

# **NGO ALTERNATIVE REPORT 2015**

SUPPLEMENTING AND COMMENTING ON NORWAY'S 21<sup>ST</sup>/22<sup>ND</sup> PERIODIC REPORT  
SUBMITTED BY NORWAY UNDER ARTICLE 9 OF THE INTERNATIONAL CONVENTION  
ON ELIMINATION OF ALL FORMS OF RACIAL DISCRIMINATION.





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## **I INTRODUCTION**

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### **The joint alternative report**

This alternative report is a joint initiative by 18 Norwegian NGOs. Each organisation has contributed with their expertise and knowledge in their particular field. The issues raised in particular sections reflect the concerns and the expertise of these organisations. This does not mean that all the supporting organisations necessarily endorse all the specific policy recommendations, where these are outside their remit.

The report has been made possible thanks to financial support from the Ministry of Children, Equality and Inclusion. The work has been coordinated and conducted by Norwegian Centre against Racism (Antirasistisk Senter), a non-governmental organization whose main objective is to fight racism and discrimination.

This report was finalised on 20<sup>th</sup> of June 2014 with minor additions included in April 2015.

### **Contributors to the report**

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### **The following organisations adhere to the report:**

The Human Rights Committee of the Norwegian Bar Association, the Pro Centre, the Norwegian Tater Association and the Salvation Army in Norway.

## **II ISSUES RAISED IN THE CONCLUDING OBSERVATIONS OF THE COMMITTEE ON ELIMINATION OF RACIAL DISCRIMINATION IN 2011**

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### **Recommendation no. 7: Incorporation of the Convention**

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1. In reference to paragraph 11 in the State periodic report.
2. In paragraph 7 of the Committee's concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee invites the State party to consider incorporating the Convention into the Human Rights Act of 1999.
3. A number of international human rights conventions ratified by Norway have been incorporated in the Human Rights Act (HRA) of 1999. This Act has a legal rank above ordinary law and shall hence prevail over ordinary law. The Conventions forming part of the HRA are the ICCPR, ICESCR, ECHR, CEDAW, and CRC. The Norwegian legislator chose to incorporate ICERD at ordinary law level. In the framework of legal reforms, the government considered whether it was desirable to elevate ICERD to the Human Rights Act. However, it was considered that "only distinctively general human rights conventions" ("utpreget generelle menneskerettighetskonvensjoner") should be given a higher rank. This is also the argument raised in the State report.
4. In the recent proposal for new anti-discrimination legislation (21 March 2013), the Ministry of Children, Equality and Integration did not mention the issue of adding ICERD to the Human Rights Act.
5. The justification that ICERD is not a "distinctively general human rights convention" is not convincing anymore. In fact, while originally only the Covenants and the ECHR formed part of the Human Rights Act, now both CEDAW and the CRC have been added. Hence, "special" human rights conventions spanning a broad range of civil and political, as well as economic, social and cultural rights have been considered apt to be given a superior legal rank.
6. We disagree with the State Party's reasoning on the matter, and see several consequences of not incorporating ICERD in the HRA:
  - The lex posterior rule continues to apply to ICERD; hence, contrary to anti-discrimination conventions that are incorporated in the Human Rights Act, ICERD provisions can be derogated by a posterior ordinary law. This raises serious questions as to the effective implementation of ICERD in national law.
  - On a more symbolic level, ICERD suffers from significantly less visibility than the conventions incorporated in the well-known and highly valued Human Rights Act.

#### **Recommendations:**

- The ICERD should be incorporated in the Human Rights Act.

## Recommendation no. 8: Grounds of discrimination

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7. In reference to paragraph 12 in the State periodic report.
8. In paragraph 8 of the Committees concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee recommends that the Anti-Discrimination Act is amended to ensure that all grounds of discrimination contained in article 1 of the Convention are subject to prohibition.
9. We are pleased to see that the new Anti-discrimination Act includes national origin, descent, skin colour and language in the definition of ethnicity as grounds for discrimination, as the State writes in its' report.

## Recommendation no. 9: Dialogue and measures to address discrimination

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10. In reference to paragraphs 13-22 in the State periodic report.
11. In paragraph 9 of the Committees Concluding Observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee is concerned about the situation of migrants, persons from a migrant background, asylum-seekers and refugees with regard to discrimination against them in terms of access to public services, housing, the labour market and health, and in particular adequate physical and mental health services for traumatized refugees and asylum-seekers. The Committee is also concerned at the dropout rate of students from an immigrant background, including from upper secondary education.
12. In light of its general recommendation No. 30 (2004) on non-citizens, the Committee urges the State party to consult regularly with the groups and communities concerned and take measures to address the discrimination they face, including with regard to access to public services, housing, education, the labour market and health, including the provision of specialized mental and physical health services for traumatized refugees and asylum seekers. The Committee invites the State party to consider re-opening the Psycho-Social Centre for Traumatized Refugees. The Committee also recommends that the State party devotes more financial resources to training teachers for a multicultural educational environment. The State party should also take the necessary steps to ensure that persons from an immigrant background have access to positions in higher branches of government, academia and businesses.
13. The government writes in the State report (paragraph 7) that the anti-discrimination law prohibits discrimination based on ethnicity, national origin, descent, skin colour, language, religion and belief. Although this is theoretically accurate, there are clear obstacles to the anti-discrimination law fully prohibiting discrimination within the State. For example, free legal aid is not given to cover cases of ethnic discrimination (see recommendation no. 14) and none of the organisations that offer legal guidance to groups vulnerable to ethnic discrimination receive any financial support from the State to this end (see points 296-298). We are further concerned with the lack of focus on hate crime in the public sphere, and lack of routines when reporting hate crime to the police (see recommendation no. 21).

For the remaining issues raised in this recommendation see:

- Healthcare see points 21-22, 216-220, 282-301 and 378-387
- Labour market see points 355-364
- Education see points 388-390
- Healthcare for traumatised refugees see points 378-385
- Housing see points 368-377

14. Although the State seems to see civil society actors in general as an asset, minority organisations do not seem to be given the same emphasis. All too often, the voices of the minority groups are ignored, or not consulted, on general issues. An example is the teacher education campaign GNIST (see paragraph 134 in the State report). GNIST has not cooperated with, nor have they consulted any minority organisation. Surprisingly enough, reaching minorities is also where the campaign struggles.

**Recommendations:**

- We request CERD to urge the State party to remove the obstacles to report discrimination and hate crime.
- We request the state party to introduce free legal aid in cases of discrimination and to take further steps to prevent discrimination, particularly within the areas mentioned in this recommendation.
- The State party should cooperate with and ensure that minority organisations are included in consultation processes to a much greater extent than they are today.

**Recommendation no. 10: Interpreting services**

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15. In reference to paragraphs 23-26 in the State periodic report.

16. In paragraph 10 of the Committee's concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee urges the State party to improve availability, accessibility and quality of professional interpretation services. The Committee recommends that legislation is enacted on the right to professional interpretation and prohibition on the use of minors and relatives as interpreters. The Committee also recommends that public service professionals receive information and guidance on how to hire and work with qualified interpreters.

17. The State report claims that the availability of qualified interpreters has improved as a result of the establishment of permanent interpretation training programs and the National Register of Interpreters (see paragraph 23 of the State report). The Norwegian National Register of Interpreters is a voluntary service for interpreters to register their qualifications and contact details. The interpreters are divided into five categories based on their qualification; number 1 and 2 are interpreters with accreditation by authorization, category 3 is interpreters with completed university-level interpreter training and category 4 and 5 are interpreters with documented bilingual skills through a written vocabulary test and a completion of a basic introductory course. The goal is that this service will cover all public needs for interpretation. Today this is far from the case, and we are still highly concerned about the quality of interpreting services available within different public services.

18. We are concerned about the development of fewer public interpreting services and the rise of private services, which might result in price rather than quality becoming the principal factor. We are also concerned about the working conditions of



interpreters; many are hired for ad-hoc assignments, and struggle to gain full-time employment and employment rights such as sick leave. The result can be fewer qualified interpreters working in the field.

19. It is also important to ensure that interpreters have an accurate and updated language. The LGBT field has experienced that interpreters often lack correct vocabulary. This is especially crucial in asylum interviews, where insulting language is used due to lack of better knowledge. This is also the case with minor LGBT people who need assistance from the social services in order to speak to their families, and where great damage can be done if the correct vocabulary is not used.
20. Different reports prove that it is still common practice to use non-qualified interpreters within different public services, and in some areas, interpreters are not used at all, as will be shown in the sections below.

### The healthcare system

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21. The status report *No longer a service of unknown quality (Ikke lenger en tjeneste av ukjent kvalitet)*<sup>1</sup> from 2012, shows that in a large number of cases, low-qualified or non-qualified interpreters are used within the health care system. We are deeply concerned about this trend and its potential consequences for the right to appropriate health care for everyone.
22. As shown in the table below, a very low percentage of interpreters used within the health care services in Oslo belong to category 1 or 2 in the National Register of Interpreters.

Category (education level of interpreters)	Lovisenberg hospital	Oslo municipality	Noricom AS*
<b>Category 1+2</b>	13%	15%	1%
<b>Category 3</b>	40%	32%	8%
<b>Category 4+5</b>	4%	9%	3.02%
<b>Others</b>	43%	44%	88%

*Table: Statistics from status report: "Ikke lenger en tjeneste av ukjent kvalitet" from 2012, Likeverdige Helsetjenester*

\* Distributes services for Oslo University Hospital, Akershus University Hospital and Sunnaas hospital

### The Norwegian Labour and Welfare Service (NAV)

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23. A report from 2011 conducted by the Directorate of Immigration and Diversity (IMDi) shows that 7 out of 10 employees in NAV have not received guidance in how to use interpreters. The result is that 54 % of the employees never, or hardly ever, use interpreters in planned meetings with people whose command over the Norwegian language is so limited that communication becomes difficult. In

<sup>1</sup> Helse-Øst, 2012, *Ikke lenger en tjeneste av ukjent kvalitet*, available at: <http://www.tolkeportalen.no/no/Publikasjoner-og-pedagogisk-verktoy/> (accessed 03.08.14)

unplanned meetings with the same group, 85 % of the employees do not use interpreters.<sup>2</sup> We are highly concerned about the lack of use of interpreters in NAV and how it might affect the access to rights and understanding of duties of the persons in question.

## The Police

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24. There is little information on the use of qualified translators within the police force. In 2009 it was revealed that almost 60 % of interpreters used by the police were not registered in the National Register of Interpreters, which may indicate that they do not have documented qualifications.<sup>3</sup> The same study showed that the companies and distributors of translation services to the police often use translators without documented qualifications.<sup>4</sup> However, a study done by IMDi on the interpreters in the National Register of Interpreters shows that the interpreters with best qualifications (level 1 and 2) get a higher percentage of their assignments from the police than those with lower qualifications.<sup>5</sup> Still, 42 % of the interpreters with the lowest qualifications (level 5) answered in the survey that they had been given translation assignments from the police.<sup>6</sup>
25. The Equality and Anti-discrimination Ombud has been contacted by several women who have been victims of violence and, when reporting it to the police, have been informed that they have to hire their own translator for police interrogations. Many of these women do not know where to find translators, cannot afford it and lack knowledge of the Norwegian bureaucracy. This can result in many women not being able to report acts of violence to the police, perpetrators might go free and women might stay in abusive relationships.

## The courts

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26. There is little information regarding the use of qualified interpreters within the courts. However, a study from 2009 showed that more than 50 % of the interpreters used were not registered in the National Register.<sup>7</sup> The report from IMDi on translators in the National Register of Interpreters shows that those assigned to the courts from the Register were mostly in category 2. However, 44 % of level 5 translators had been given assignments from the courts.<sup>8</sup>

## School

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27. The report *My mum doesn't understand when the teachers speak (morra mi forstår ikke når lærerne snakker)* conducted by IMDi in 2011, shows that only approximately 25 % of all teachers and other employees within the school system have been trained to use interpreters. The result is that qualified interpreters are

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<sup>2</sup> Integrerings og Mangfolddirektoratet, 2012, *Bruk av tolk i NAV*, available at: <http://www.imdi.no/Kunnskapsbasen/Innholdstyper/Rapporter/2012/Bruk-av-tolk-i-NAV/> (accessed 03.08.14)

<sup>3</sup> Helse-Øst, 2012, pp.15

<sup>4</sup> ibid

<sup>5</sup> Integrerings og Mangfolddirektoratet, *Undersøkelsen om tolkene i Nasjonalt tolkeregister 2012*, pp. 24, available at: <http://www.tolkeportalen.no/no/Publikasjoner-og-pedagogisk-verktoy/> (accessed 03.08.14)

<sup>6</sup> ibid s. 24

<sup>7</sup> Helse-Øst, 2012, pp.15

<sup>8</sup> Integrerings og Mangfolddirektoratet, 2012, pp. 25

not used as often as needed, and instead, other people (employees who speak the language, relatives of the student or the student itself), are used to translate in school meetings. In the study, 38 % of the employees answered that qualified translators were used too rarely in meetings with parents who speak little Norwegian. 33 % answered that they use relatives of the student often or sometimes in meetings with parents, and 34 % answered that they often or sometimes ask the student to translate.

## Children as translators

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28. In addition to children being used as interpreters in school, there are several reports of children being used as translators for parents within the healthcare system and other public services.
29. To use children as interpreters is bad practice and should be forbidden by law. It is a burden for a child to take on the responsibility of acting on behalf of the parent. It also creates situations where children will gain information on parents' financial- or health issues, which the parents might not want the child to be aware of. This can result in parents withholding information and can, in a worst-case scenario, have serious consequences for the family.

Example from Knut Fredrik Thorne, ombudsman for patients in Akershus County: A mother went to hospital with her 14-year-old son. She had vaginal problems, which she did not feel comfortable discussing with her son. As he was the only one there to translate, she did not inform about her issues and was henceforth mistreated. <http://www.nrk.no/nyheter/1.11088180>

30. We welcome the statement by the former Minister for Children, Equality and Social Inclusion who in May 2013 said that it would be prohibited by law to use children as interpreters.<sup>9</sup> The State report mentions that a government appointed panel will put forward proposals regarding the use of interpreters in the public sector in the autumn of 2014, in which the use of children as interpreters will be considered.<sup>10</sup> This report was delivered to the Ministry for Children, Equality and Social Inclusion.
31. The present Minister for Children, Equality and Social Inclusion has followed up on this issue and stated that they will forbid the use of children as translators. A hearing was sent out to relevant parties with deadline in September 2014.
32. We are still missing a prohibition on the use of relatives as translators.

### Recommendations:

- We request CERD to urge the State party to implement measures to ensure availability of qualified interpreters within all public services, and to amend laws in order to secure the use of qualified and professional interpreters whenever necessary. The laws are already in place for the health care system, but needs to broaden to also cover the labour and welfare system (NAV), the legal system, the police and schools.

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<sup>9</sup> Verdens Gang, 14.05.2013, *Regjeringen forbyr barnetolker*, available at <http://www.vg.no/nyheter/innenriks/artikkel.php?artid=10103430> (accessed 03.08.14)

<sup>10</sup> Norway, 21.11.13, *CERD/C/NOR/21-22*, point 21

- We encourage the State Party to further develop the National Translator Registry in order to secure the quality of interpreting services, with the goal of the service covering all public needs for interpretation, and to ensure that translators receive competency building regularly, in order to ensure the correct and updated vocabulary.
- The State should implement measures to secure the working conditions for interpreters.
- All relevant higher education should include training in the use of interpreters.
- All employees of public services should receive training in using qualified and professional interpreters.
- The State should take measures to secure free interpretation services to women who are victims of violence.
- Using minors and relatives as interpreters should immediately be prohibited by law.

#### Recommendation no. 11: The introduction Act

33. In reference to paragraph 27 in the State periodic report.
34. In paragraph 11 of the concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee notes:  
While noting the importance of adequate command of the State language as a vehicle for social integration and participation, the Committee is concerned that the requirement in the Norwegian Nationality Act that the applicant between the age of 18 and 55 must have completed 300 hours of Norwegian language lessons may be a barrier for access to citizenship and naturalization for certain groups. The Committee is concerned at the dropout rate from the mandatory language instruction; that it is not of uniform quality and free of charge for all; that the introduction programme lapses after three years; that it depends on the person's basis for residence and can be lost if the person moves to another municipality.
35. Recalling its general recommendation No. 30, the Committee urges the State party to take appropriate measures to ensure that the free of charge language instruction programme is available to everyone who wants it and that its pedagogic methods and content are adapted to gender and to the educational and national background. In order to reduce the dropout rate and ensure that the programme is not a barrier for citizenship and naturalization, the Committee recommends that the State party monitor its implementation more closely to determine whether it is of uniform quality, is adapted to certain groups in terms of gender and origin, and that eligibility is not lost when changing residence.
36. We welcome the changes in the introduction law, which increases the number of hours of free Norwegian and social studies lessons from 300 to 600 hours. However, we are still concerned about the variation of quality of the lessons in different municipalities, that the programme is not adapted to suit everyone's needs, especially in terms of gender and origin, and that the programme is not available and free for all. Little has changed since CERD's last recommendations, and we therefore urge the Committee to question the State party's efforts to improve the quality and availability of the introduction programme.
37. We support the Committee's concern that the requirement of 300 (now 600) hours of Norwegian and social studies lessons in the Norwegian Nationality Act, may be a

barrier for access to citizenship and naturalization for certain groups, and are pleased to see in the State report that the authorities are monitoring possible consequences of this practice, and look forward to see the results.

38. Statistics show that of all the participants who completed the introduction programme in 2010, only 54 % were employed or in education in 2011.<sup>11</sup> This is the lowest percentage seen since the introduction of the programme. These alarming numbers tell us that several measures need to be taken in order to ensure a programme that is adapted to everyone's needs, is of high quality and available to all.
39. Statistics Norway (Statistisk Sentralbyrå, SSB) shows that fewer women than men gain employment or start studying after concluded introduction programme. Although there might be several reasons for this, we believe the restrictions and lack of personal adaption within the programme are contributing factors.
40. As written in the State report, the law stipulates a deadline of three years to complete the introduction programme. We find this deadline unfortunate as it might exclude many, and particularly women, from concluding the programme. For families who have just arrived in Norway, it might be difficult to have both parents in full-time education, while settling down. Consequently, one of the parents, and often the mother, frequently ends up staying at home with the children instead of participating in the programme. Pregnancy can also be a factor complicating the completion of the programme. We therefore suggest offering the programme part-time and without a deadline, in order to adapt the programme to include as many participants as possible. This will increase the participants' opportunity to learn, and will strengthen the language skills for those who cannot follow a full-time programme, but might be able to participate in customised part-time modules.
41. The introduction programme is not free and available to all groups of immigrants arriving in Norway. Groups falling outside of the scheme are certain groups coming through family-reunification, some with temporary residence permits and migrant workers and their spouses. We are concerned that by not offering free Norwegian lessons to these groups, they will struggle to become part of society and to contribute in a manner benefitting themselves and society as a whole.
42. The introduction law has recently been amended, making a final test in Norwegian and social studies compulsory upon completion of the course. The premise for the change is "to ensure predictability, continuity, security and efficient progress of the individual's participation in the Norwegian language and social studies education".<sup>12</sup> The test is free, and the result will be divided as either "pass" or "not passed". The result will not have any other consequences than the possible "not passed", but in order to take the test again, if the reason for failing/ being absent is not valid, a fee will have to be paid.
43. We are concerned that the premise for amending the law will not become a reality. Today, it is well known that the course is of wide-ranging quality, and it is not certain that a compulsory test will even out the differences in the quality of teaching. Instead, the consequence might be test results as wide-ranging as the quality of the teaching is today. Further, it is unclear how the test will be adapted to suit the

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<sup>11</sup> Statistics Norway, 2013, *Monitor for Introduksjonsordningen* 2012, available at: <http://www.ssb.no/utdanning/artikler-og-publikasjoner/lavere-andel-deltakere-faar-jobb> (accessed 03.08.14)

<sup>12</sup> Law, 4<sup>th</sup> July 2003, nr. 80 (*Introduksjonsloven*)

personal skills and needs, particularly related to gender and origin. For example, the social studies test is computer-based, and not all students are equally skilled at using computers. Others have learning difficulties or traumas that might be hard to detect, but may affect the results of a test. The social studies test is to be taken in a language they “understand”, which we believe to be an unfortunate phrasing. It should be stipulated that the student needs to handle the language well, in order to fully grasp the test. It is also unclear what is stipulated as valid absence from the test.

