC/GEN/G08/404/12/PDF/G0840412.pdf?OpenElement>

⁴ C. Principal subjects of concern no.8

b) The working Group also invites the Government to consider establishing a new system for challenging decisions taken by the correctional services authorities on restrictions or partial or total isolation imposed upon prison inmates serving their sentences. The Government might want to create an external commission to that effect following the example of the independent control commission for patients subjected to compulsory mental health care.

An effective system for challenging decisions taken by the correctional services authorities on restrictions or partial or total isolation imposed upon prison inmates will hopefully result in a more equal treatment of individual cases and reduce differences of practise in different prisons in Norway. This would in turn help ensure the rule of law.

Norway has not yet ratified The Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), but the Ministry of Foreign Affairs has stated that the ratification process is well on the way. The Ministry expects the OPCAT to be ratified some time in 2008. The object of his protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhumane or degrading treatment or punishment (OPCAT article 1).

The Norwegian Centre for Human Rights recommends that the new control-system suggested by the Working Group is incorporated in the system which is going to be established in connection with the ratification of OPCAT.

Further, the Norwegian Centre for Human Rights suggest that the members of the proposed external commission represent a broader range of professions than the independent control commission for patients subjected to compulsory mental health care. It is also important that the commission is given adequate resources to do its work. The external commission should meet with the inmates when handling their case.

d) With respect to the "infoflyt database", the Working Group recommends that the judiciary be granted access to the information as and when the information contained therein is relevant to decisions on the early release of a prisoner or on the release of a preventive detainee. The Working Group invites the Government to continue monitor the development of the database and its use to improve the system, if necessary;

While understanding the authorities need to limit the access to information contained in the INFOFLYT database, the Norwegian Centre for Human Rights agrees that the Norwegian authorities should consider giving the judiciary access to information which does not require classification when a prison inmate registered in the system wants to challenge a negative decision for early release or rejection of termination of a preventive detention term. This could also help prevent difference in treatment of applications for early release.

By giving the judiciary such access the judge will be better equipped to consider the legality of the regime of detention. The Parliamentary Ombudsman of Public Administration can receive and act upon individual complaints. However, his mandate is limited. Examples from individual cases brought to the Ombudsman show that it is difficult for the inmates to challenge decisions made by the correctional service authorities because the authorities refer to information in the INFOFLYT database without giving more specific reasons for their conclusions.

The Norwegian Centre for Human Rights therefore agrees that the use of the INFOFLYT database should be monitored and subject to the effective control of judicial or other authority.

The Norwegian Data Inspectorate has also expressed concerns in connection with another information system used in prisons called KOMPIS. This system is only used within the prisons by the prison staff. The KOMPIS system also contains sensitive information that, in the Inspectorates opinion, should be subject to more and better control than it is today.⁵

e) The Working Group recommends that the Government resolve conflicts in competence between correctional services and health-care authorities with respect to the admission of mentally ill prison inmates to psychiatric hospitals. This could be achieved by creating an independent commission in which all stakeholders are represented. The commission could also take a final decision as to whether the person transferred from a prison to a psychiatric institution will be allowed to be transferred from a closed wing to an open wing in the context of treatment.

The Norwegian Centre for Human Rights supports the proposal of an independent commission to resolve conflicts of competence between correctional services and health-care authorities. Some of these conflicts however, might be caused by a lack of resources on both sides. This is an important factor for the Norwegian authorities to consider when solving this problem.

Conclusion

The Norwegian Centre for Human Rights fully supports the work of the Working Group on Arbitrary Detention and we expect the Norwegian Government to follow-up the recommendations made by the Group. The Norwegian Centre for Human Rights stands ready to contribute if needed in this process.

Thank you for your attention.

⁵ The report (in Norwegian only) is available at: <http://www.datatilsynet.no/upload/tilsynsrapporter/07-01455-9%2007-01455%20kontrollrapport.pdf>