44. If a student fails the test, it can strongly affect his/ her future life in Norway, hindering study- or employment opportunities. We therefore recommend that the new practice of compulsory testing is closely followed-up and evaluated, to ensure that it does not become yet another obstacle for immigrants to be included in society.
45. Citizenship test: The present government states in their agreement with the Liberal Party and the Christian Democrats, that a minimum of Norwegian will be required, and a test in social studies needs to be passed, in order for foreigners to become Norwegian citizens.<sup>13</sup> It is a requirement that the test is in Norwegian. Until now it has been possible to take the test in a language he or she understands. We fear, echoing the Committee’s concern from earlier, that this might also be “a barrier for access to citizenship and naturalization for certain groups”.

#### **Recommendations:**

- We urge the Committee to question the State party’s efforts to improve the quality and availability of the introduction programme, and to urge the State party to follow up the recommendations from CERD regarding the introduction programme.
- We request the Committee to urge the State party to take measures to improve the quality and availability of the introduction programme and to adapt the programme to suit personal needs.
- The three-year deadline placed upon the introduction programme should be removed.
- The introduction programme should also be available part-time, in order to include a larger group of people.
- The introduction programme should be free and available to all immigrants in Norway.
- The new practice with a compulsory test after completed introduction programme should be closely monitored and the effect analysed to evaluate whether it has a positive effect, or only becomes another obstacle to inclusion in society.
- The compulsory tests should be adapted to suit the different skills and needs of the participants in the programme, and clear guidelines need to be available, in languages the students understand. The guideline should include what constitutes a valid leave of absence.
- It should be stipulated that the social studies test should be taken in a language the student handles well, in order for language not be an obstacle to passing this particular test.
- There should be a free re-test available to those who fail the first exam, to avoid groups of immigrants struggling to find student- or employment opportunities after ended programme.
- The plan to set a test to become a Norwegian citizen should be scrapped.

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<sup>13</sup> *Avtale mellom Venstre, Kristelig Folkeparti, Fremskrittspartiet og Høyre om utlendingsfeltet (Agreement between the Liberal party, the Christian Democrats, the Progress Party and the Conservative Party)*, 30.09.2013

## Recommendation no. 12: Unaccompanied asylum seeking minors and other asylum seekers

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46. In paragraph 12 of the Committees concluding observations to Norway's 19th/20th report, the Committee recommends that the State party takes all the necessary measures to address the situation of asylum seekers in a humane manner and according to the law and that it takes all measures necessary to ensure protection for unaccompanied asylum-seeking children.
47. The situation for asylum seekers in Norway has not improved after the Committee's concluding observations to Norway's 19th/20th report. We are particularly concerned about the lack of security for unaccompanied asylum-seeking children, where the rules are not in conformity with Norway's international legal obligations. Other areas of particular concern are asylum seekers with limited residence permits and the strict limitations on work permits for asylum seekers. For other issues related to asylum see recommendation no. 13 and points 319-352.
48. The government has recently ended the practice of returning unaccompanied minors to other European countries under the Dublin II protocol. We welcome the step in the right direction to secure the rights and safety of asylum seeking children.

## Unaccompanied minor asylum seekers over the age of 15 are not under the care of the child welfare authorities

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49. In reference to paragraph 28 in the State report.
50. In Norway, when children are deprived of parental care, the child welfare authorities (Barnevernet) become responsible for their care. Unaccompanied minor asylum seekers are per definition without parental care, yet this law does not apply to those who are over 15 years of age. Instead they become the responsibility of the immigration authorities (Utlendingsdirektoratet, UDI). The immigration authorities do not have the same requirement of staff density at their reception centres for unaccompanied minors as the child welfare authorities have at their care centres, nor do they have the same degree of expertise on children's welfare and well-being. Additionally, the immigration authorities are responsible for the decisions in the children's applications for asylum, which means that many unaccompanied minor asylum seekers have a low degree of trust in their caretakers. It is with concern that we read in the State report that "it has been decided that UDI is to continue to have the responsibility for providing housing and care services for unaccompanied asylum-seeking minors over 15 years of age".<sup>14</sup>
51. The UN Convention on the Rights of the Child states explicitly in article 4 that it is the responsibility of the State to ensure that all children in their jurisdiction get their rights met, and in article 22, that children seeking refugee status "shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason" if parents or other family members cannot be found.
52. The Norwegian practice is clearly discriminatory towards unaccompanied minor asylum seekers who are over 15 years of age. The State is likely to argue that the

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<sup>14</sup> Norway, 21.11.13, CERD/C/NOR/21-22, point 23

discrimination is founded in citizenship or legal status. It is not true, however, that this differentiation is based on citizenship. Children who are in Norway as tourists, children of guest workers or international students become the responsibility of the child welfare authorities if they for some reason are deprived of parental care. The discrimination is thus not based on citizenship but represents an explicit discrimination of asylum seeking children.

**Recommendations:**

- Unaccompanied minor asylum seekers over the age of 15 must be placed under the care of the child welfare authorities, to ensure that all children in Norway who are without parental care have the same rights, the same protection and the same care from the competent authorities.

### Children disappearing from asylum reception centres

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53. A significant number of unaccompanied minor asylum seekers disappear every year in Norway. The overwhelming majority of these are older than 15, and hence under the legal responsibility of the immigration authorities. This can partly be explained by the majority of unaccompanied minor asylum seekers being older than 15, but it is also likely to be due to the differences in the two systems, as those under the care of the child welfare services are more closely monitored.
54. As responsible caretakers of these children, the immigration authorities have some responsibility in monitoring the investigation when a minor asylum seeker disappears, but the investigation itself is the responsibility of the police. Problems arise when the police regularly claim not to have enough information to continue the investigation and refer to the children being the immigration authorities' responsibility – who on their side point back at the police. As a result, these disappearances are rarely properly investigated. The majority of children who have disappeared in recent years, fall under the Dublin II protocol and were to be returned to the first Schengen country in which they lodged their application. Employees in reception centres, the immigration authorities and the police all point to this, and explain that these children were to leave the country anyway and that searching for them therefore is less necessary. Many also add that they believe that these children lied about their age to increase their likelihood of gaining asylum. Several humanitarian organisations fear that the disappeared children end up as victims of human trafficking.
55. It is the State's responsibility to prevent and investigate crime and possible crime. Investigating the disappearances of children is certainly an important part of this. When a child disappears on Norwegian territory, it normally receives a lot of attention and is thoroughly investigated, using all available resources, regardless of whether the child is a tourist or a Norwegian citizen. That this is not the case when the child in question is an asylum seeker, cannot be called anything but discrimination. It is, according to article four in the UN Convention on the Rights of the Child, the responsibility of the State to ensure that all children in their jurisdiction have their rights met, something they cannot do for children whose whereabouts are unknown.



**Recommendations:**

- We ask the Committee to urge the State party to actively seek to prevent these disappearances by transferring the care of all unaccompanied minor asylum seekers to the child welfare authorities.
- Furthermore, when a child disappears, this should be investigated with the same seriousness, thoroughness and speed regardless of the child's legal status in Norway.

**Temporary residency permits for unaccompanied minor asylum seekers over the age of 16 years**

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56. In reference to paragraph 29 in the State report.
57. In Norway, unaccompanied minor asylum-seekers over the age of 16, deemed not to be in need of protection, but who lack sufficient care in their country of origin, are given temporary residence permits on humanitarian grounds until they turn 18. The uncertainty and the temporary nature of the situation allegedly cause many of these children to suffer from a rapidly deteriorating mental health.
58. This is an intentional policy from the national authorities, as they seek to reduce the number of children who are "sent" by their parents to perceived safety in a western country in particular, as well as the complete number of asylum seekers in general.
59. The majority of the minors who are given this form of temporary/limited residence permits, are from conflict-ridden countries such as Afghanistan and Iraq.
60. The State writes in its report that: "At one point, certain persons in this age group holding a limited permit were accommodated as a group in a single reception centre for unaccompanied asylum-seeking minors. This practice has ceased." The practice in fact ceased after massive public criticism. Medical professionals stated that the under-age inhabitants suffered from collective mental problems. Furthermore, almost all political parties represented in the municipality of Bergen, the city that hosted the reception centre (including all the parties of the national coalition government at the time) jointly opposed the centre.
61. Following the termination of the centre, the youth were distributed among ordinary reception centres across Norway, where they continue to live in distress. In 2012, a highly critical documentary<sup>15</sup> was made about the untenable situation of these minors by award-winning Norwegian filmmaker Margreth Olin. Still, the practice of giving minors in this age-span temporary residence permits until they turn 18 and may be deported, continues.

**Recommendations:**

- The State should order an independent assessment of the practice of giving minors from conflict-ridden countries temporary/limited permits pending return when they turn 18, particularly focusing on the consequences of their psychological development and other health aspects and bearing in mind the best interests of the child.

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<sup>15</sup> Olin, M., 2012., *De andre (Nowhere Home)*, Speranza Film AS

- The State party should abandon the practice of temporary residency permits without the possibility of renewal for unaccompanied minor asylum seekers, or as a minimum, it should be severely limited.
- The State should return to the practice it had until 2008, and give children in this specific situation residency permits on humanitarian grounds.

#### Asylum seeking children do not have a legal right to attend upper secondary school

62. From the moment it is considered likely that a child will be in Norway for more than three months, that child has a right to attend school, i.e. primary or lower secondary school. From the moment the child has been in Norway for three months that right is also a duty. Primary education commences the year the child turns six years old, and the right and duty to attend school lasts until the child has completed ten years of primary and lower secondary education. Young people under the age of 24 who have completed this mandatory schooling or other equivalent education and apply for upper secondary school have a right to three years of full-time upper secondary school. This last right, however, is restricted to children and young people who reside legally in Norway, or who are under the age of 18 and has a pending application for asylum.
63. A large group of young people is thus excluded from this right. That group consists of young people who have been refused asylum and young people who are applying for asylum, but are over 18. The vast majority of these young people have origins either in Africa or Asia. They may still receive upper secondary education, but this decision is left for the county administration, or even the particular school, to make, rather than being their legal right.
64. Upper secondary education is necessary in order to access post-secondary education, such as universities and university colleges. This policy then, makes it more difficult for young people who are or who have been asylum seekers to access higher education and high status jobs, making a group of people who are primarily people of colour more likely to hold low status jobs or be unemployed.
65. Education is not only important for the 60 % who receive Norwegian residency permits, but also for the remaining 40 %. Having access to education improves these young people's psychosocial wellbeing while they are in Norway. Even more importantly, education is beneficial also for their future in their country of origin.
66. All young asylum seekers were excluded from the right to upper secondary school until 2014. The Stoltenberg Cabinet announced the policy change in their last national budget, and the law was changed under the Solberg cabinet, in 2014.

#### **Recommendations:**

- All young people who otherwise meet the admission criteria should have a right to attend upper secondary school, regardless of residency status

## Asylum seeking children under the age of four do not have a legal right to kindergarten

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67. According to the Kindergarten Act, all children in Norway have the legal right to attend kindergarten from the year they turn one.<sup>16</sup> This right does not adhere to children of asylum seekers under the age of four. This is discriminatory practice in breach with the convention.
68. The asylum seeker reception centres are obliged to have alternative options, but the existing services are of very varying quality and often lack the adequate professional competency. The present government proposed in 2014 to remove the financial support earmarked kindergarten services for children in asylum-seeking families, aged four - five years. The proposal was removed in the revised budget for 2015, after demands from the government supporting parties (Christian Democrats and The Liberals). We are very worried that these policies will resurface at a later stage, and result in completely removing this post from the national budget.

### **Recommendations:**

- All children living in Norway must have the same right to attend kindergarten.

## Limited residence permits to adult asylum seekers

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69. Limited residence permits on humanitarian grounds may be granted to persons seeking asylum in Norway in accordance with the Immigration Act § 38. Humanitarian residence permits are typically granted to persons who are particularly vulnerable to adverse social or humanitarian conditions in their home countries, such as persons suffering from serious health problems. In the last few years, approximately 1000 persons have been granted humanitarian residence permits with limitations in Norway.
70. Temporary permits on humanitarian grounds severely limits further opportunities in society, such as access to permanent residence permit or family reunification, the right to receive integration grant (integreringstilskudd), and the right to join the introduction program; which in practice means they will be stuck at reception centres for years, lacking basic knowledge of the Norwegian language and culture necessary to join the community. The limitations may be particularly detrimental to vulnerable individuals.
71. Some refugees are given temporary residence permits for one year at a time and with the limitations stated above, as they cannot prove their identity. The criteria for removing the limitations (providing a valid proof of identity) may be inaccessible to many and very costly, if it requires travelling to one's home country. For those coming from a country without a central government, it is practically impossible to get identity papers. The result is that many live on limited residence permits year after year, without any chance of becoming an integrated part of society.

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<sup>16</sup> "the Kindergarten Act" of 2005, Act no. 64 of June 2005 relating to Kindergartens entered into force January 2006.

**Recommendations:**

- The State must remove the restrictions placed on limited residence permits in order for those who are given a permit on humanitarian grounds to enjoy fundamental rights such as the right to education and training.
- Ensure everyone the right to learn Norwegian free of charge.
- Guidelines for use of limited temporary residence permits, and what is required in order to obtain an ordinary residence permit, needs to be clarified.

**Temporary work permits for asylum seekers**

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72. Since 2009, the main criteria for a temporary work permit have been a valid travel document or national identity card, according to the Norwegian Immigration Regulations § 17-24. Asylum seekers from Somalia are exempt from the criteria. This criterion is problematic, as not having presented a valid travel document or national identity card does not necessarily mean that there are doubts concerning identity. The asylum seeker can have substantiated his or her identity in other ways.
73. The Norwegian Immigration regulation § 17-24 may therefore be in conflict with § 17-7 in cases where an applicant is not able to provide valid identity documents due to a well-founded fear of persecution from the authorities in the country of origin. § 17-7 states that *“A foreign national who applies for or has been granted protection may not be required to contact the authorities in his/her country of origin if this may conflict with a need for protection. Nor may the foreign national be required to clarify his/her identity in any other way that may conflict with a need for protection”*.
74. The strict practice for a temporary work permit has a negative impact on asylum seekers’ personal development. It is also delaying the integration into Norwegian society for those who eventually are given protection in Norway. Allowing asylum seekers to work would furthermore benefit the Norwegian society.

**Recommendations:**

- The Norwegian authorities should review and revise the legislation to guarantee that it is in compliance with the Convention article 5 (e) (I), in regard to the General Recommendation No. 30, *II Measures of general nature* point 6.
- The Norwegian authorities should alter the requirements for a work permit and make it applicable to the actual possibility asylum seekers have to obtain such documents or to otherwise substantiate their identity.

**Recommendation no. 13: Refugee reception centres**

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75. In paragraph 13 of the Committees concluding observations to Norway’s 19<sup>th</sup>/20<sup>th</sup> report, the Committee recommends that the State party bring the conditions in reception and special return centres, and in reception centres for children, in line with relevant international human rights standards.

**Conditions in asylum reception centres for failed asylum seekers**

76. In reference to paragraph 35 in the State report and to point 181-190 in our previous alternative report.

77. The State writes in its report that “In 2010, the Government decided to discontinue the system of ‘waiting centres’ for persons whose application for asylum has been finally rejected, because the arrangement had not functioned satisfactorily”. What in fact happened was that the inhabitants in both of the two “waiting centres” rioted in July 2010. Both centres were damaged and one of the buildings was burned to the ground. This development of events was sadly in accordance with our concerns, as expressed in our reports to the Norwegian Government about the serious situation at the centres, given the unnecessarily stressful conditions created there, and indeed our strong concern as expressed in our previous report to CERD.<sup>17</sup>
78. The previous government decided not to re-establish the “waiting centres” following these events, but rather returned to what had been the previous arrangement, namely that rejected asylum seekers are offered accommodation in ordinary asylum reception centres.
79. However, the new government has in their agreement with its supporting parties, decided to again reconstruct the structure of asylum reception centres. The government will establish two new types of centres; integration centres for accepted asylum seekers who are awaiting placement in a municipality, and return centres for rejected asylum seekers awaiting deportation. In the return centres, the focus will be on return, including activities like finding family members in the country of origin, and information on voluntary returns through the International Organisation for Migration (IOM) with the hope of having rejected asylum seekers return voluntarily to their countries of origin. Some of the return centres will also have sections for those detained after § 106 of the Immigration Act. A high security return centre with 500 places will be built close to Trandum Holding Centre and Trandum itself will get a new section, with possibility of further increases.
80. On the positive side, the new return centres will have the same standard of living as the ordinary reception centres. This will distinguish them from the previous waiting centres, where the standards were (substantially) lower. On the negative side, now also families with children will be included. If the return centres develop in accordance with our concerns, that is, into “pressure boilers”, the fact that also children are placed here will be particularly troubling.
81. In conclusion, we are concerned that the new return centres risk being a slightly modified repetition of past bad practices. There is little reason to believe that these centres will create different results than the waiting centres did in the past. We are concerned that the return centres will become yet another institution in which people will live year after year in “limbo”, with high mental pressure on the inhabitants due to passivity, isolation, uncertainty and fear.

**Recommendations:**

- We recommend the Committee to remind the Norwegian government of the failures of the ‘waiting’ centres and recommend the State to avoid any repetition of the past.
- We recommend the State to reconsider establishing return centres, and particularly having closed sections for detained asylum seekers within these centres, as it will seem incriminating to ordinary rejected asylum seekers.
- Although we do not favour the establishment of return centres, if they are to be created we recommend the government to take particular care with the

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<sup>17</sup> NGO Shadow Report 2010-Supplementing And Commenting On Norway’s Combined 19th/20th Periodic Report, pp. 6

management to ensure the well-being of the inhabitants, and recommend as a minimum that:

- All return centres should be under direct State control, alternatively by a humanitarian organisation, not administered by private business enterprises.
  - The standard of the health care, both physical and psychological, must be adequate, particularly considering the psychological pressure related to the living conditions and the awaiting deportations.
  - A maximum time limit for how long anyone should live in “limbo” at return centres must be instated.
- We recommend the Committee to pay close attention to the development of the return centres to ensure they are not in violation of the human rights standards set forward in the convention or any other human rights instrument.

#### Use of detention

82. In reference to paragraphs 37-38 in the State report.

83. In its previous Concluding Observations,<sup>18</sup> the Committee expressed its concern about the proposed lowering of the threshold for imprisonment and the duration of provisional detention of persons whose identity is being verified. Since the Committee published its Concluding Observations, the threshold has indeed been lowered in cases where the authorities believe that there is doubt in regard to the identity or a possible risk of evasion from deportation. Detention can now take place if there are concrete reasons to assume that the identity stated by the foreign citizen is false, demanding less than probability. That is to say that the foreigner may be detained also if it is most likely that the identity s/he has stated is in fact true.

84. In the agreement between the present government and its supporting parties in Parliament (the Liberal Party and the Christian Democrats), the government wants to initiate a process to enforce the provisions of the Immigration Act § 106, first paragraph, which includes the lowered threshold introduced by the previous government.

85. The current plan to increase enforcement of § 106 might lead to a substantial increase in numbers of asylum seekers imprisoned, after a threshold already criticised to be too low. The governments' wish to harmonise the rules between foreign cases and other detention cases, does not substantially lessen our concerns regarding this issue.

86. The new government agreement also proposes detaining asylum seekers who have their case processed in the 48-hour fast-track system. The imprisonment of these asylum seekers, whose only 'crime' might be that they come from a country with many asylum claims that are considered unfounded, seems to be insubstantial grounds for detention.

#### **Recommendations:**

- We recommend the Committee to pay close attention to the practice of detaining foreign citizens based on less than probability, making sure that this does not develop into a practice of routine detention on insubstantial grounds.

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<sup>18</sup> Committee on Elimination of Racial Discrimination, 2011, *Concluding Observations*, par. 13

- We further recommend the Committee to pay close attention to the enforcement of detention after § 106, to ensure that it does not lead to mass-imprisonment of asylum seekers on insubstantial grounds and in violation of different human rights instruments.
- We recommend the State Party to reject the proposal of detaining asylum seekers who have their case processed through the fast-track system. An exception can be made for persons charged with serious criminal offences.

#### Narrow interpretation of the Refugee Convention article 31

87. Asylum seekers that arrive in Norway with a false travel document are routinely sentenced to jail for violating the Norwegian Penal Code.
88. According to the Director of Public Prosecution “No criminal court proceedings should be raised for travelling illegally into Norway or for staying in Norway, against a refugee that has arrived in Norway as the first safe country. This impunity should also include the use of false travel document necessary in order to carry out the escape, when the documents have not been used after arrival in Norway”.<sup>19</sup>
89. Norwegian authorities’ interpretation of the 1951 Refugee Convention article 31 and the terms “coming directly” and “without delay” is too narrow. An interpretation of the provision in compliance with the Vienna Convention article 31 should lead to a wider application of the exemption of the penalization.
90. There are no available statistics of the application of the Refugee Convention article 31, which makes it difficult to assess whether Norway complies with its obligations under the Convention. The Norwegian practice on this issue may be a violation of CERDs article 5(a).

#### **Recommendations:**

- The Norwegian authorities should review their legislation in order to ensure that it is in accordance with the convention, also in regard to CERDs General Recommendation No 30, *V. Administration of Justice*, point 19.
- The Norwegian authorities should review their practice to ensure that it is in accordance with the Convention and CERDs General Recommendation No 30, *V. Administration of Justice*, point 21.
- The Norwegian authorities should provide reports and statistics on the use of detention in cases where asylum seekers use false travel documents to enter the country and in which cases the benefit of the 1951 Refugee Convention article 31 applies, in line with CERDs General Recommendation No 30, *I. Responsibilities of States parties to the Convention*, point 5.

#### Trandum Holding Centre

91. In reference to paragraph 39-40 in the State report, and to point 23-25 in our previous report.

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<sup>19</sup> Director of Public Prosecution, 01.12. 2008, *Letter from the Director of Public Prosecution to The Public Prosecutors, The Norwegian National Authority for Investigation and Prosecution of Economic and Environmental Crime (ØKOKRIM), National Police Immigration Service, National Criminal Investigation Service (Kripes), Norwegian Police Security Service and to the Rural police stations*, Available at: <http://www.riksadvokaten.no/no/dokumenter/retningslinjer/Nye+retningslinjer+for+straffbare+handler+som+avd+ekkes+i+utlendingssaker.9UFRvGZH.ips> (accessed 03.08.14)

92. Trandum is a detention centre specifically for foreign citizens (usually failed asylum seekers) awaiting deportation, or whose identity is in doubt.
93. Trandum has been the subject of scandals through a number of years. In 2009, it became known that doctors working for the Immigration Police at Trandum had forcefully sedated failed asylum seekers in order to facilitate deportation, although this was contrary to the ethics standards of the Norwegian Doctors' Association. In 2010, Trandum was closed both by the main Ombud for the care and safety of the employees ("hovedvernombud") and by The Norwegian Labour Inspection Authority because of problematic conditions, including attempts at riots by the inhabitants. In 2010, the Ombudsman for Children went to Trandum to examine the case of a 17-year-old failed asylum seeker with serious psychological problems (including two suicide attempts) and a criminal record, who awaited deportation to Iraq as soon as he turned 18. The comment from the Children's Ombud was: "Trandum is a symptom of how bad it can get" and "That the police avoid having a close co-operation with such institutions [child care services] testifies to a lack of professionalism in the handling of children." These examples are prior to the period of the current report and are only intended as examples of a history of problems related to this centre.
94. The new government's agreement with its' supporting parties has decided that Trandum will get a new section, increasing the number of spaces for detention, with the possibility of further increases if found to be necessary.

#### Cells for Solitary Confinement

95. A main issue of concern are the two cells used for solitary confinement. Previously, Trandum has received harsh criticism from the European Committee for the Prevention of Torture (CPT), who described the two cells that were previously used for this purpose as "unsuitable for detention of any kind".<sup>20</sup> At that time, the cells in question were entirely without windows. The new, improved cells have floors and walls of concrete, a matress on the floor and a small window high up on the wall. You can see if it is night or day, but would usually not have any idea as to the time of day.
96. It is not known to us why CPT, in its 2011 report, had no critical comments to the new cells. However, it is not possible for us to agree with the State's claim in regard to the centre's "high standards". On the contrary, given the repeated criticism of the centre also from many Norwegian actors, we would have hoped for a more self-critical view on the issue. In 2012, the Norwegian Centre against Racism asked to visit Trandum to see the facilities. Despite an initial positive response from the police, this was followed by delays, and finally with silence. The visit finally took place in spring 2015.
97. While the facilities themselves have improved, what particularly troubles us are some of the common procedures and practices. The cells in question are primarily used for persons who are somehow "acting out" and/or deemed mentally unstable, for instance if the guards believes that there is a risk of self-mutilation or even

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<sup>20</sup> Council of Europe: Committee for the Prevention of Torture, Strasbourg, 11.04.06, "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 10 October 2005", available at: <http://www.refworld.org/publisher,COECP,T,,NOR,,,0.html> (accessed 03.08.14)



suicide. This use has been confirmed directly in our contact with the police at Trandum. That persons who are – potentially extremely – psychologically vulnerable are placed here is very problematic.

98. In this regard, very little weight seems to be given to the fact that many asylum seekers (be they failed or current) have experiences with imprisonment and torture or other inhuman or degrading treatment from their countries of origin, and therefore may experience such harsh treatment as particularly stressful.
99. In its previous Concluding Observations (recommendation number 13), the Committee recommended that the State party provide the necessary mental and psychological health services by specially trained qualified staff. Two nurses have been employed at Trandum. However, to our knowledge the capacity does not fulfil the need. Also, even the persons in solitary confinement are not always seen by a doctor, as they are entitled to under Norwegian law.
100. The State writes in its report: “Persons with a serious mental illness requiring treatment are assessed by the physician without delay and immediately referred to the specialised health services for treatment.” Previously, the medical centre with which the detention centre has an agreement had its own psychologist, but this arrangement was discontinued because it “proved to be unnecessary”. This is not in line with our knowledge of the practice. Rather, the practice seems to be that if the guards believe there is a risk for instance of self-mutilation, or even suicide, the persons are placed in the confined cells pending deportation. To what extent the specialized health services are called in at all is unclear to us, as during Antirasistisk Senters visit they were told this happens rarely. The threshold for this seems inappropriately high. The idea that there would be no need for a psychiatrist is incomprehensible to us. We are only able to understand this statement if it is seen as “unnecessary” solely from the perspective of the police, not including the perspective of a (possibly great) number of detainees.

#### Deportations Contrary to Medical Advice

101. There are also cases where deportations are carried out even though there are statements from specialized medical services requesting that the person in question is not deported, for instance, until a particular medical treatment has been completed. Doctors employed by the Immigration Police set these statements aside.

#### **Case:**

In April 2012 a pregnant Palestinian woman had medical statements stating that she had a complicated pregnancy and that there was a need for further examinations and treatment before deportation could be carried out. In spite of this, the immigration police came at five o'clock in the morning to detain the family. The woman lost consciousness due to the stress, started bleeding and was sent to the hospital. By that time, the foetus was no longer alive. Following this event, the police did not pay any heed to the fact that she was supposed to return to the hospital five days later, or to a medical statement stating that she needed to rest for two weeks before deportation. A doctor the police contacted themselves set these concerns aside. Thus, she was finally deported three days after the incident, while she was still bleeding.

## Extensive Practice of Stripping of Inhabitants

102. Another problematic practice at Trandum is that asylum seekers routinely are being required to remove their clothes and stand naked above a mirror. Until 2013 this even took place routinely after consultations with their lawyers, supposedly under the incredible pretext that the lawyer might be smuggling illegal drugs into the centre. This practice seems very problematic and indeed prejudicial as this practice is not common practice in regular prisons within the State.<sup>21</sup>

### **Recommendations:**

- The cells used for solitary confinement need to be further upgraded, taking into consideration that most of the persons detained are (former or current) asylum seekers, persons who often have traumatized backgrounds, including experiences with imprisonment and torture in their countries of origin, and not persons who have committed any crime.
- Persons who are considered mentally unstable must not be placed in solitary confinement, but given appropriate medical treatment.
- Deportations contrary to the advice of specialised medical services must not occur.
- The practice of stripping must be limited to cases where they are deemed necessary on an individual basis.

### **Recommendation no. 14: Free legal aid**

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103. In reference to paragraph 41 in the State periodic report and article 6 of the Convention.

104. In paragraph 14 of the Committee's concluding observations to Norway's 19th/20th report, the Committee raises concerns that the legislation concerning free legal aid does not cover cases of ethnic discrimination.

105. In relation to the Convention's article 6, the State party shall, under the convention, ensure effective protection and remedies, as well as ensure the right to compensation or reparation for any damage caused due to discrimination. We are concerned that without access to free legal aid in cases of discrimination, the State does not fully oblige to this article.

106. In Norway, the Equality and Anti-Discrimination Ombud and Tribunal, have been established as a low-threshold alternative, with the hope of resolving cases outside the court system. Although several cases get solved after the Ombud gives its resolution, there is a problem that neither the Ombud nor the tribunal can give redress; they can only give recommendations and work towards finding an agreement between the conflicting parts.

107. We are concerned that without the power to give redress or reparation, the Ombud and the tribunal cannot fully give as effective and real protection against discrimination as is necessary, and the victim does not get his/ her rights fulfilled.

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<sup>21</sup> Dagbladet, 31.08.13, *Frykter for rettsikkerheten asylsøkere kroppsvisiteres etter advokatbesøk*, available at: <http://www.dagbladet.no/2013/08/31/nyheter/trandum/advokat/innenriks/28997470/> (accessed 03.08.14)

We further believe that the power to give redress/ reparation could counter discriminatory behaviour, and have a preventive effect against discrimination.

108. As the situation stands, a victim will have to take a case to court, at risk of high economic costs, in order to receive any sort of compensation.

**Recommendations:**

We echo the recommendations from the Equality and anti-discrimination Ombud which states that:

- The State should ensure that the Ombud is given the authority to enforce compensation or reparation.
- The State should provide the Ombud / Tribunal the authority to recommend legal aid in discrimination cases, corresponding to the power of the Parliamentary Ombud.

**Recommendation no. 15: Female genital mutilation (FGM), forced marriages and racial profiling**

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109. In reference to paragraph 42-43 in the State periodic report.

110. In paragraph 15 of the Committees concluding observations to Norway's 19th/20th report, the Committee is concerned about the perceived excessive focus on the issues of female genital mutilation and forced marriages, which may be seen as stigmatising women and girls belonging to certain minority groups. The Committee requests to receive an updated evaluation of the effectiveness of the Action Plan against Female Genital Mutilation (2008-2011) and the Action Plan against Forced Marriage (2008-2011) and an assessment of how these also promote the rights of women and girls from certain minority groups without stigmatizing them.

**FGM**

111. We are still concerned about the overwhelming focus on FGM. After over a decade of comprehensive action plans there is still a lack of data/statistics and hence a lack of evidence that could confirm that FGM is as widespread a practice in Norway.

112. Although we are aware that incidents of FGM do occur, we are very concerned about the approach taken by the government, who spends a great amount of funding on action plans, campaigns and measures, seemingly without gaining results. The measures taken do not add up to the outcomes, this therefore appears more stigmatising than helpful.

113. The State report highlights the positive outcome of the evaluation of the Action Plan against FGM 2008-2011 in terms of preventive work, information and competency. However, we are uncertain as to how such a conclusion has been reached. Despite having dispersed approximately 500 million NOK throughout the bureaucracy to combat this atrocious crime, no case has yet been brought to court.

Correspondence Institution against Public Discrimination, OMOD, has had with several ministries and directorates since 2008 shows that little seem to be known about anything.

114. There are for instance no statistics showing how many children have been subject to physical checks due to suspicion of FGM, or the outcome of such physical checks. We know that several children have been subjected to checks for suspected FGM. Child welfare and healthcare services, kindergartens, schools and NGOs have been responsible for highlighting and reporting cases. We know that this has not resulted in prosecution. The Ministry of Justice and Public Security, despite having been part of the ministerial FGM working group, has yet to establish routines to measure and monitor the development in what the Government has deemed to be a prioritized task for over a decade. Why is it that Norway, a highly technologically advanced society, has little or no statistical data concerning this perceived widespread practice? It is interesting to note that the Ministry has no overview of cases reported to the police and their outcome. The Directorate of Police figures show 31 cases from 2007-2012, on average 5.2 cases annually. They emphasize that it is the police's experience that lack of evidence is a problem as it is not easy to determine whether FGM happened prior to arrival in Norway or not. This despite having no statistical overview of the outcome of these 31 cases.
115. It is interesting to note that the city of Oslo in a document on integration from 2013 expresses that although FGM is a serious issue it is not a problem here. It must be noted that a significant proportion of the targeted community lives in Oslo. The County Governor of Hordaland expresses in a letter to OMOD that given their experience FGM is not a problem in Bergen, the country's 2<sup>nd</sup> largest city. It has not yet been possible to get information as to where in Norway the authorities feel that FGM is prevalent.
116. We cannot see that much has been done by the Government to ensure that measures against FGM do not in themselves become acts of "racial profiling", with the attendant consequence of increasing mistrust between targeted communities and authorities such as schools, kindergartens, public health-care services, child welfare services and police.
117. In February 2014 a doctor at the children's department at Oslo University hospital (OUS) emphasized the stigmatization of especially Somali children. OUS figures show that 72 children have been checked for FGM since 2009, and that of these 15 were victims of FGM prior to arrival to Norway.<sup>22</sup> It must be noted that the Ministry of Health And Care Services despite having been part of the ministerial FGM working group did not have these figures, and the Ministry has yet to establish routines to measure and monitor the development in this field.

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<sup>22</sup> NRK, 10.02.14, *Barnelege: - Myndighetene stigmatiserer somaliske barn*, available at: [http://www.nrk.no/norge/\\_-stigmatiserer-somaliske-barn-1.11525750](http://www.nrk.no/norge/_-stigmatiserer-somaliske-barn-1.11525750) (accessed 03.08.14)

**Case 1:**

In 2011, a family of Somali origin won a case against the Child Welfare services in The Norwegian Equality Tribunal regarding racial profiling. Suspicion of FGM occurred due to the family's Somali origin alone, and their daughter had to go through a physical check. The result showed that the child had not been a victim of FGM, and the Tribunal concluded that enforcing the test was a discriminatory practice.

**Case 2:**

At a school in Oslo, a nurse took two girls of African origin out of the classroom to talk about FGM and forced marriage. The young girls were embarrassed by being picked out in front of all their friends, and their parents contacted the Norwegian Centre Against Racism to find out what actions to take against what they felt was discriminatory behaviour due to their ethnicity. This case illustrates the lack of sensitivity when handling FGM, despite years of training for first-line service personnel.

118. Little or no focus is given to how children experience being checked for FGM. What impact does it have on the relationship between children and their parents when the authorities accuse their parents of having committed a crime against them; what long term negative effect does this have in terms of trust within the family unit; what impact does a repetitive focus on FGM have on health care workers or teachers perceptions of the targeted communities; what does the enormous focus on FGM in the public sphere have on the targeted communities (adolescents we meet express being fed up of questions posed by strangers in public spaces as to whether they have been subject to FGM), etc. This has unfortunately not been an issue for the FGM department at The Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS). At a meeting OMOD had with NKVTS, OMOD was told that these questions were not a part of the research mandate.
119. It has to be asked what impact a decade of enormous focus on FGM has had on how society at large and public services (healthcare and child welfare services, schools, kindergartens and police) perceive the targeted communities; including measures such as information on FGM on subways, trams and local trains in the Oslo area in 2007, targeted campaigns at the airport prior to summer holidays, conferences and seminars nationwide on a regular basis. Does this enormous and simplified focus on the target community have an indirect negative impact on access to the housing and labour market? What impact does it have on young people's self-esteem?
120. The research foundation FAFO published in May 2014 a report about policies and research on FGM in Norway. The report was commissioned by IMDi (The Directorate of Diversity and Integration) and concludes that measures against FGM have been based on the assumption that the scale of FGM could be substantial, and that deterrence and control is required. The research indicates that FGM is uncommon in Norway.<sup>23</sup>

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<sup>23</sup> Bråten, B. & Elgvin, O., *Fafo-rapport 2014:16*, Forskningsbasert Politikk? Available at: <http://www.fafo.no/pub/rapp/20363/index.html> (accessed 03.08.14)

121. The Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) has gathered all the available material produced and published over the years on forced marriage and FGM. They conclude that the material published covers many of the aspects in the two fields, and that the quality is good. The problem according to Bufdir, however, is to disseminate the material to the target group, which is a contradiction to the State report which states “NGOs play an important role in promoting dialogue and on many occasions serve as bridge-builders between the authorities and the population groups concerned”.
122. The Minister of Children, Equality and Social Inclusion, Solveig Horne, believes that the number subjected to FGM in Norway should not govern policy in this area and is therefore calling for intensified efforts to further combat FGM.<sup>24</sup>
123. On a comparative note: while the Government has spent approximately 500 mill NOK searching for the needle in the haystack, indicators show that 1 of 6 Asians live with diabetes and that diabetes is on the rise among Somali children. Recently 2 mill NOK was allocated for work on diabetes among minorities.

Hearing note “Preparation for forced marriages”

124. In the hearing note Preparation for forced marriages (Forberedelse til tvangsekteskap), the Ministry of Justice and Public Security proposes an amendment to the Criminal Law § 222, changing the paragraph on forced marriages to also include the act of coercing someone to marry, even if the coercion is not in itself in violation of the law.
125. In the preparations, it is mentioned that threatening to cut someone off from their family will fall under the notion of coercion. It will also be punishable under false pretences to coerce a person to travel to a country, in which he or she can be forcefully married, when the intent is to force the person into marriage. Intent is a requirement. The goal of the proposition is to prevent forced marriages by discovering the plans and preparations prior to the trip abroad.
126. It is important to take measures to combat forced marriages. There are, however, problematic aspects related to this proposition. The language used is unclear; what is the definition of coercion that is not unlawful? We are concerned that the amendment, if implemented with the proposed phrasing, may lead to stigmatisation and racial profiling of minority families. It can create unnecessary suspicion related to all family holidays planned, and can create confusion between arranged and forced marriages. It is difficult to see how the law will be enforced and how evidence will be applied or presented.
127. Since 2008, 30 people have been employed by The Directorate of Immigration and Diversity (IMDi) and deployed to 26 schools in the larger cities and towns in Norway to assist schools with preventing forced marriages. This unit reported 6 incidents of forced marriage in 2012 and 9 in 2013.

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<sup>24</sup> NRK, 27.05.14, *Hard dom over norsk politikk mot kjønnslemlestelse*, available at: <http://www.nrk.no/norge/--kjønnslemlestelse-et-lite-problem-1.11743065> (accessed 03.08.14)

128. In 2012 the Government allotted NOK 10.5 mill for housing and support for victims of forced marriages. Approximately NOK 3.6 mill was spent in 2012. This was taken from the 2011 budget, as all the allotted funds were not spent that year either.

The first partial process evaluation of the action plan against forced marriages, female genital mutilation and severe restrictions on young peoples' freedom

129. The first report from a process evaluation of the government's action plan against forced marriages, female genital mutilation and severe restrictions on young people's freedom (2013 – 2016) was finalized in February 2015.<sup>25</sup> The study has compared this action plan with the parallel action plan against domestic violence (Ministry of Justice and Public Security).

130. There is a need for broader understanding of the phenomenon violence in close relations. Today forced marriages is as an issue defined as violence in close relations, but is at the same time clearly delineated from it. A broader definition could counteract potential stigma, while the current practice gives the impression that working against forced marriages is working against domestic violence in certain minority groups.

131. The researchers specifically point out as a problem that “despite the inclusive definition of domestic violence, policies and services are structurally divided into disparate fields, resulting in duplication, lack of coordination and missed opportunities for synergy effects”.

132. From this follows a recommendation to counteract the fragmentation of policies and service provision through strengthening connections and collaboration across the broad field of domestic violence, while at the same time applying a diversity sensitive approach to ensure that measures and service provisions are customized to individual and group based needs. The Directorate of Integration and Diversity's sector responsibility is recommended applied in contributing with special expertise, and no longer hold the main responsibility over domestic violence in ethnic minority families.

133. A broad, common definition and understanding of violence in close relations will counteract both the institutional fragmentation and the duplication of work. It could also lead to a demystification of the phenomena in question, which can contribute to making it easier to take action concerning problems associated with cultural differences, and thereby clarify the responsibility to act.

134. The researchers recommend a stronger leadership in the discussion on the development of the minority counsellors in schools, in particular linking it to the debates on how to strengthen school-based health and psychosocial support, drop-out programmes etc.

#### **Recommendations:**

- We ask the Committee to request the State party to aggregate data on FGM in Norway.

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<sup>25</sup> Bredal A. & Lidén H: ISF Rapport 2013:03 Hva med 2017? Første delrapport i følgeevalueringen av Handlingsplan mot tvansekteskap, kjønnslemlestelse og alvorlige begrensninger av unges frihet 2013-2016.

- We ask the Committee to request the State party to reassess strategies and approaches based on updated knowledge of the status of FGM in Norway.
- We ask the Committee to request the State party to assess what negative impact this campaign may have on the targeted communities in terms of stigmatization, alienation and prejudicial attitudes, and take action to tailor the the campaign so as to gaining desirable while avoiding stigmatizing effects.
- The State should cooperate more closely with – and strengthen – the minority organisations, who raise consciousness and empower young people to take part in solving the issues, and who protect those who are subject to coercion and forced marriages, in order to reach the communities in which the practices of forced marriage and FGM occur.
- The State party should focus more on the issues of discrimination and sensitivity training in their action plans.
- The Criminal Law § 222 should not be changed to the current proposition.
- We need a clear definition as to what coercion comprises, particularly when it is referred to coercion that is not unlawful.
- We support the recommendation from the researchers Bredal and Lidèn that the work against forced marriages, FGM and honor based violence be removed from the field of integration policies.
- We recommend that the minority counsellors in schools be included in the general school-based health and psychosocial support.

#### Recommendation no. 16: Crisis centres

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135. In reference to paragraphs 44-45 and 79 in the State report.
136. In paragraph 16 of the Committees concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee recommends that the State party monitors and assesses the effectiveness of care provided and financed by municipalities after the cessation of earmarked government grants to crisis centres. It also urges the State party to ensure that crisis centres under the new arrangement have professional staff with adequate knowledge and specific competences to work with persons from ethnic minority or immigrant backgrounds, and recommends that all efforts are made to find adequate housing to those leaving the centres.
137. From 1992 to 2011, 49 171 women and 36 336 children have stayed at one of the nation's shelters. Statistics from the shelters show that women with minority background made up 65 % of the residents in 2012.<sup>26</sup> This overrepresentation can in part be due to the fact that women from minority groups have less income and a narrower social network than ethnic Norwegian women.<sup>27</sup> The amount of women and children who each year experience psychological and physical violence, such as rape, trafficking and forced marriages, and seek protection in one of the shelters, proves that despite measures taken, we still have a long way to go to achieve our

<sup>26</sup> Sentio Research Norge, 12.01.14, *Rapportering fra krisesentrene 2012*. (Oslo: Barne-, ungdoms- og familiedirektoratet, 2013), available at: <http://www.norskkrisesenterforbund.no/presse/statistikk/rapportering-fra-krisesentertilbudene-2012> (accessed 03.08.14)

<sup>27</sup> Jonassen, W. & Skogøy, E. (2010). Et hjem for oss et hjem for deg. En studie om endringer i brukersammensetningen og bruk av krisesentrene. Oslo: Nasjonalt kunnskapssenter om vold og traumatisk stress, Rapport nr. 1/2010



vision of zero tolerance when it comes to violence against women and children. A good and accessible shelter services is therefore essential to give many female immigrants protection from violence, cf. ICERD Article 5.

138. The State report writes in paragraph 84 that the purpose of the Municipal Crisis Centre Services Act (the Crisis Centre Act),<sup>28</sup> is to ensure the provision of good, comprehensive crisis centre services. However, this has not been the result. Through the Act, the government has exempted itself from the important direct economic responsibility of the shelters, which they previously had, and the full financial responsibility to ensure sufficient shelter capacity now lies on the municipalities. In 2010, the year the law was implemented, there were 51 shelters. In 2013 there are 46 shelters. The decreasing number of shelters does not match the amount of women and children in need.

New funding model can lead to poorer shelter services for minority women

139. Many of the shelters have experienced large budget cuts, the smaller shelters have disappeared and more are in danger of being closed down. Several municipalities, which prior to the Act were planning to build a new shelter or upgrade the existing one, have for financial reasons had to give up their plans. This indicates that several municipalities do not meet the statutory requirements of the shelter service. KOSTRA (municipality – state reporting) figures from 2011, which provides an overview of the size of the grant municipalities receive to provide shelter services, shows that there are about 40 municipalities that do not provide subsidies at all.<sup>29</sup>

Centralizing shelters

140. The Crisis Centre Act does not set out guidelines for the geographical location of each shelter, which makes it difficult to provide good and detailed guidance as to how local authorities should organize their services. The centralisation of women's shelters in several areas has resulted in longer travel distances for abused women and their children who seek help and protection. The consequences are that many see no other option but to remain in abusive and even life threatening relationships. It is thus important that the centralization is stopped and that the local shelters are maintained.
141. The evaluation of the shelter law will be presented in the autumn of 2014. According to The White Paper on domestic violence nr. 15,<sup>30</sup> the results of this evaluation will form the basis for further development of the shelters. However, due to the current situation, we urge the Committee to recommend that the State allocates additional grants for the shelter services immediately. This is needed to prevent the closing down of more shelters pending the evaluation.

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<sup>28</sup> Law 2009-06-19-44 Act relating to provision of municipal crisis centres (Crisis Centre Act).

<sup>29</sup> Kommunal- og regionaldepartementet, 2010, *Inntektssystemet for kommunar og fylkeskommunar 2011. (Grønt hefte)*. Beregningsteknisk dokumentasjon til Prop. 1 S (2010-2011).

<sup>30</sup> Ministry of Justice and Public Security, 08.03.13, *St. meld nr. 15 (2012-2013)*, Forebygging og bekjempelse av vold i nære relasjoner. Det handler om å leve, available at: <http://www.regjeringen.no/nb/dep/jd/dok/regpubl/stmeld/2012-2013/meld-st-15-20122013.html?id=716442> (accessed 03.08.14)

**Recommendations:**

- CERD should request the State party to ensure sufficient and more predictable financing of Norwegian crisis centres.
- The centralisation and closing down of shelters must stop immediately.

For further issues related to violence against women, see points 280-299.

**Recommendation no. 17: Transnational corporations**

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142. In reference to paragraph 46 in the State periodic report.
143. In paragraph 17 of the Committees concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee recommends that the State party take appropriate legislative or administrative measures to ensure that the activities of transnational corporations domiciled in the territory or/ under the jurisdiction of Norway do not have a negative impact on the enjoyment of rights of indigenous peoples and other ethnic groups, in territories outside of Norway.
144. In the State report, the government states that they have given clear recommendations to corporations that they must take account of the interests of indigenous peoples when operating in other countries, and that the government expects that Norwegian companies use best practices and respect human rights.
145. We would like to note that we do not find the recommendations and expectations from the government adequate in holding transnational corporations responsible for any damage they may inflict on indigenous peoples.

**Recommendation no. 18: Sámi rights**

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146. In paragraph 18 of the Committees concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report, the Committee urges the State party to take active measures to enable the Sámi community to preserve its cultural identity and to monitor and address all forms of discrimination against the Sámi communities. It recommends that the State party enact an educational policy to address the mother tongue teaching requirements, including materials and staffing resources, of the Sámi community.

**Education**

147. In reference to paragraphs 50-51 in the State report.
148. For the Sámi culture to remain, it is important that the young generations continue to speak the different Sámi-languages. It is positive that the government writes in the State report that they are engaged in continuous efforts to retain the Sámi cultural identity. From the evaluation of the Action Plan for Sámi Languages presented in September 2013, we understand there is some positive development regarding the use and understanding of South and Lule Sámi. However, we are still concerned that the evaluation states that the number of students studying North

Sámi has decreased drastically and that a third of the students who have the right to learn a Sámi language in school do not have that right fulfilled.<sup>31</sup>

149. Nordland Research Institute published in 2012 their final report on the project *Evaluating Kunnskapsløftet 2006 Sámi*,<sup>32</sup> regarding the efforts to increase the opportunities for Sámi students to learn the Sámi languages. The conclusions of the report show little improvement in the situation. Important steps need to be taken before the education is of an adequate standard. Teachers have found it difficult to implement the curricula, mainly due to inconsistent follow-up and support from school owners and the State. There is a lack of new teaching material. Many teachers have to create their own material, and locally there is little cooperation to create a common curriculum. These difficulties are enhanced by the struggle to find competent teachers who can teach the different Sámi languages.

**Recommendations:**

- The State should implement measures to enhance the recruitment of teachers with Sámi expertise.
- The State should ensure that updated teaching material is available in all the Sámi languages for teachers of the Sámi language.
- Further funding and support should be given to teachers implementing the new curricula.

Preservation of the East-Sámi culture

150. In reference to paragraphs 49 and 52 in the State report.

151. In its Concluding Observations, the Committee raises concerns regarding measures taken to preserve and promote the culture of the Sámi people, especially regarding the special situation for the East-Sámi. The Committee further requested the results of the examination of East-Sámi land-claims by the Finnmark Commission.

152. The basis for the East-Sámi culture is reindeer herding and fishing, but they no longer have available pastures or grazing land for their reindeer. As mentioned in the State report, the Government decided to not adopt a solution to re-establish East-Sámi reindeer herding in the Finnmark Act. No measures, other than the museum for the East-Sámi culture, have been taken to preserve their culture and identity. As a result, the whole East-Sámi culture is under serious threat.

153. The Finnmark Commission has still not examined the fields in which the East-Sámi population lives. This is problematic, as the examination is necessary in order to grasp the extent of which the life and culture of the East-Sámi is threatened. Additionally, government measures like reallocation of land to herd reindeer, are awaiting the results of the examination.

154. The State report mentions the project *Skolt Sámi culture across borders*, which ran from 2010 to 2012, as a measure to preserve the identity of the East-Sámi. The project arranged several events like cooking classes, language camps, exhibitions

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<sup>31</sup> Ministry of Administration, Renewal and Church Affairs & Samediggi, 04.09.2013, Evaluating Handlingsplan for Sámiske Språk, pp. 5, available at: [http://www.regjeringen.no/nb/dep/kmd/dok/rapporter\\_planer/planer/2013/handlingsplan-for-samiske-sprak---status.html?id=735069](http://www.regjeringen.no/nb/dep/kmd/dok/rapporter_planer/planer/2013/handlingsplan-for-samiske-sprak---status.html?id=735069) (accessed 03.08.14)

<sup>32</sup> Ibid

and conferences for and about the East-Sámi.<sup>33</sup> The project has now ended, but we have not been able to find any concrete outcomes, results or reports from the project.

155. The museum for the East-Sámi culture has been built, but is, as of March 2015, not yet open to the public. We are still very concerned that the measures taken are not adequate to keep the East-Sámi culture alive and that the museum, when opened, will be a dedication to a dead culture.

**Recommendations:**

- The Finnmark Commission should at the earliest possible time examine the East-Sámi land-claims, and report the results to the Committee.
- The Committee should urge the State Party to implement measures that are proficient of preserving the East-Sámi culture, especially measures that will secure the maintenance of sustainable reindeer herding as a primary way of living for the group.

Fishing rights

156. In reference to paragraphs 47-48 in the State report.
157. Although the Government and the Sámediggi (the Sámi parliament) has reached an agreement on a set of measures aimed at securing the material foundation for the Coastal Sámi culture, it is still problematic that the Government do not recognise the Sámi people's right to fish as stipulated in international law, particularly the ICCPR.
158. We believe it is of crucial importance that the different Sámi interest groups are involved in the realisation of the measures agreed upon, to ensure the best possible solutions for the Sámi population.
159. We are concerned that the regulations for salmon fishing are so stringent that it threatens the existence of the salmon fishers. Salmon fishing is one of the cornerstones for the survival of the Coastal Sámi culture, but the government has not taken any measures to improve the situation for the salmon fishers.

**Recommendations:**

- The Committee should question the State party as to how the current system of fishery management is in line with their obligations under international law.
- Ensure the involvement of different Sámi groups in the decision-making process regarding fishing rights.
- The Committee should urge the State Party to implement measures to ensure the continuation of salmon fishing as a vital part of the Coastal Sámi culture.

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<sup>33</sup> The website for the project <http://www.skoltsami.com/en/> is no longer available

160. In reference to paragraph 54-57 in the State periodic report.
161. In paragraph 20 of the Committees concluding observations to Norway's 19th/20th report, the Committee recommends that the State party take active measures to prevent discrimination against the Roma and Romani/Tater communities, in particular regarding their access to public places, housing and employment, and allocate additional resources to find appropriate solutions for integrating children from Roma and Romani communities, especially those from travelling families, into the educational system, to ensure that they benefit fully from all levels of the system, taking into account the community's lifestyle and including an enhanced teaching provision in their language.
162. In 2009 the Norwegian government launched an action plan to improve the living conditions for the Roma community in Oslo.<sup>34</sup> This plan failed to address fundamental issues such as illiteracy, school attendance, arranged marriages between minors and the status of Roma women within family and community structures. Hence the plan did not have any specific effect on the problematic situation of the Roma community and/or the consequences of a life in marginality.
163. According to the latest statistics, a total of 39 Roma children are living in Norwegian foster homes (out of a total of approximately 150 children).<sup>35</sup> There is very little information as to why so many of these children are removed from their families. The authorities are reluctant with information, mentioning low attendance in school as a factor. The Roma parents of children in foster homes have limited visitation rights (one or two yearly visits of 2 hours per visit), and in some cases no visitation rights at all. The children and their parents are not allowed to speak Romanés with each other. Roma children living with Norwegian foster families are deprived of their right to receive education on Roma culture and language.
164. Roma children in general are still faced with issues such as illiteracy, low school attendance and early marriage. We fear the gradual disappearance of a national minority due to illiteracy or to forced assimilation under the auspices of the Norwegian Child Protection Services.<sup>36</sup>
165. We welcome the State's efforts in establishing permanent programs as mentioned in the State report point 120, but do not believe it is enough to secure the rights and development of the Romani people and their culture.

**Recommendations:**

- Research should be undertaken to understand why such a high number of Roma children are taken away from their families, in order to ensure that it is not an issue of racial profiling.
- As members of a national minority, Roma children living with Norwegian foster families should be ensured their right to receive education in Roma culture and language.

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<sup>34</sup> Ministry of Labour and Social Inclusion, 2009, *Handlingsplan for å bedre levekårene for rom i Oslo*, available at: [www.regjeringen.no/upload/FAD/Vedlegg/SAMI/Handlingsplan\\_2009\\_rom\\_oslo.pdf](http://www.regjeringen.no/upload/FAD/Vedlegg/SAMI/Handlingsplan_2009_rom_oslo.pdf) (accessed 03.08.2014)

<sup>35</sup> Høigård, Cecilie (2013) *Romunger: Spydspiss i assimileringspolitikken*, Materialisten, 1/2: 3-5.

<sup>36</sup> Additional information on the Roma community in Oslo can be found in SEIF's reports from the project "En plass i samfunnet - også for meg" at [www.seif.no](http://www.seif.no).

- Roma children living in Norwegian foster homes should be ensured their right to speak their mother tongue with their biological family.
- Specific measures in order to facilitate and secure Roma children's school attendance should be implemented, such as practical guidance and assistance from social workers to Roma families and school assistants with Roma background present at schools.
- All Roma pupils should be ensured their right to get education in their mother tongue, Romanés.

#### Recommendation no. 21: Hate speech and hate crimes

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166. In reference to paragraphs 58-61 in the State periodic report.
167. In paragraph 21 of the Committees concluding observations to Norway's 19th/20th report, the Committee is concerned about racist views expressed by extremist groups, some representatives of political parties, in the media, including the internet, which constitute hate speech and may lead to acts of hostility against certain minority groups, and about the existence of associations involved in such activities. The Committee is also concerned that there are few complaints against racist acts, including those committed by law enforcement agents, and that few cases are dealt with by courts. The Committee recommends that the State party establish a clear and transparent definition of hate speech and hate crimes with a view to observing a balance between the right to freedom of expression and overt expressions of racist views according to article 4 and ban organisations promoting racism and racial discrimination.

#### 22. July

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168. On the 22<sup>nd</sup> of July 2011 Anders Behring Breivik bombed the government quarters in Oslo and proceeded to the island Utøya where he murdered 69 youth on a summer camp for the youth party AUF. All in all, 77 people were killed in the attacks. Around the same time, Breivik published a manifesto containing texts explaining his right-wing extremist, militant ideology arguing for violent removal of all multiculturalism. According to him, the terrorist attack was a necessity to get the desired focus on his manifesto and ideology.
169. In the immediate aftermath of the terrorist attack, the Norwegian society stood united behind the Prime Minister Stoltenberg's words "more openness, more democracy and more humanity". However, we are concerned that not enough focus has been given to the extremely violent and hateful ideology of Breivik, where it came from, where it is spread and whom the message reaches. We believe too much focus has been placed on Breivik's personality and mental health, rather than his ideology and the environment in which it grew out of (right-wing extremist websites and hate blogs). There has further been a lack of analysis on the relationship between Breivik and similar currents in society, both in Norway and other countries. Neither has there been any real debate about the hateful public debate and misleading allegations about immigration in general and muslim immigrants and islam in particular, preceding the terror attacks.
170. The Norwegian Centre Against Racism documented a number of incidents of abuse, threats and attacks against people with minority backgrounds, the hours

immediately after the terror attack 22. July 2011. At the time, most people thought Muslims were behind the attack, and as a result, visible minorities were targeted and attacked the hours before the identity of the perpetrator was revealed.<sup>37</sup>

#### **Recommendation:**

- There is a strong need for further analysis and public scrutiny of the relationship between Breivik and racist and Islamophobic trends in both Norwegian and European societies.
- Further focus needs to be given to the terrorist attack in connection to right-wing extremism, Breivik's ideology and similar ideas, which are still floating on the Internet.

#### **Right-wing extremists**

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171. The blogger Peder Nøstvold Jensen, who calls himself Fjordman, became known in Norway after the 22<sup>nd</sup> of July attacks as the main inspiration to Breivik's manifesto, in which he was recited numerous amount of times. After his identity was revealed, Fjordman has continued to regularly blog on different websites. Fjordman portrays a world-view where Islam, Muslims and multiculturalism are the main enemies of the world, which needs to be physically removed from the West in order to preserve European civilisation. He preaches about "Eurabia", in which everyone seem to be involved – reaching from western leaders, socialists, media, universities and of course Muslims themselves. He writes, for example:

*"The Western world is under attack by a global Islamic Jihad. To support continued mass immigration of Muslims in this situation should be regarded as high treason, and punished as such"*<sup>38</sup> and *"Given that Muslims are currently engaged in open conflicts with most of the global centres of power at the same time, and given that many non-Muslims from North America via Western Europe, Israel, Russia and India to China have nuclear weapons, the destruction of Mecca in the course of the twenty-first century should be treated as a real possibility. What kind of effect such an event would have on the Islamic psyche is hard to predict. Perhaps it would shatter Islam completely because the Islamic mentality is based on dominance and supremacy; perhaps it would create a tidal wave of Muslim anger and global Jihad. It is said that those who live by the sword will also die by it. Islam has certainly lived by the sword. Perhaps the creed will exit world history just as it entered: With a great burst of violence. The separationist strategy does not imply that removing Islam from the West alone is all that will ever be required, only that this is the bare minimum that is acceptable. If Muslims remain aggressive, we retain the option of further actions, including directly targeting their holy cities of Mecca and Medina using conventional or non-conventional weapons."*<sup>39</sup>

172. In 2013, Fjordman received funding from Fritt Ord, a Norwegian foundation whose aim is to support freedom of expression and a free press, to write a book. The book was supposed to be published in 2014, but is per April 2015 not yet out. The foundation pointed out that this should not be understood as support to his ideas,

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<sup>37</sup> The Norwegian Centre Against Racism, 19.07.12, Om trakassering av muslimer og innvandrere etter eksplosjonen i Regjeringskvartalet 22.07.2011, available at: <http://www.antirasistisk-senter.no/category/siste-nytt/rapporter/> (accessed 03.08.14)

<sup>38</sup> Jensen, P.N., 05.06.2008, *The Execution of Britain*, available at: <http://www.brusselsjournal.com/node/3322> (accessed 03.08.14)

<sup>39</sup> Jensen, P.N., 21.12.10, *Why Islam Must Be Expelled From The West*, available at: <http://gatesofvienna.blogspot.no/2010/12/fjordman-why-islam-must-be-expelled.html> (accessed 03.08.14)

but rather to ensure that his point of view also came to forth. The support was heavily criticized by anti-racist organizations, but was also supported by many figures in society, including prominent politicians, who argued that Fjordman has the right to free speech. However, we believe that freedom of speech does not constitute any right to financial support to spread hateful and violent ideas, and are concerned with the wide support this financial endowment of a right-wing extremist actually received. A man who promotes the exodus of large parts of society should not be given a microphone from which to spew his hatred, nor financial help to write a defence of his views.

173. Although we generally have a small issue with right-wing extremist groups in Norway, the existing ones have over the past year gained more attention in the media and society at large. Particularly a small group called Borgervernet Rogaland, a group with clear sympathies to Nazi-organisations like Vigrid and Nordfront, has been in the media writing articles, debating and been visible through an open Facebook-group.<sup>40</sup> They were also invited as panelists in a debate in the main library at the culture house in Stavanger. Although their participation was met with opposition from anti-racist organisations, and this led to some politicians pulling out of the debate, a surprising number of people supported their right to participate. The debate went ahead with the leader of the group as well as, among others, a member of the Norwegian Labour Party. We are highly concerned with the way an extremist group has been given a platform as an equal partner in a democratic debate. One can also see that on their own websites they seem to celebrate this as a victory, and feel they now have gained a threshold from which they can spread their ideology and ideas.
174. Additionally, there have been some right-wing attacks in Norway over the last couple of years. Examples:
- The leader of the organisation Youth Against Racism was violently attacked outside of her home, most likely by right-wing extremists who wanted to remove her from the debate. The perpetrators have not been caught and she has to carry a portable alarm system for emergencies with her at all times.
  - Two young men shouted “sieg heil” outside Blitz, a self-governed youth house for left-wing radicals in Oslo. They proceeded to attack people with a knife, and stabbed a 16-year old boy in the chest, puncturing his lung. The incident was reported as a minor incident, a fight among youth, in national media.
175. It is a concern that these kinds of attacks do not get much attention in the media or in society at large. They seem to be downplayed as single incidents with no significant political agenda.
176. It is an even greater concern that limited focus seems to be placed on right-wing extremism by the Norwegian government. The Norwegian Defence Research Institute, Forsvarets Forskningsinstitutt (FFI) established a couple of positions researching the issue right after the terrorist attack. However, it seems they will be forced to shut down the program due to lack of funding. No other research institute appears to focus on this issue at all, and with the signal being sent to FFI it is unlikely that they will. The Norwegian Intelligence Agency (PST), highlighted the danger of right-wing extremism in their annual threat assessment in 2014, but the

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<sup>40</sup> Their Facebook-page can be accessed here: <https://www.facebook.com/groups/borgervernrogaland/?fref=ts>



issue was drowned out by the assessment that “the bigger threat” seems to come from “extremist Islamic terrorists”.<sup>41</sup>

177. A lot of focus is placed on Islamic extremism. In spite of being in agreement that this is an important focus, we are however worried about the apparent lack of balance of attention given to the different forms of extremism. Too much focus on Islamic extremism from the State party and the media can lead to exclusion of young Muslims in society, who already might lack a feeling of belonging. Additionally, an overly focus on one threat might cause the ignorance of another. It is important to remember that all recent attacks in Norway, not the least the one by Breivik, came from right-wing extremism and not from Muslims.

#### **Recommendations:**

- We request the committee to urge the government to not let right-wing extremist groups become an accepted group in the public debate, but to instead take active measures to counter this worrying trend.
- Right-wing extremist violence need to be taken seriously, investigated as hate crime and not portrayed as unrelated and sporadic incidents of violence.

#### **Hate speech and the Internet**

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178. In debate forums, on websites, social media etc. one can easily come across hate speech in Norway.

179. Although most debate sections under newspaper articles are moderated to a certain degree, there is still a fair bit of hateful comments and abuse present. Some newspapers now require comments to be made under full name, for example linked through Facebook-profiles. Several also close the debate-sections at nighttime.

180. There are particular problems related to comments that are hateful, but not illegal, and particular effort should therefore be placed on changing the debate-climate. Unfortunately, this does not seem to be a priority for the Norwegian government. One problem seems to be that the society at large, and hence also the government by extension, believe that those that spread hate, the so-called “trolls”, will “burst in the sunlight” – that is disintegrate if met with counter-arguments. There is no research that confirms this theory.

181. A relatively new development in Norway is websites portrayed as news-websites, where all articles are written against immigration, Islam and Muslims, and often contain lies and misrepresentations. As the websites look professional and the articles are well written, there has been a problem that these articles get spread on social websites without people being aware of the source.

182. One such example is the website [fyret.nu](http://fyret.nu), which wrote an article in 2013 about a school not allowing Norwegian flags in the 17<sup>th</sup> of May parade (the national day of Norway). Although the content of the article was untrue, it got spread all over social-media, and other newspapers wrote about it as well. It fired up a fictional debate about immigration and use of the Norwegian flag. Later in the year, it was revealed that the people behind the website are neo-Nazis, and as a result the website got closed down. Other similar websites exist, however none has of yet reached the same wide audience as [fyret.nu](http://fyret.nu) did.

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<sup>41</sup> The Norwegian Intelligence Agency, 14.04.14, Annual Threat Assessment 2014, available at: <http://www.pst.no/media/utgivelser/annual-threat-assessment-2014/> (accessed 03.08.14)

183. In 2013, The Norwegian Centre Against Racism filed complaints against two websites promoting anti-Semitism. Jews were described as “parasites” and “Satan’s children” that need to be extinguished from the surface of the earth. The websites also showed support to Anders Behring Breivik, the terrorist behind the 22<sup>nd</sup> of July 2011 attack. One of these websites was taken down as a result of the complaint, but the other one is still operative. The police cases are pending.
184. We echo the concerns raised by the Equality and Anti-discrimination Ombud in their report on the negative impact of hate speech in society:
- Promotes exclusion from society and greater polarization, which breaks down social cohesion.
  - Produces a “chilling effect” to participation in our democratic system. In other words, members of target groups avoid expressing themselves where they can expect to be dehumanized and harassed.
  - Perpetuates bias, i.e., hate speech is not merely a symptom reflecting bias; it is also an infectious agent. (“Hate speech leads to more hate speech”)
  - Devalues the target groups (e.g., Muslims, Jews) in the eyes of accidental bystanders witnessing such hate speech.
  - Produces anxiety and distress among members of target groups.
  - Strips people of their dignity, saying that they are not equal citizens of the community.
185. The State report refers to the No Hate Speech Movement, a European campaign that Norway supports through the EEA-grants. In Norway the organisation has received state funding, which is a welcoming first step in the right direction.

**Recommendations:**

- We request the Committee to urge the State party to take the issue of hate speech seriously, and to ensure that the law is in line with our international obligations. Our recommendation is that the State party reviews and strengthens the hate speech laws.
- A whitepaper should be produced on the prevalence and social harms of hate speech in Norway and on the mechanisms that can reduce such harms.
- Earmark resources available for research on hate speech; its roots, who are the perpetrators and what are the effects on individuals, communities and the society at large.
- Public authorities should focus on how to counteract prejudice and stereotypes, and to promote good relations amongst diverse social groups.
- Conspiracy theories presenting immigrants as a problem need to be confronted by the authorities.
- We need to focus on hate speech, and the social harms resulting from it, in school curriculum and course materials.
- The government should initiate campaigns of awareness to counter hate speech and the harm it causes.

186. In general reference to article 4.
187. In our previous report, we raised concerns in regard to the right-wing think tank Human Rights Service (HRS), which for some time has received state support for spreading anti-immigrant propaganda in general and anti-Muslim prejudice in particular. While they are in their right to spread these views, we find it problematic that this in fact is a state sponsored activity. While their financial support from the state was tried reduced by the previous government on the grounds that the objectives of the think tank did not meet the requirements laid out in the funding scheme, the present government has again provided the organisation with NOK 900 000 from the state budget. Additionally, HRS also received substantial financial support from the City of Oslo, and was given 1 million kroners from the budget for 2014.
188. In our previous report, we referred to what we will characterize as Islamophobic rhetoric on HRS' website. As we then stated: "HRS has a constant negative focus on Islam and Muslims, with articles criticizing Islam and Muslims strongly dominating their web page [www.rights.no]. HRS is both a major actor in and of themselves and a major resource for anti-Islamists".<sup>42</sup> Typical of their rhetoric is for instance comparing hijabs to KKK-hoods or SS-uniforms, as they did in Norway's largest newspaper, VG, in March 2010.
189. Their anti-Muslim focus has continued since. In a recent article on their website they call two of Norway's mosques "totalitarian, fascist movements", and compare being a member of those with being a member of the Nazi-organisation Vigrid.<sup>43</sup>
190. However, since our previous report we have been concerned that they now also at times advance a more openly racist rhetoric. Their web page specifically advances certain contributors with articles that are by any definition racist and extremist. One of these contributors, "Julia Caesar" argued (in an article published on the HRS web page 27 March 2012) that Africans in general are mentally retarded: "*Immigrants from Africa are different from all other groups of immigrants. They have an average IQ of around 70. The limit for mental retardation lies exactly there, around IQ 70 (...) When [we] import en masse people from Africa, this means that we are importing tens of thousands of mentally retarded persons*".<sup>44</sup>
191. The article continues to describe at some length the negative consequences of "importing" such unintelligent individuals, for instance how both the average IQ and the BNP of the receiving country is reduced. When HRS was confronted by one of the readers of the article and asked to distance themselves from the racist content, they responded that they found the analyses of this particular contributor "sharp as a knife" – an Norwegian expression which is a positive characteristic, meaning a pointed and well formulated argument. The contributor in question is Swedish, and is published by HRS because HRS finds the general political situation in Sweden regarding immigration so extreme that it warrants such extreme writings. They have therefore also repeatedly defended the writings of this contributor.

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<sup>42</sup> NGO Shadow Report 2010-Supplementing And Commenting On Norway's Combined 19th/20th Periodic Report, pp. 17

<sup>43</sup> Storhaug, H., 09.05.14, *Ser de virkelig ikke Alvoret?* Available at: <http://www.rights.no/2014/05/ser-de-virkelig-ikke- Alvoret/> (accessed 03.08.14)

<sup>44</sup> Caesar, J (pseudonym), 27.03.11, *I Latesomlandet*, available at: <http://www.rights.no/2011/03/kronikk-i-latesomlandet/> (accessed 03.08.14)

192. To be clear, this is written by invited contributors to the HRS web page, not by the HRS staff themselves. However, HRS is not an open debate arena, but a mouthpiece for HRS and favoured contributors.

**Recommendations:**

We repeat the recommendation from the previous alternative report stating:

- The authorities need seriously to consider if the HRS contribute to integration in light of public grants given by the government (chapter 651, item 71). The overarching goals for this grants programme is to, and we quote; *“support organisations that work to ensure that everyone has equal opportunities, rights and obligations as regards participation in society and making use of their own resources. Support can be given to nationwide organisations that develop expertise about what promotes social inclusion and what constitutes an obstacle to equal opportunities, and that disseminate experience and know-how to local and national authorities and the general public. Support can also be given to organisations that contribute to safeguarding the rights of asylum seekers in the community and that build knowledge about asylum seekers’ needs in order to look after their interests in society”*.

The racism paragraph 135A

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193. With particular reference to paragraph 6 of the Convention.

194. § 135a of the General Penal Code provides the law on prohibition of racist hate speech in Norway. The paragraph and the practice of it has been amended several times since it came into force. The prosecution of Tore Tvedt in the High Court in 2007 contributed in clarifying the width of the provision. In 2012, the High Court also convicted a man who had shouted racist comments to a doorman working in a bar, showing a further new development in the practice of the law on public hate speech.

195. Although we welcome the development of a more stringent practice towards hate speech, we are concerned with the very few cases that are brought to court and prosecuted. We are further concerned that the provision, as practiced today, might not be in accordance with our obligations under the Convention.

**Recommendations:**

- The State party should ensure that § 135 a is enforced in practice and that violations of the provision reaches the court system.
- Training might be needed to ensure a consistent practice regarding § 135 a.

196. It is with concern that we note that the two political parties currently in government, the Progress Party and the Conservative Party, have written in their parties’ programs that they want to remove paragraph 135a from the Penal Code. If the paragraph were to be removed, the State party would no longer fulfil one of the most fundamental requirements of ICERD. It is also important to note that the “racism-paragraph” not only forbids racist hate speech, but also hateful expressions towards other groups, like LHBT-persons.

197. To remove § 135a would be in direct violation of the Convention's article 6, and would be particularly problematic, as ICERD is not incorporated in the Human Rights Law.

**Recommendations:**

- § 135a of the Penal Code should not be removed, as it would be in violation of the Convention.

### Underreporting of hate crime

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198. There are clear indications that there are a large number of unreported cases of hate crime in Norway. The statistics do not match up with the experiences of the organisations working in the field, and are much lower than the numbers in our neighbouring countries. A report by Oslo Police District from June 2013 has the same indications.<sup>45</sup>

<b>Number of hate crimes after motive 2010-2012</b>			
	<b>2010</b>	<b>2011</b>	<b>2012</b>
<b>Ethnicity</b>	<b>235</b>	<b>183</b>	<b>162</b>
<b>Religion</b>	<b>44</b>	<b>35</b>	<b>39</b>
<b>Sexual orientation</b>	<b>47</b>	<b>21</b>	<b>34</b>
<b>Source: PAL for STRASAK (taken 26. June 2011, 2. July 2012 and 2. January 2013)</b>			

199. The State report refers to Circular no. 1/ 2013 from the Director of Public Prosecutions (DPP) regarding case proceedings related to racial motivated crimes, which commands that racially motivated crimes shall be a priority, no matter the severity.

200. There are some evident factors related to the organisation of the police force and access to resources within this specific work, which prevent the Circular to ensure the desired effect. There are clear shortages related to prioritising, tools and organisation needed to get the overview necessary to resolve hate crime. To this date, a crime will only be registered as hate crime if the police officer that receives the report decides to tick the correct box. The victim reporting the crime will not be asked if there was a discriminatory motive for the violation. As a result, violent hate crimes are often only registered as acts of violence in police records.

201. In Norway, there is a lack of systematisation to secure the admissibility of hate crime cases. Victims often experience not being taken seriously when reporting cases of hate crime to the police, and that the case is dismissed with a standard letter. Victims also experience that their case is relocated from one officer to another, without due notice, and as a result, they no longer have the correct contact information within the police.

202. We look to Sweden where the work against hate crime is organised more systematically than in Norway. The police and the National Council for Crime

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<sup>45</sup> Oslo Police District, 04.13, *Hatkriminalitet en Drøfting av Temaet, og Gjennomgang av anmeldelser i Oslo i 2012*, available at: [https://www.politi.no/oslo/aktuelt/nyhetsarkiv/2013\\_06/Nyhet\\_12515.xhtml](https://www.politi.no/oslo/aktuelt/nyhetsarkiv/2013_06/Nyhet_12515.xhtml) (accessed 03.08.14)

Prevention (Brottsförebyggande Rådet, Brå)<sup>46</sup> has employees working specifically against hate crime and there is a victim support hotline open 24/7. When a crime is reported, an electronic device is used to catch keywords in the report, which may flag down possible hate crime.

203. We are aware of the fact that hate crimes are hard to solve as the perpetrator often is unknown, but it is a serious concern that out of 48 cases reported to the police in Oslo in 2012, 30 were dismissed<sup>47</sup>. 55 cases were reported to the police in Oslo in 2013. All of these were investigated, and by the end of the year 14 cases were solved, 36 not solved and 5 cases still under investigation<sup>48</sup>.
204. We wish to welcome the effort made by the Oslo Police District, which, through their report on hate crime, shows that they take the issue seriously. In particular we do welcome their suggestion for a better definition of hate crime, which includes wider groups of people who experience various forms of discrimination. It is a positive step we hope to see followed by concrete measures and government funding, not only in the district of Oslo, but also on a national level.
205. We also note that there is a lack of information on rights to victims and potential victims of hate crime, related to the reporting process, requirements for evidence and the difference between hate crime and hate incidents that do not constitute a violation of the law.
206. Over the past few years the availability of free legal advice and aid for hate crime victims has been reduced, as the funding of organizations providing such aid is disappearing. There is no government- or project funding available to organisations that offer legal counselling related to discrimination based on ethnicity or racism. This is problematic, as organisations can be a useful contributor both to access information and to reinforce reporting of hate-motivated incidents. This is despite the government's White Paper 6, which state that one of the goals within the legal sector is to "strengthen dialogue and cooperation with relevant groups within the minority population".<sup>49</sup> Although the desire for dialogue is present, the resources that could make the organisations equipped to bring substantial data and experiences to the table are absent. The police want to cooperate with relevant organisations to better gain information on hate crime and hate related incidents, mainly because they believe it to be a high number of unreported cases of hate crime. For this kind of cooperation to become reality, government funding is necessary. It is here important to note that as the funding from the Ministry of Justice has altered, no organisations working on the field receive financial support from the department.

### **Recommendations:**

- We ask the Committee to urge the State party to follow the instructions from the DPP on prioritising hate crime by allocating funding to organisation, tools and resources within the police.
- The State party should take measures to ensure a more efficient and secure system for reporting cases to the police, in order to ensure that hate crime

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<sup>46</sup> Information on the Swedish National Council for Crime Prevention can be found here: <http://www.bra.se/bra/bra-in-english/home/about-bra.html> (accessed 03.08.14)

<sup>47</sup> Oslo Police District, pp. 46

<sup>48</sup> Vårt Land 4.9.14 Finn politirapport

<sup>49</sup> Ministry of Children, Equality and Social Inclusion, 26.10.12, Meld. St. 6 (2012-2013), available at: <http://www.regjeringen.no/nb/dep/bld/dok/regpubl/stmeld/2012-2013/meld-st-6-20122013.html?id=705945> (accessed 03.08.14)

incidents are detected and recorded in a way that better supports the victim. A suggestion is looking at the Swedish model.

- The State party should allocate funding to organisations that offer legal counselling for victims of ethnic discrimination and racism.
- Implement training of police officers on a national level on how to detect hate crime, report it and how to support the victims.

#### Recommendation no. 22: International Human rights treaties

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207. In paragraph 22 of the Committees concluding observations to Norway's 19th/20th report, the Committee encourages the State party to consider ratifying those international human rights treaties, which it has not yet ratified.

208. We support the Committee's recommendation and request the State party to ratify the international human rights treaties in question at the earliest possible date.

### III INFORMATION RELATING TO ARTICLES 1 TO 7 OF THE CONVENTION

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#### Article 2: The government's effort to combat ethnic discrimination

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##### Non-governmental organisations and Self-organised groups

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209. In general reference to article 2 of the Convention, and paragraph 78 and 79 in the State report.
210. The State report gives reference to NGOs and self-organised groups in paragraphs 73 and 74. The NGOs which are being referred to are mainstream major Norwegian membership-organisations. It is rather unclear which organizations come under the category of "Self-organized groups". The Cooperation Forum against Poverty in Norway has meetings with the Minister of Labour and other cabinet ministers in the liaison committee between the Government and socially and financially disadvantaged groups three to four times a year. They had 12 member organisations in 2013, and among these two were minority organisations, namely LIN (Equality, Inclusion, Network) and BibiAmka.<sup>50</sup>
211. Previously, in Section 81-84 in Norway's 19. /20. Report to CERD, four types of organisations were mentioned: the nation-wide organisations working with immigrants (now referred to as the national resource groups on integration), local immigrant organisations, the Contact Committee for Immigrants and the Authorities (KIM) and the agreement between the Directorate of Integration and Diversity (IMDi) and the "major voluntary organisations".
212. The national resource groups on integration are organisations such as SEIF, NOAS, MiRA Resource Centre, The Norwegian Centre Against Racism and OMOD. The State has continuous contact with these NGOs in regard to the areas covered by CERD and hence are in the State report. These NGOs actively engage the Government on issues regarding refugees, immigrants and minorities. Given the volume of contact with, and the input from, these NGOs it is a paradox that they are not mentioned in the State report.
213. The current Government has as from 2014 discontinued their own board, The Contact Committee for Immigrants and the Authorities (KIM), after 30 years of existence. KIM has on numerous occasions been hailed by the State as a good model and example for both promoting greater contribution from minorities in policy development and dialogue. In a time when there is a call for greater involvement from the many communities in our society, it is a paradox that such changes are made without dialogue and involvement.

#### **Recommendations:**

- We request the Committee to ask the State party to invest in capacity building of minority communities, to ensure that they not only have a voice, but also are able to actively contribute towards policy development.

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<sup>50</sup> List of members in The Cooperation Forum against Poverty in Norway can be accessed here: <http://www.bymisjon.no/Virksomheter/Batteriet/KONTAKTUTVALG-OG-SAMARBEIDSFORUM-/Medlemsorganisasjoner/>



- We request the Committee to ask the State party to acknowledge the role of the national resource groups on integration, as well as strengthen the role of such NGOs.

#### Discrimination from public officials and service men

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214. In general reference to the Convention's article 2.
215. Organisations working with people of minority background regularly experience cases of ethnic discrimination occurring within different public services. When this kind of discrimination occurs, the specific incident is often dealt with, but proper measures to avoid repetition and future discrimination are not in place.

#### Health

216. In the NGO Shadow Report 2010, we informed the Committee about the AMK (Acute Medical Communications Central) case with the grandmother who died,<sup>51</sup> where a Turkish woman died of heart failure while waiting for an ambulance to arrive. The family called the AMK nine times and pleaded for an ambulance, but the employee at the AMK central started a discussion with the family member calling in, and in the end requested the police to investigate the situation before the ambulance personnel, who felt threatened, would arrive. The employee also indicated to the police that the patient's status probably was not critical.
217. The Special Unit for Police Affairs investigated the case, but dismissed it on the 14th of September 2010. The Norwegian Board of Health Supervision, who also investigated the case, concluded that the health care service given was not contrary to the requirements, but they gave a warning to the operator who handled the call. The warning stated that the operator had violated the obligation to provide adequate and diligent care. The Board also evaluated the AMK service at the Oslo University Hospital and concluded that the hospital did not operate the service in a safe and proper manner. They stated that the resources at the AMK central do not meet the increasing demand, and therefore recommended that the hospital should increase the numbers of operators employed.
218. The hospital has now taken measures to improve the situation by increasing capacity, and six new ambulances are in operation. A strategic plan (2013-2017) has also been created, highlighting the challenges within different aspects of the hospital, including AMK, and a timeframe in which the challenges should be solved. To our knowledge, all the measures taken focus on increasing capacity, none on training the staff on cultural sensitivity issues or anti-discrimination laws and obligations.
219. In the State report (see paragraph 115), the government mentions courses in ethics and cultural sensitivity training for physicians as positive measures taken to improve health care services for minorities. However, we miss the same type of courses for the AMK employees, nurses, GPs and others working within the health care service.

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<sup>51</sup> NGO Shadow Report 2010-Supplementing And Commenting On Norway's Combined 19th/20th Periodic Report, pp. 44

220. A recent event highlights our concern in regard to the lack of anti-discriminatory measures. A dance group in Oslo had an experience, which seems to have been discriminatory practice both from the operator at the AMK central, as well as from one of the ambulance personnel. As the victim does not want to report the case, it has not been investigated, but we are adding it as a case, to illustrate our concern. We believe that exhausted staff due to lack of employees can no longer be used as an excuse for the lack of sensitive practice occurring at the AMK central.

**CASE: Discriminatory behaviour from the AMK service and public service men (ambulance personnel)**

During a dance class in early autumn of 2013, a girl fell down on the floor. She had a hard hit to her lumbar, a great amount of pain, and those around her were scared of moving her in case of further damage. The leader of the group (T) called the AMK central, where the operator who answered the phone was at first very understanding and helpful, saying she understood why they were worried, that it sounded serious and that help would be sent immediately, she only needed some information for the registration. She asked for the name of the injured girl. T told her the name, originating from Gambia. Instantly, the attitude of the operator changed.

AMK: oh, she's an immigrant, what is her nationality and ethnicity.

T: she is a Norwegian citizen; do you still need to know her ethnicity?

AMK: yes, and are there many others with a different ethnicity there?

T: Her ethnicity is Gambian

AMK: We will send a car, but I do not know how long it will take as I will not advise them to use sirens or lights.

Approximately 30 minutes later, the ambulance arrived.

The first of the ambulance personnel came up the stairs and stopped at the door. She did not walk in. The second person came after her, walked into the room, stopped and said oh!, clearly surprised that the room was full of non-ethnic Norwegians. He then said in English: who here is T? T replied: I am, but I know I sound Norwegian on the phone.

The ambulance personnel then went over to assist the girl who was still lying in pain on the floor. When she had to be lifted onto the ambulance bed, the ambulance personnel who had first arrived at the scene, refused to help. As a result, members of the dance group had to lift the girl who was badly injured onto the bed, with risk of causing further damage.

*The police*

221. We are further concerned about the competence within the police service and department in relation to diversity and discrimination. There are clear indications that minorities in Norway, and particularly male youth, experience discrimination from the police on a street-level, when stopped and questioned when walking through the city.
222. There are indications of racial profiling taking place on a regular basis, especially in regards to minority youth and Roma people. For further issues on the police treatment of Roma, see points 258-262.
223. We are particularly concerned after an incident, which occurred in 2013, where a man experienced severe use of force from the police, which according to the Norwegian Centre for Human Rights - "The police action in our opinion raises the

questions of how they relate to the prohibition of inhumane and degrading treatment as according to the ECHR art. 3".<sup>52</sup>

224. The police had stopped two men on suspicion of selling drugs, and proceeded to force first one, then two batons down the throat of one of the men, apparently on suspicion of him having swallowed drugs and therefore could be at harms risk. A journalist who witnessed the episode from his home filmed the incident. Two minutes of the clip can be seen on his website.<sup>53</sup> In the video, one can see the man lying on his back, with the policemen standing over him, forcing the batons down his throat. Further, one can see that the police threaten to use the batons on the second man - here clearly used as a threat, not in fear of him having swallowed drugs.
225. The journalist who filmed the episode saw the man being taken away in a black police car. He has later interviewed the victim, who said he lost several teeth during the violence, and was not able to eat for several days. He also stated that he was not taken to the emergency room or to a doctor, but rather driven out in the forest and left there. The police shall have said to him that here live the animals, so you belong here, before they drove away. This information is not confirmed, but is written down as explained by the man in question to the journalist.
226. On the 9th of September 2013, the Oslo police district issued a statement on their website regarding the incident. The statement notifies that the police deemed it necessary to use a baton to hinder the person from swallowing drugs, as that can be dangerous. It further stated the importance of hindering such. However, such use of batons should not occur and therefore the immediate cease of the practice was communicated to all sections in the police district.<sup>54</sup>
227. Following the incidence, OMOD has asked the Oslo police district, The Ministry of Justice and Public Security, the Police Oversight Commission and members of parliament as to whether or not the medical services were called or at what point in time the person in question received medical treatment after the incident. These questions have not been answered as of yet.
228. OMOD has also asked if any of the officers present reported the incident as "a police oversight". From the correspondence with the police authorities on the matter, there seems to be discrepancies as to how the law in this area is being interpreted and practiced by different sectors of the police, the police academy and the Director of Public Prosecutions (Riksadvokatens kontor). We have also asked as to how widespread this practice is, but we have not received any answer in the time of writing.
229. As to this date, we understand that the Police Oversight Commission has not interviewed the plaintiff, despite OMOD having requested this in writing since July 2013.
230. The Norwegian Centre Against Racism has in the aftermath of the episode been informed that this is not the first time this kind of force has been used by the police

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<sup>52</sup> The statement can be read (in Norwegian) here: <http://www.circusbazaar.com/norsk-politi-filmet-artikkel-3-umenneskelig-eller-nedverdiggende-behandling-emk/>

<sup>53</sup> Link to video clip of the incident: <http://www.circusbazaar.com/norwegian-police-filmed-article-3-inhuman-or-degrading-treatment-echr/>

<sup>54</sup> Oslo Police District, 18.09.13, *Metodebruk- Oppbevaring av Narkotika*, available at: [https://www.politi.no/oslo/aktuelt/nyhetsarkiv/2013\\_09/Nyhet\\_12840.xml](https://www.politi.no/oslo/aktuelt/nyhetsarkiv/2013_09/Nyhet_12840.xml) (accessed 03.08.14)

against men of African origin. However, it is the first time it has been witnessed and filmed and hence caused reactions.

**Recommendations:**

- We request the Committee to inquire the State Party about the incident, and what steps that has been taken in the aftermath to ensure that measures are taken to avoid both human rights violations and racial profiling within the police service.
- We urge the State party to take action against the policemen in question, to ensure that these kinds of violations are not repeated.

*Child Welfare Services*

As mentioned earlier in the report (see case 1, pp. 27), a case was brought to the National Equality Tribunal in 2011 regarding a case where the child welfare services had demanded a physical FGM-check of a girl of Somali origin.<sup>55</sup> The Tribunal concluded that the child welfare services had acted contradictory to the law when demanding the health check. Our concern is that no measures seem to have been taken in the aftermath of the judgement, in order to ensure that the child welfare service employees do not repeat the discriminatory practice. We understand that errors occur, but it is of evident importance that measures are taken in order to improve weaknesses within a service, especially given the excessive focus on FGM.

**Recommendations:**

- Cultural sensitivity training and courses in ethics should be established for everyone working within the public sector, in order to avoid incidents of discrimination.
- The minority organisations should be involved in developing concrete measures for the different services.

Anti-Semitism

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231. In general reference to Convention's articles 2 and 7, and paragraph 140 in the State report.

232. A survey from The Centre for Studies of Holocaust and Religious Minorities in Norway from 2012 uncovered stereotypical notions of Jews in Norwegian society.<sup>56</sup> Over 10 per cent of the population can be considered significantly prejudiced against Jews. Thus, in a European context, the prevalence of anti-Semitic notions in Norway is limited and on a par with Great Britain, the Netherlands, Denmark and Sweden. Certain notions are, however, more widespread in the Norwegian populace. Almost 1/5 of the respondents meant that «World Jewry works behind the scenes to promote Jewish interests», and over 1/4 believe that «Jews consider themselves to be better than other people».

233. Also within schools, anti-Semitic attitudes exist among children. "Jew" is one of the many insults children shout at each other in the schoolyard. A study called

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<sup>55</sup> Case 49/2011 (ombudets ref: 09/1654) Vedtak, available at: <http://www.diskrimineringsnemnda.no/wips/2094117726/module/articles/smlId/977881843/smTemplate/Fullvisning/> (accessed 03.08.14)

<sup>56</sup> Center for Studies of Holocaust and Religious Minorities, 29.05.12, 2012, *Antisemittisme i Norge?*, available at <http://www.hlsenteret.no/forskning/jodisk-historie-og-antisemittisme/holdningsundersokelse/> (accessed 03.08.14)

*Jewish Life in Norway*<sup>57</sup>, shows how Jewish youngsters between the age of 10 and 25, experience harassment through jokes about Jews, classical stereotypes, and that they get blamed for the conflict in the Middle East. As an example, a youth who was going out one evening was spat at and told: “you should have been burnt in Auschwitz”.

#### DEMBRA

234. The government writes in the State report that human rights, racism and anti-Semitism are already well embedded in the Knowledge Promotion Reform’s competence objectives and subject curricula, but the Ministry of Education and Research recognises that it may be necessary to enhance teaching skills. As a result, the DEMBRA project (Demokratisk beredskap mot rasisme og antitsemittisme) has been developed with the aim to prevent racism, anti-semitism and undemocratic attitudes.
235. Although we welcome the DEMBRA project, we do not believe it is enough to combat neither racism nor anti-Semitism within the school system. It is a pilot project over a number of years limited to five schools. The project targets teachers, not pupils directly, and is only aimed toward secondary school teachers.
236. It is important for us to note that anti-Semitism and racism are two different issues (although sometimes overlapping). To water out anti-Semitism with racism creates a risk of losing the focus necessary to truly understand anti-Semitism. Further, we believe the DEMBRA project focuses too much on the Holocaust at the expense of teaching about the long history of anti-Semitism. To combat anti-Semitism there also is a need for understanding Jewish religion and tradition, which is not included in the DEMBRA project.
237. Although human rights, racism and anti-Semitism are embedded in the school curricula, we see that in reality, students have limited knowledge on the issue. Training teachers is obviously important, but we also believe it is necessary to further integrate the issues into all aspects of the education, in all subjects, from primary level until graduation from high school.

#### Recommendations:

- Strengthen the education about Jewish culture and history, anti-Semitism, the Holocaust, the concentration camps and discrimination against minorities, within the school system.
- Hate crime motivated by anti-Semitism should be registered as such with the police; in order to create statistics and an overview on to what extent it occurs.
- In order for the government to prove that they take racism and anti-Semitism in schools seriously, they need to develop DEMBRA into a permanent part of all teachers’ educations.
- Other issues related to racism, such as Islamophobia, antiziganism and afrophobia also need to be given due weight through the training of teachers. It is important that racism is not seen as one general issue, but that it’s various forms are known and that teachers are taught how to handle them.

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<sup>57</sup> Det Mosaiske Trossamfund (2012) *Jødisk liv i Norge (Jewish life in Norway)*

- In addition to training teachers, further direct measures needs to be taken towards students, so that the issues of human rights, racism and anti-racism becomes an integrated part of all education.

## The Kvens

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238. In general reference to the Convention's article 2.
239. The Kvens is an ethnic minority in Norway, traditionally living in the northern areas of Norway, Sweden and Finland. In Norway, the Kvens were granted status as a national minority in 1996, and in 2005 the Kven language was recognised as a minority language in Norway. As there is no official definition of a Kven, it is difficult to estimate the number of Kvens in Norway presently. However, the Norwegian Kven Organisation states there are at least 100 000 Kvens in Norway today.
240. The Kvens has, in a similar way to the Sámi population and other national minorities, suffered through the assimilation policies (the "Norwegianification") generally applied by any government until the 1970s. However, whereas the Sámi population became politically active, and ended some of the assimilation policies, the Kvens had a harder struggle, at a great cost to the Kven culture and language. The result was that the Sámi achieved the status as indigenous people and managed to gain some rights through the creation of a Sámi parliament and through laws regulating their land, language and culture,<sup>58</sup> but the Kvens were unable to gain similar rights and protection. As the two different groups traditionally live in the same areas of the country, the Kvens feel marginalised and discriminated against by the Norwegian government.
241. Today, the Kvens are not represented in any commission or institution managing the areas of Finnmark and Tromsø, like the Finnmark Commission, and no national plan exists to safeguard and register the cultural heritage and identity of the Kvens.
242. The Kven language is one of the most threatened languages in Norway today, but hardly any efforts are made to revitalise the language through education; in reality there is no teacher training available and no textbooks for any of the school ages.
243. The Norwegian government has expanded the definition of Kvens to Kven/Norwegian-Finish, without officially orienting the legal authorities, international committees, and without consulting the people in question, resulting in the identity of the Kvens being diluted.
244. We are highly concerned that the lack of efforts made to revitalise, safeguard and protect the Kvens' culture, language and heritage, threatens the existence of the Kven population.

### Recommendations:

- We request the Committee to urge the State party to create a national action plan to safeguard the existence of the Kvens, in consultancy with the Kven population.

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<sup>58</sup> The rights of the Sámi people are still not sufficiently protected, see recommendation number 18 in this report

- We request that the Kvens are represented and consulted in relevant commissions and institutions in order to secure their rights to land, culture and language.
- We urge the State party to take measures to ensure the right of the Kvens to learn and practice their own language.
- The State party should take all measures necessary to ensure that the rights of the Kvens are protected as affirmed in different international conventions.

## Transgender people

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245. In reference to Convention's article 2 1 C and paragraphs 134-135 in the State report.
246. People defining themselves as transgender have long been discriminated against, also in Norway. On assignment from the Norwegian LGBT Resource Centre, there has recently been conducted a national research project on the living conditions of those with gender identity issues, transgender people and those diagnosed with transsexualism. The Centre of Equality in Hamar conducted the research, and in January 2013 the report *Alskens folk* was launched.<sup>59</sup>
247. This is the first time a national survey on the living conditions for this group has been conducted and it will be used to form the path forward and State action plans on issues related to this group. The report will influence the shaping of the health care system, the funding of projects to improve their living conditions, conditions for treatment etc.
248. It is with great concern we note that all the informants in the study were ethnic Norwegians. In the introduction, the researchers merely state that it is too difficult to reach the target group with an ethnic minority background. Yet there are organisations in Norway that receive state funding to work with these groups and could have contributed to the report. However, they were neither asked to sit in the reference group nor to contribute with informants.

### **Recommendations:**

- There should be an inquiry into why the State did not include those with an ethnic minority background into the national survey conducted by the Centre of Equality in Hamar.
- It should be better specified in "Alskens folk" that the report is not representative of the living conditions of all members of its target group.

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<sup>59</sup> Van der Ros, J. Likestillingscenteret Hamar, 2013, *Alskens folk : levevilkår, livssituasjon og livskvalitet for personer med kjønnsidentitets-tematikk*, available at: <http://kilden.forskningsradet.no/publikasjon/vis.html?tid=83472> (accessed 03.08.14)

249. In reference to the Convention's article 2 C and paragraph 69 in the State report.

250. Looking at the measures stipulated in the action plan we notice that there is a strong focus on training of public employees through courses or pamphlets, improvements in data foundation and guidelines for implementation of laws and rules:

- Measures to train public employees (3 one-time measures, 9 repeated measures).
- Pamphlets/written information to employees (7)
- Changes in the law (shelved)
- Information, guidelines, strategies for the implementation of laws, rules and duties concerning non-discrimination and equal treatment (11)
- International cooperation/fulfill international obligations (4)
- Control/implement laws and rights (4)
- Mapping/improving data foundation, research and reporting (21)
- Measures to increase recruitment/keep people with a minority background (9)
- Support/found new institutions (1)
- Information to immigrants/minority population (5)

251. It is positive with a focus on mapping and improving data foundations, as this is something the Norwegian Centre Against Racism and OMOD have called for over several years. It is also positive that the evaluation of this action plan is performed by independent researchers, and not by someone internal, as the case has been before. However, we are apprehensive about the action plan only having one point concerning changes/renewal of the laws against discrimination and that this measure was terminated when the discrimination law was shelved.

**Recommendation:**

- In the future, action plans on immigration and integration should always contain efforts to improve the laws.

*The police agency*

252. We would like to comment on the measures concerning the police agency in particular. The measures made within this agency can be found in the police directorate's plan for diversity work,<sup>60</sup> including increased recruitment of persons with a minority background to the police education, and the efforts to keep them within the police force. In addition, the police's dialogue forums on local levels are to be continued, although the Police Directorate's dialogue forum ended in 2012. The program *Trygghet og Tillit* ("Safety and trust"), which focus on better contact between the police and the minority population, is to be resumed.

253. The police in the district of Oslo work systematically to build relations with the many minority communities in Oslo, and to increase their trust in the police. They also work within the service on how to police a multi-ethnic city. This work is

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<sup>60</sup> Police Directorate, 2008, Plan for mangfoldsarbeidet i politi- og lensmannsetaten, available at: [https://www.politi.no/aktuelt/publikasjoner/Tema\\_264.xml](https://www.politi.no/aktuelt/publikasjoner/Tema_264.xml) (accessed 03.08.14)



monitored by a staff member who is part of the staff of the Chief of Police. However, we still receive complaints from individuals regarding perceived racial profiling and dissatisfaction with the police response regarding discrimination cases and hate crime. The information from other police districts is more deficient. This implies that the efforts of the different districts are inconsistent in this area.

254. It would be useful with information on the ways in which the first “Safety and trust” project, which ended two years ago, has been extended/continued, and also information on how the dialogue forums are working. We would like to encourage the Government to look into the efforts made in the different police districts, and not only refer to the work in the district of Oslo. It would further be interesting to see how the work done, and the experiences gained, in Oslo Police District are transferred to the Police Directorate and the Ministry of Justice. We see little evidence of how the good practices established in the more successful police districts are implemented on a national level.

**Recommendations:**

- The government should evaluate to what extent efforts are made in the different districts in Norway, and not only look to Oslo for results.
- Measures should be taken on a national level to secure cooperation with minority organisations in the sensitivity training of the police, in order for the police to handle a diverse population in a suitable manner.

Discrimination against immigrants in Norwegian prisons

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255. In reference to the Convention’s article 2 1 C and article 6.

256. A survey conducted by JURK (Juridisk rådgivning for kvinner – Legal aid for women) in 2010<sup>61</sup> showed that female inmates of ethnic minority background are a vulnerable in prisons, particularly when it comes to information regarding legal rights while serving a sentence. JURK experienced that female inmates who do not speak Norwegian, rarely receive information about their rights, even when requesting it. Decisions concerning inmates who do not speak Norwegian, are seldom written in English or another language they understand. Interpreters are rarely hired, because the prisons lack funding. The survey also showed that when something does not work in the prison, whether it is the contact officer-system or lack of health services, inmates who do not speak Norwegian suffer to a larger degree than other inmates, because they become dependent on the information received from other inmates who understand Norwegian. Although this survey only studied female inmates, it is not implausible to consider that the results would be similar in relation to male immigrants in Norwegian prisons.

257. This issue should be seen in connection to recommendation nr. 10 as better use of translators would probably solve a lot of the discrimination issues. In relation to articles 2 and 6 in the Convention, we state that ethnic minorities in Norwegian prisons are not receiving real access to justice.

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<sup>61</sup> Thorsrud, I, *JURKs Fængselsundersøkelse En kartlegging av kvinners soningsforhold i 2010/2011*, JURK report no. 62, 2012. Available at [http://foreninger.uio.no/jurk/Publikasjoner/Rapporter/Fængselsundersøkelsen](http://foreninger.uio.no/jurk/Publikasjoner/Rapporter/Fængselsunders%C3%B8kelsen) (accessed 03.08.14)

### **Recommendations:**

- Ensure that inmates from ethnic minorities are given access to information about their legal rights in a language they understand.
- Ensure that inmates who do not speak Norwegian have access to interpreters and are given the same privileges as other inmates.

Article 5: Prohibit and eliminate all forms of racial discrimination and to ensure all equality before the law

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### **Discrimination of Roma**

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258. In general reference to article 5 of the Convention, paragraph 20 of the concluding observations and paragraph 57 in the State report.
259. We are concerned that the State report only seems to refer to Norwegian Roma, and not the visiting Roma, a group that over the last couple of years has experienced an increased amount of discrimination in Norway. The discrimination takes place in the public debate; in media and social forums, where bigoted language is used to create stereotypes and generalisations of the Roma. This again is translated into everyday life of the Norwegian public, and in support of new law propositions directly targeting the group.

#### *Discrimination of Roma in the public debate*

260. In the autumn of 2011, several newspapers in Norway reported that Roma people eat rats, seagulls and dogs and live in slum-like conditions. DittOslo (a news portal) initiated the story with an article headlined *Eating dogs and pooping in the bushes*.<sup>62</sup> Other newspapers were quick to report the same, without checking the facts for themselves. As it turns out, the stories could not be confirmed by anyone, but the articles sparked a hostile debate against the Roma people in Norway.
261. The source for the articles was Jan Hauger, the leader of “Rusken”, a community campaign under Oslo municipality, working towards a clean and friendly city. In addition to passing on the story mentioned above, Hauger is also known for other comments in the media like: “they steal, nick, pick pockets and beg. They are multi-criminals”.<sup>63</sup> It should also be mentioned that these statements seem to signify the actions taken by “Rusken” towards the Roma. There have been several incidents reported of “Rusken” tearing down tents belonging to Roma, cutting them open and throwing away the tents as well as other belongings that might be found inside.
262. The heated debate against the Roma got worse when they established a camp first outside Sofienberg church, and later at Årvoll in Oslo, during the summer of 2012. At Årvoll four men were arrested for firing fireworks towards the camp. One of the people inviting the Roma to come and build a camp there received death threats. Two people were caught chasing Roma around the camp, and others shouted, “you shit in our forest” in front of TV-cameras.<sup>64</sup>

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<sup>62</sup> Svendsen, C., Ditt Oslo, Griller hunder og bæsjer i buskene, available at: <http://dittoslo.no/nyheter/griller-hunder-og-besjer-i-buskene-1.6534144> (accessed 03.08.14)

<sup>63</sup> Denne, C.K., Antirasistisk Senter, Tilreisende Rom i Oslo, pp. 18, available at: <http://www.antirasistisk-senter.no/wp-content/uploads/2014/06/Tilreisende-rom.pdf> (accessed 03.08.14)

<sup>64</sup> Ibid

263. The incidents were followed by statements from different politicians. The leader of the Progress Party, and now our minister of finance, Siv Jensen, said the only solution was deportation, and that they should be bussed out of Norway.<sup>65</sup> Also a politician from the Conservative Party in Oslo stated that if the Roma did not leave voluntarily, they should be forced.<sup>66</sup> After being included in a Facebook page supporting Roma people the former Progress Party politician Per Egil Eira suggested on the same Facebook-page that the Roma people “should be cut into pieces and fed to dogs” and that “those idiotic Roma-people could be thrown at sea and asked to swim back for all that he cared”. On the street, we witnessed Roma being spat on by passers-by. In debate-forums online, Roma people were called snails and cockroaches and were advised to commit suicide.

Examples of comments regarding Roma in the public debate:<sup>67</sup>

- *Feels like the Roma people and the garden snails are kind of the same thing. When they first have arrived, they stay, and when they stay they multiply, fast.*
- *How much does it cost to get into the new zoo at Årvoll?*
- *The Roma-gene results in total aversion against adapting to regular norms. They cannot do work with their heads or their hands, other than selling pots, begging, stealing, acquiring drugs, committing incest and playing on the accordion.*
- *We (the people of Norway) do not want this shit here.*
- *Travelling gypsies have always lived of crime. How blue-eyed is Ola Nordmann (the average Joe) allowed to be? Let's call a spade a spade and send the rascals out of her as soon as F, that's the best thing we can do! Viva la France, they solved the problem 😊*

#### *Proposition for law amendment*

264. The Ministry of Justice and Public Security has proposed an amendment in the current police law regarding begging. The suggestion is that anyone who collects money, including beggars, are required to report to the police, and the police can set certain requirements for the money-collection.

The reasoning behind the proposition is:

*“In recent years, Norway has seen an increase in an organized form of begging performed by foreign nationals, mainly Romanians (...).*

*A majority of those who beg belong to the Roma people, a European minority group who are in a vulnerable and disadvantaged situation. (...)*

*In the Ministry's opinion, the increase in organized begging in public places is clearly an undesirable development. We are now in an entirely new situation in relation to when the ban on begging was repealed. Norwegian drug abusers have been overshadowed by the poor foreign nationals who beg as a livelihood, and where some beggars commit criminal activity or work closely with people who do”.*<sup>68</sup>

<sup>65</sup> Abcnyheter, 15.07.12, Høyre og Frp vil tvangssende romfolket ut av Norge, available at: <http://www.abcnyheter.no/nyheter/2012/07/15/hoeyre-og-frp-vil-tvangssende-romfolket-ut-av-norge> (accessed 03.08.14) and [http://www.nrk.no/norge/jensen\\_-\\_nok-er-nok\\_send-dem-ut-1.8244413](http://www.nrk.no/norge/jensen_-_nok-er-nok_send-dem-ut-1.8244413) Norwegian broadcasting corporation (accessed 1.3.2015)

<sup>66</sup> Ibid

<sup>67</sup> *Tilreisende Rom i Oslo*, pp. 21

<sup>68</sup> Ministry of Justice and Public Security, 15.02.13, *Høring – forslag til endring i politiloven (adgang til å pålegge meldeplikt for pengeinnsamling og til å regulere pengeinnsamling på offentlig sted)*, available at:

265. The proposition has clearly been proposed as a reaction to one ethnic group – the Roma, who also happens to be the poorest and most discriminated group in Europe. We are uncertain whether the new law, if implemented, will be enforced in an equivalent manner towards all money-collectors, or if it will become a discriminatory measure disproportionately affecting the Roma. We are concerned about the requirements the police can place upon the money-collectors, which can become a measure of racial profiling, victimising the Roma people in Norwegian society.

266. The new government has in the summer of 2014, decided that municipalities can ban begging in their areas. From 2015, the ban might become national. We would like to add that we are concerned about any issue that forbids poverty, and tries to hide it from society, instead of dealing with the real issue. In January 2015 the proposition was cancelled by the government, because there was no longer a majority in the parliament to change the law.

**Recommendations:**

- Change the law giving the local municipalities right to illegalise begging and rather create real measures to prevent poverty.

*The ban on sleeping outdoors in the city and problems with housing*

267. Oslo municipality has recently adopted a new law making outdoor sleeping in the city illegal. It is now forbidden to sleep in parks, on sidewalks and in built-up areas. We are concerned that this is yet another discriminatory law implemented to affect one ethnic group, the Roma. It is difficult to see how this law can be enforced and put into action, without discrimination of this particular group of people. An example indicating discriminatory application of the law was when Norwegian youth camped for ten days outside an Oslo cinema awaiting the premier of the movie the Hobbit in October 2013. Although the youth slept on the sidewalk, no police authorities interfered with or ended the violation of the law.<sup>69</sup>

268. The ban is particularly problematic when, in general, it is very hard to find cheap accommodation in the Oslo area. Many Roma people are turned down when trying to camp or rent a room. We have reasons to believe that this happens because of their ethnic origin, but it is hard to prove that discrimination have taken place. After an incident, where a Roma man was denied space at a campsite, the City Church Mission called the administration of the campsite on behalf of the man, but they denied all knowledge of the incident. The situation in Oslo means that most poor Roma either spend the night outside or in illegal dwellings, making them vulnerable to both crime and abuse from the police.

269. In June 2013, as a reaction to the ban on sleeping outdoors, the City Church Mission and the Red Cross opened a shelter for poor visitors, trough funding supplied by the Ministry of Justice and Public Security.<sup>70</sup> However, the offer is

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<http://www.regjeringen.no/nb/dep/jd/dok/hoeringer/hoeringsdok/2013/horing--forslag-til-endring-i-politilove/horningsbrev.html?id=714647> (accessed 03.08.14)

<sup>69</sup> DagbladetTV, 10.10.13, *Ligger ti dager i kø for «Hobbiten»*, available at: <http://www.dbtv.no/?vid=2733735555001> (accessed 03.08.14)

<sup>70</sup> Information on the shelters can be accessed here:

<http://www.bymisjon.no/no/Nyheter3/2013/Overnattingstilbud-for-fattige-tilreisende-apnet/>

temporary and will only exist as long as the funding permits it. From May 2014, the offer had to downscale from 120 to 50 beds a night; even though the demand is so high that people are sent away every night. Although requested to chip in, the municipality of Oslo is refusing to sponsor the shelter.

**Recommendations:**

- The State party should ensure that basic accommodation is recognised as a human right by local authorities.
- The State party should secure availability of permanent, cheap sheltering for poor foreigners.
- The State party should take measures to ensure that no ethnic discrimination is allowed in existing cheap accommodation facilities such as camping sights and hostels.
- Until another option is available, the ban on sleeping outdoors in the city of Oslo should be repealed.

*Law enforcement against the Roma*

270. Trough conversations with Roma people, we have learned that several of them experience prejudices from police officers in Oslo. It appears that laws and regulations are more strictly enforced when Roma people are involved. For example, a Roma man was arrested, fined and held in custody overnight, simply for urinating in a park. Although urination in public places is illegal, this punishment seems to be disproportionate to the crime committed, and is a stricter implementation of the law than other, non-Roma, people have experienced in the same situation.

271. There are several examples of groups of Roma being picked up from the streets of Oslo by the police and dropped off many miles outside of the city centre, without any explanation, and where they are left to walk back to the city on their own. According to the police, this is done to prevent them from sleeping in the city parks. A married couple were evidently taken by force by the police, driven for 20-25 minutes and then split up by being dropped off at different places.

272. In 2012, the police was reported for having driven Roma out of Oslo. Although there are strict practices within the police to write logs on such events, there is no evidence of such logs being written. The case was dismissed by the special unit, because it "has not been possible to identify the actual circumstances of the removals", but the unit was highly critical to the practice of driving people away in general, as there is a risk of people being hurt, and there are uncertainty related to the use of force by the police. In the Special Unit's report related to the incidents in question they wrote, among other things, that:

- There seems to be a group approach against the Roma
- The investigation gives reason to assume that there is a lack of routine in reporting such operations to the police central
- It is uncertain if the grounds for removal were good enough
- It is reprehensible that they split up groups, leaving people on their own., as it places them in a particularly vulnerable situation

- The practice of driving people away is meant to result in the person going home, rather than back to the city. This reasoning does not work on homeless people.<sup>71</sup>

273. Many Roma have felt obliged to accept fines from the police without understanding what it says or the reason why it was given. Afterwards they have asked the City Church Mission to help them translate the fines.

274. On two occasions that we know of, Roma victims of crime have been turned away when trying to report the crimes to the police. In one of these cases the City Church Mission had to follow the victim to the police station and insist several times before the police agreed to accept the report. Incidents like these make Roma people extremely hesitant to approach the police when they fall victims to crime.

**Recommendations:**

- The State party should ensure that cultural sensitivity training, with a special focus on Roma, is included in the education and training of police personnel and make sure that professional interpreters are available at all major police stations.
- Contact meetings between the police and relevant NGOs should be established.

*Private security personnel:*

275. Every day Roma people describe how they have been denied access to, or asked to leave, shopping malls, train stations, cafes, grocery stores etc. The reasons given to them by security personnel are often based on ethnic or national presumptions and prejudices. In one grocery store they were denied access because they had “too many return bottles”. In some of the shopping malls, the security personnel have asked them to leave, telling them that they are thieves or too dirty. This is in direct conflict with the Convention’s article 5 F.

**Recommendations:**

- The State party should ensure that cultural sensitivity training with a special focus on Roma is included in the education and training of security personnel.
- Knowledge of the discrimination laws should be a compulsory part of the training of security personnel.

*Private businesses:*

276. The separation between private and public spaces is often blurred. This is a big problem for all marginalized people, but especially for those who are easily recognized as being poor. What is good for business isn’t always good for human rights. In our experience, poor Roma are often denied access to public transportation and to basic services such as buying food, clothes and medicines.

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<sup>71</sup> Hofoss E. & Svarstad J., Osloby, 97.02.13, *Politiet innrømmer å ha kjørt bort romfolk*, available at: [http://www.osloby.no/nyheter/Politiet-innrømmer-a-ha-kjort-bort-romfolk-7112257.html#.U4hqqPl\\_vUU](http://www.osloby.no/nyheter/Politiet-innrømmer-a-ha-kjort-bort-romfolk-7112257.html#.U4hqqPl_vUU) (accessed 03.08.14)

**Recommendations:**

- Business organisations have to work with their members to secure the right to access for marginalized people. Everyone should have the right to be present in semi-private spaces such as those mentioned above.
- The State should ensure that business organisations train their owners and employees to have sufficient knowledge of laws against discrimination.

**Domestic workers and au pairs**

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277. In general reference to the Convention's article 5, as well as article 2 (I) C and 6.
278. Domestic workers are exempted from the Norwegian Labour Environment Act, through the Domestic Aid Regulation (hushjelpforskriften).<sup>72</sup> This gives them little real protection against unreasonable terminations of contracts and bad working conditions, particularly regarding working hours. Immigrants, mostly women, represent the majority among domestic workers.
279. About 80-90 percent of all au pairs in Norway, around 3000 persons, are from the Philippines.<sup>73</sup> The au-pair scheme is in practice a way of paying immigrants, mainly women, less, and deny them workers' rights in the name of cultural exchange. Au pairs' permits to stay in the country are dependent on their work contract, meaning that a breach of contract also results in a breach of their permit to stay in the country. This makes au pairs particularly vulnerable to exploitation and trafficking.
280. Norwegian law is thus not in accordance with articles 2(1) c, 5(e) and 6 of the convention. Norwegian legal regulations concerning domestic workers and au pairs excludes, in practice, primarily immigrants from the regulations that protect other workers, and thus fails to give them real access to justice.
281. In the State Report, the government refers to the third action plan to combat social dumping, stating that it will "promote a decent, legitimate working life and combat social dumping" through key measures such as "strengthening controls and ensuring better compliance with regulatory frameworks in all aspects of working life".<sup>74</sup> We would like to emphasise that au pairs should be included within all aspects of working life, but unfortunately it still is a group vulnerable to social dumping and trafficking.

**Recommendations:**

- We request the State party to review The Domestic Aid Regulation thoroughly to give domestic workers adequate protection regarding working hours, work environment, the right to discussion meetings in cases of termination of contract and legal counsel.
- Provide an efficient surveillance system for the working conditions of au pairs and other domestic workers.
- Recognise domestic work as work, also for au pairs, and any au pair performing domestic work exceeding participation in family life must be recognized as a de-facto worker, receiving the same level of protection as other workers. The ECJ's

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<sup>72</sup> FOR-2002-07-05-716, the Domestic Aid Regulation

<sup>73</sup> Statistics sent by the UDI statistics office to JURK in 2012

<sup>74</sup> Norway, 21.11.13, CERD/C/NOR/21-22, point 108

approach in C-294/06 Payir, Akyuz and Osturk vs. Secretary of State for the Home Department should be followed also in Norway.

- The proposed system for prohibiting host families, who have seriously breached the au pair contract, from employing new au pairs does not include au pairs from the EEC/EU area. This group must receive as good a protection as other workers, not just formally, but in reality.
- The State should include the protection of rights of au pairs in the action plan to combat social dumping.

## Violence against women

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282. In general reference to article 5 of the Convention, paragraph 16 of the concluding observations and paragraph 84-85 of the State report.
283. Sexual harassment, psychological and physical violence, rape, incest, threats, genital mutilation, forced marriage, pornography, prostitution, trafficking in women and murder are words that describe crimes committed against women and children around the world, including Norway. Newly arrived minority women are especially vulnerable to the exposure of such violence, as they are without safeguards in a new society.
284. The White paper nr. 15 on preventing and combating domestic violence is the first of its kind. We are pleased to see that the government recognizes violence as a public health problem as well as a social problem. It is very important that prevention, research, attitudes and actions are recognised in the White paper.
285. However, we see that, at the central and local level, clear goals for implementing and coordinating measures to protect victims of violence are omitted. In addition, the ability to reduce the frequency of the violence is not paid enough attention. For that reason, we had hoped that the government through the White Paper would suggest holistic and long-term measures as opposed to ad hoc embossed strategies to combat and prevent violence against women and domestic violence. Holistic and long-term measures to protect female immigrants from violence are of great importance cf. ICERD Article 5.

### **Recommendations:**

- CERD should request that Norwegian authorities establish holistic and long-term measures as opposed to ad hoc embossed strategies to combat and prevent violence against women and domestic violence.

### *Primary prevention*

286. As we know that violence costs up to 1 billion USD annually, we believe that the allocated 75 million NOK (approx. 12.5 million USD)<sup>75</sup> is not sufficient. The government will have to allocate more funding to overcome this on-going criminal-, human right-, community-, equality- and public health problem. We are disappointed that the government did not allocate more funds to this work.
287. To prevent violence before it occurs has thus not been given particular attention. A stronger focus on stereotypes and prejudice in the prevention of violence against

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<sup>75</sup> Ministry of Justice and Public Security, 08.03.13, *St. meld nr. 15 (2012-2013)*,



women is necessary. In an official report (NOU) *More good years of life for all. Prevention Strategies* from 1991,<sup>76</sup> it is stated that to prevent violence should be equally important as to give help to those who are already vulnerable. Despite increased attention and action, the vision of a society free of violence against women is far from reality in 2013.

**Recommendations:**

- CERD should request the State party to make holistic and long-term measures to prevent violence against women and domestic violence, and to allocate sufficient funds to this work.

*Security perspective in the use of Restorative Justice*

288. One of the measures within the government's action plan against domestic violence from 2012 is the development of organized dialogue (restorative justice) in cases of "honour-related" violence. We want to point out the importance of integrating a security perspective when using interventions as a tool against domestic violence. Researcher Michael Johnson<sup>77</sup> warns against the use of these interventions. If they are to be used, there must be an assessment indicating that the intervention is absolutely safe for the victim.

**Recommendations:**

- We recommend that a safety assessment must be made in advance of possible interventions, and that safeguarding the victims of violence must be given precedence.

*Resettlement and alternative housing*

289. CERD is concerned about the difficulties that are encountered when it comes to finding alternative housing upon leaving the shelter.

290. We are worried about the problems victims of violence and threats meet when public services fail to coordinate their services effectively. This creates unworthy individual living conditions. Many victims of violence have complex and great care needs, especially newly arrived female immigrants. The Crisis Centre Act § 2 d states that shelters should include follow-up in the rehabilitation phase, see § 4.<sup>78</sup> The municipalities are according to the Crisis Act § 4 required to offer a comprehensive follow-up through coordination of measures between the shelters and other parts of the public services.

*Interdepartmental cooperation*

291. There is currently a lack of coordinated and accessible public services for abused women. We still support The Equality and Anti-discrimination Ombud's recommendations in their report in connection with the 19th/20th report to

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<sup>76</sup> Ministry of Social Affairs, NOU 1991:10. *Flere gode leveår for alle. Forebyggingsstrategier*, available at: <http://www.regjeringen.no/upload/kilde/odn/tmp/2002/0034/ddd/pdfv/154756-nou1991-10.pdf> (accessed 03.08.14)

<sup>77</sup> Ooms, T. (2006). *Sociologist's Perspective on Domestic Violence: A Conversation with Michael Johnson, Ph.D.* From the May 2006 conference sponsored by CLASP and NCSL: Building Bridges: Marriage, Fatherhood, and Domestic Violence.

<sup>78</sup> LOV-2011-06-24-30, Krisesenterloven

CERD,<sup>79</sup> which states:

- The State should ensure the creation of interdisciplinary initiatives targeting domestic violence in each municipality, and that each municipality has its own municipal domestic violence coordinator. The communal violence coordinator should work with individual cases as well as preventive measures and ensure coordination of public services, as well as the police in individual cases.
- Municipal/local authority action plans must be developed.
- Funds from the State budget to encourage local authorities to prepare and initiate plans and measures should be allocated.
- It should be ensured that all agencies in the municipality have expertise on the topic.
- A report on the needs of the victims in a resettlement phase should be developed for the municipalities and the shelters. On the basis of this report a guide should be prepared on the theme, to educate as well raise awareness of the shelters and the public services.
- Norwegian authorities should ensure that women who stay at shelters for a long period are offered alternative accommodation within a reasonable period of time. The Commission should in particular request that victims of human trafficking are offered alternative accommodation.
- Norwegian authorities should ensure that the municipalities play a greater role in helping minority women who have been victims of violence to enter the housing market.

#### *Family reunification, the “3-year rule” and domestic violence*

292. The 3-year rule is a condition placed upon marriages connected to residence permits for spouses married to Norwegian citizens. The present government and its supporting parties wish to make this limit 5 years. This is in spite of new research from Guri Tyldum (2013)<sup>80</sup> that shows that the three-year rule means that many women are married with a fairly high risk of exploitation during their first years in Norway. More women are living with the constant threat of divorce, feeling the need to adapt to her husband's wishes, in far greater extent than they would otherwise have done, to ensure that the marriage lasts for the required three years.

293. Although the Immigration Act § 53 b<sup>81</sup> seeks to ensure that “marriage migrants” do not have to stay in abusive marriages to ensure their stay in Norway, several of the women in the Tyldum’s study considered moving back to a violent spouse. This is because lawyers and other advisors could not promise that they would be given a residence permit according to the current practice of § 53 b of the Immigration Act.

294. It is unclear what it takes in practice for women to get a residence permit according to the Immigration Act § 53b, and whether or not it is an appropriate instrument to prevent domestic violence. The lack of clear practice has led to uncertainty about what rights these women have in case of divorce. We have several examples of the law being applied in a way that do not give the women adequate protection from abuse:

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<sup>79</sup> Ørstavik, S. (2011). *The Ombud’s report to the Committee on the Elimination of Racial Discrimination (CERD), The Equality and anti-Discrimination Ombud*, available at <http://www.ldo.no/no/ombudet/publikasjoner/rapporter/CERD-rapport/> (accessed 03.08.14)

<sup>80</sup> Tyldum, G. (2013). *Dependence and human trafficking in the context of transnational marriage*. International Migration 51(4), 103–115.

<sup>81</sup> LAW- 2014-05-09-16, Lov om utlendingers adgang til riket og deres opphold her (utlendingsloven)

**Example 1:**

Friday 31<sup>st</sup> of May 2013 the Norwegian newspaper VG wrote that a Kenyan woman (32) was threatened to have sex with her husband, but that the immigration authorities would not call it abuse:

"The appeal of The Norwegian Directorate of Immigration's (UDI) decisions are not taken into account. After an overall assessment, the Norwegian Immigration Appeals Board (UNE) concludes (...) that it cannot be considered to be abuse in the legal sense. Although it is unacceptable to be pressured to have sex in a marriage, according to UNE this could not be considered abuse".<sup>82</sup>

**Example 2:**

UDI refused an application with referral to the Immigration Act § 53 b from a woman who was threatened with a chainsaw. Being threatened with chainsaw was not in itself enough to constitute abuse. The refusal was that "the threatening behaviour with the saw is more of an individual action relating to specific discrepancy between the spouses, rather than a part of a pattern of behaviour. The immigration authorities find that the applicant has lived in a somewhat confrontational marriage, but believes that the alleged problems first and foremost is considered marital problems and subsequently do not constitute abuse, and right to divorce, within the legal sense of the immigration law".<sup>83</sup>

295. Tyldum's research highlights the fact that the preconditions for marriage migrants are that they get a "good" spouse, who take their integration challenges seriously. The cases where the Norwegian spouse deliberately exploits and develops strategies to reinforce dependence, so-called "compulsory addiction", are largely reminiscent of the UN description on who can be defined as a victim of trafficking, and should thus in extreme cases be considered and prosecuted under the criminal law § 224 of trafficking (for labour exploitation and other sexual purposes).

296. The Government's new Plan of Action to Combat Domestic Violence 2014 – 2017 continues the evaluation and research from the previous plan of action. However, in order to combat domestic violence the government has to be more proactive by starting up and supporting projects that actually protect potential victims of violence.

**Recommendations:**

- We request CERD to question the Norwegian authorities on whether the 3-year, or possibly 5-year, rule should be changed to a year, as many women remain in violent relationships in fear of being sent out of the country.
- Ensure that UDI practises "abuse" in the sense of Immigration Act section 53 b, and not stricter. Ensure knowledge about PTSD and abused victims reactions within the immigration authorities.

**Trafficking**

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297. In Norway the ROSA Project (re-establishment, accommodation, security and assistance) was established in January 2005 to identify female victims of trafficking

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<sup>82</sup> Beyer-Olsen, A. *UDI: Being pressured into sex in the marriage is not abuse*. In: The Norwegian newspaper VG, 31.05.13

<sup>83</sup> Letter of decision to reject a temporary residence permit dated 22.08.2012 from The Norwegian Directorate of Immigration (UDI)

(VOT) and to coordinate secure residential environments, with access to the necessary assistance and information according to the definition in Article 4 of the Council of Europe Convention on Action against Trafficking in Human Beings.<sup>84</sup> The ROSA project also guides and educates staff that offers help to women in shelters on a daily basis.

298. The government's plan of action *Together against human trafficking 2011 - 2014*,<sup>85</sup> stated that the ROSA project is a success and will be prolonged. However, the ROSA project and Laura's House (a safe home for VOTs) is run on a temporary basis and faces insecure and unpredictable economic conditions every year.
299. Experiences from the ROSA project reveals great challenges in assisting VOTs, especially related to health and housing. Many of the VOTs have experienced extensive physical and psychological injuries and are in need of specialized healthcare. Women assisted by the ROSA project during the reflection period will have access to health care services regardless of residence permit status, but only due to extra money the ROSA project administrates for use in urgent matters to pay for health care. The ROSA project's experience is that the VOTs access to health care services depends fully on the VOT's type of residence permit and not the need for health care.
300. The evaluation report of the ROSA project conducted by NTNU in 2008, states that there is a great need to develop a wide range of housing solutions.<sup>86</sup> The time VOTs reside at the shelters span from 7 months to 4 years. The shelters are primarily intended to be a service for women and their children in an acute situation, and therefore not suitable for women who have to stay for a longer period.
301. Measure 17 in the Government Action Plan to Combat Human Trafficking (2011-2014) focuses on the development of housing for victims of human trafficking by identifying challenges. We believe that a study of the challenges is not sufficient, and measures addressing the challenges of housing conditions for victims of trafficking must be implemented.

### **Recommendations:**

- The ROSA project must be established as a permanent measure.
- The health care service provided to VOTs in Norway needs to be strengthened significantly. We propose a regulation that provides victims of trafficking, who are under the "reflection period", the right to specialised health care for free, dependent on needs rather than permit.
- We call for an independent national rapporteur on human trafficking in Norway who can work closely with the civil society and government.
- We support the GRETA (Group of Experts on Action against Trafficking in Human Beings) report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway (2013), which points out that:<sup>87</sup>

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<sup>84</sup> Council of Europe Convention on *Action against Trafficking in Human Beings* art 4, Warsaw 01.02.2008

<sup>85</sup> Ministry of Justice and Public Security, 27.12.10 Handlingsplan "sammen mot menneskehandel" 2011 - 2014, available at: [http://www.regjeringen.no/nb/dep/jd/dok/rapporter\\_planer/planer/2010/sammen-mot-menneskehandel.html?id=629869](http://www.regjeringen.no/nb/dep/jd/dok/rapporter_planer/planer/2010/sammen-mot-menneskehandel.html?id=629869) (accessed 04.08.14)

<sup>86</sup> Berg, B. & Dyrliid, L. (2008) *Menneskehandelens ofre - fra utnytting til myndiggjøring. Evaluering av ROSA-prosjektet*. Trondheim: NTNU samfunnsforskning

<sup>87</sup> Group of Experts on Action against Trafficking in Human Beings, 07.05.13, *Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway*, available at: [http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA\\_2013\\_5\\_FGR\\_NOR\\_with\\_cmnts\\_en.pdf](http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_5_FGR_NOR_with_cmnts_en.pdf) (accessed 04.08.14)

- Norway has to work harder to identify victims of human trafficking and increase training of the police in general, police on border crossings, judges, prosecution lawyers etc.
- The penalties for human trafficking are too low.
- Police investigation and prosecution must be better, and conducted faster.
- Victims of human trafficking should not be punished for actions they have been forced into, with reference to a case where a Nigerian woman was prosecuted because she gave a false name and address to the police, as the traffickers had instructed her to do. ROSA reported the case to the King in Council. The petition for mercy of penance/atonement was not granted by the Ministry of Justice and Police.
- Victims of human trafficking should not be punished for violations of the immigration law (victims of human trafficking are arrested and held in custody on the grounds of lacking ID documents).
- More long-term financing of the measures to help, assist and protect victims of human trafficking, e.g. The ROSA project.
- Personalized assistance for all forms of exploitation, not just those who are exploited in prostitution (to create assistance programs similar to ROSA to victims exploited in other forms of human trafficking than prostitution).
- Increased focus on persons who buy sex services from VOT is needed. Buyers should be punished also for purchasing services from victims exploited through labour on the black market.

#### ID papers to persons with legal residence permit in Norway

302. In general reference to the Convention's article 5.

303. According to the 1951 Refugee Convention, the State has the obligation to issue ID papers and travel documents to any refugee with a legal residence permit in the country.<sup>88</sup> In spite of this, a growing number of refugees are being denied their right to acquire travel documents in Norway, due to insufficient verification of identity, something the refugee in most cases is unable to provide. As a travel document is considered as the only valid ID-document, the denial of it means that refugees stand with no valid ID and therefore unable to undertake actions such as opening a bank account, get a driver license or do any jobs that require ID. An example can illustrate this problem: An asylum seeker was granted refugee status by the Norwegian Supreme Court. The man had no ID-papers and had previously operated with a false identity. Norwegian immigration authorities rejected the man's application for a travel document. Hence this man is residing legally in Norway, and remains undocumented.<sup>89</sup>

304. Many youngsters who are victims of forced marriages still hold their national passports. The problem arises when they need to renew the passport. With a new name, secret address and an entire family looking for them, the young victim does not dare contact the embassy for a renewal of the passport. Many embassies also require authorization from the parents, something these youngsters cannot comply

<sup>88</sup> The United Nations Refugee Convention of 1951, articles 27 and 28.

<sup>89</sup> Case from SEIF.

with. These persons are hence forced to live as undocumented persons until they are granted Norwegian citizenship.<sup>90</sup>

**Recommendations:**

- The 1971 Refugee Convention should be met in all cases where refugee status is granted. Granting refugee status should also imply the right to receive identification papers making the refugee able to operate as any other legal resident in Norway.
- Young victims of forced marriages should be granted alien's passport in order to be able to live their lives as any other youngster residing legally in Norway.

### Discriminatory treatment of women in prostitution

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305. In reference to the Convention's article 5 I A.

306. We are concerned that the police use of legal provisions towards foreign, particularly Nigerian, women who sell sexual services on the street, differs from how the rest of the population is treated. The police organises specific actions targeting foreign women in prostitution in general, and Nigerian women in particular, but also women from Eastern Europe. They act by controlling ID- and residency papers, or through laws against the disturbance of peace and quiet, improper conduct in the public sphere or incitement to crime. Many receive fines, get arrested, and are expelled from the area and the country. The police use of the legal provisions creates uncertainty and apprehension among the women, who loses their trust in the police. This will also have consequences on a more structural level, particularly in regard to the role of the police in identifying victims of human trafficking. Many of the women in prostitution are in a situation where they are in debt to a third party, and hence exploited. The focus on laws and regulations overshadows the need to identify and protect victims of trafficking, and investigation of other serious crime.

**Recommendations:**

- Sensitivity training of the police in relation to prostitution and possible victims of human trafficking.

### Legal aid and the courts

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307. In reference to the Convention's article 5 I A and paragraph 93 in the State report.

308. The State report refers to funds managed by the Department of Justice and Public Security, which every year is divided between the organisations that offer legal counselling within their respective areas.

309. We would like to point out that none of the organisations that offer legal counselling for victims of discrimination based on ethnicity or race receives any support from the department at present. Until 2011 OMOD and NOAS received funding to offer legal counselling. The Ministry of Justice and Public Security cut

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<sup>90</sup> Additional information on victims of forced marriage and other forms of honour related violence can be found in SEIF's reports from the projects "Mellom barken og veden" and "Veien videre" at [www.seif.no](http://www.seif.no).

their funding from 2012. From 2013 the criteria for funding organisations was altered and do not include the minority organisations previously included, e.g. OMOD. This is an example of what seems to be a pattern over time of downsizing work in relation to discrimination.

310. From the State report we are missing suggestions on how to compensate for the lack of funding to legal aid in cases of discrimination. We like to point out that easily accessible legal aid and information is important in order to bring a complaint to the Equality and Anti-discrimination Ombud, gain redress by bringing a case to the court, or to report, and follow up a report, to the police in case of criminal offense.

**Recommendations:**

- In order to take ethnic and racial discrimination seriously, we urge the State party to ensure that low-threshold legal counselling is available to victims of discrimination. Funding should be given to support the organisations that provide this type of counselling, in order to secure that cases of ethnic discrimination is taken seriously and reported to the correct authority.

Information to immigrants about Norwegian legislation and how to obtain access to justice

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311. In reference to the Convention's article 5 I a, article 2 and 6.
312. To obtain access to justice, knowledge of rights is essential. In order to obtain access to justice, ethnic minorities and immigrants have to be reached out to, and legal information has to be communicated in a language they understand and in terms they can comprehend.
313. JURK- Legal Advice for Women does a lot of outreach work towards immigrant women, providing legal information and legal aid. Through casework, JURK experiences that ethnic minorities and immigrants do not know where, or how, to find information about their rights. Persons who arrive in Norway on certain residence permits such as family immigrants and au pairs, are in cases of abuse easily isolated and therefore unable to get help.
314. JURK's Legal Information Program is based on the research done by Tina Storsletten Nordstrøm.<sup>91</sup> She concludes, based on the UN Conventions CEDAW, CESCPR and ICCPR, that states have an obligation to provide legal information, and that in order to fulfill this obligation the information must be truly understandable and accessible, correct and relevant to the person receiving the information.
315. It is of concern that the State Party in its report writes "the interpreter training programme in Norway does not offer specialisation in fields such as the legal or health system".<sup>92</sup> The translation of legal terms requires a particular vocabulary, and can be crucial in regards to legal safeguards and right to information.

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<sup>91</sup> Nordstrøm, Tina Storsletten, 2009, Minoritetskvinneres rett til rettighetsinformasjon, *Kvinneverettslig skriftserie*, nr. 2; Nordstrøm, Tina Storsletten, 2010, Innvandrerkvinneres rett til rettighetsinformasjon: Hva gjøres og hva krever FNs Kvinnekonvensjon?, *Kritisk Juss*, nr.2 and *Dårlig rettighetsinformasjon til minoritetskvinner*, 29.09.2009, intervju med Tina Storsletten Nordstrøm hos Norges forskningsråd

<sup>92</sup> Norway, 21.11.13, CERD/C/NOR/21-22, Point 23

**Recommendations:**

- Ensure real access to justice through legal information and legal aid in a manner that is understandable, accessible, correct and relevant to the person receiving the information.
- We echo the Committee's recommendation number 10, stating that the State should "improve the availability, accessibility and quality of professional interpretation services, especially in the ... judicial field".

**Participation in elections**

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316. In reference to the Convention's article 5 I C and paragraph 95 of the State report.
317. Although we are aware of the efforts made to increase the electoral participation in Norway, we are still concerned about the relatively low percentage of minorities that use their right to vote. In the government elections in 2009, only 52 % of immigrants who had the right to vote participated, which is 24 % lower than the population in general.<sup>93</sup> In the local elections in 2011, only 42 % of Norwegian citizens with minority background, and 32% of foreign nationals with the right to vote, participated.<sup>94</sup>
318. Every election year, the government funds organisations that arrange election campaigns for minorities. While this is encouraging, we miss evaluations of these projects. Which projects work? Without the evaluations, the funding appears to be unsystematic, and the results are vague. We also miss a continuous dialogue between the government and the minority organisations throughout the campaigns, in order to listen to and take experiences from the civil society who knows and work directly with the minority groups.

**Recommendations:**

- The government should evaluate the different organisations' efforts to increase the election participation among minorities so that structured and predictable efforts are ensured. It is important that the minority organisations themselves are heard in this regard.

**Undocumented Migrants – the 'Undesirables'**

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319. In reference to the article 5 I D no. 1.
320. Norway has developed a new underclass of undocumented migrants, while remaining staunchly opposed to any form of regularisation or amnesty, as have been carried out in many other European countries.

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<sup>93</sup> Statistics Norway, 16.04.10, *Valgdeltakelsen blant innvandrere ved Stortingsvalget 2009*, available at: <http://www.ssb.no/valg/artikler-og-publikasjoner/valgdeltakelsen-blant-innvandrere-ved-stortingsvalget-2009> (accessed 04.08.14)

<sup>94</sup> Statistics Norway, 09.11.12, *Undersøkelse om stemmegivning blant personer med innvandringsbakgrunn*, available at: <http://www.ssb.no/valg/artikler-og-publikasjoner/undersokelse-om-stemmegivning-blant-personer-med-innvandringsbakgrunn?fane=om#content> (accessed 04.08.14)



321. As described in our previous report, Norway has developed, particularly in the last decade, an underclass of “paperless”, or undocumented migrants, consisting of rejected asylum seekers, work migrants without a valid residence permit, and others. Many live under appalling conditions and are often exploited in the labour market. In a modern welfare state such as Norway, they have clearly become the pariah caste, the undesirables.
322. Statistics Norway (SSB) has estimated that there are some 18 000 paperless foreign citizens in Norway (as of January 2006). The number is small compared to many other European countries (and certainly compared to many African and Asian countries). However, they meet with a much more inflexible attitude from the Norwegian Government than is the case in many other countries. With the exception of some families with children, there has been no form of amnesty in Norway for this group, and there is no mechanism that legalizes their stay after some period of time. The longest known period anyone has stayed paperless in Norway is 18 years (Nov. 2014). If nothing changes, a paperless person can risk staying in this situation their whole life.

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#### Health Care for Undocumented Migrants

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323. In reference to recommendation no. 32 in the Concluding Observations.
324. It is a serious concern that the Norwegian Government does not recognize its responsibility to give proper health care to undocumented migrants. Only what is classified as “necessary” health care is given; this generally comprises the most basic services, such as emergency care or life threatening diseases.
325. In February 2010, the Norwegian Government decided to expand the coverage somewhat, so that 1) children and 2) pregnant women in theory are granted more or less full access to health care. Women are also entitled to abortion, and mentally unstable persons who are considered to pose a danger to society, or to themselves, have the right to psychiatric treatment. However, it remains a problem that there is no system for reimbursing the health services for the financial costs, which reduces their readiness to handle such cases. Furthermore, while the expansion of health coverage is a positive step, it unfortunately only scratches the surface. Chronic illnesses (possibly involving severe pain), including serious heart conditions that do not demand urgent surgery, cancer (if the patient is not in a terminal state), and diabetes, as well as many cases of severe psychological problems, often fall outside the scope of the State services available to the paperless.
326. As reported before, the situation is so serious that the Norwegian Red Cross and the Church City Mission in 2009 felt forced to establish a health clinic on their own for undocumented migrants – an unusual step within the modern Norwegian welfare state and a testimony to the low status of the undocumented also in the eyes of the Norwegian Government.

#### **Recommendations:**

- We echo ECRI’s repeated recommendation. There is a dire need for a legalization mechanism that would end the unacceptable, deadlocked situations many

undocumented migrants find themselves in, year after year. In short, there should be a maximum time limit for how long anyone should stay in limbo.

- With reference to recommendation no. 32 in the Concluding Observations from the Committee, strong humanitarian concerns demand that the Norwegian State recognize its responsibility for proper health care for undocumented migrants.

## The Immigration Appeal Process

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327. In reference to the Convention's paragraph 5 I D, paragraph 98 in the State report, and point 191-194 in our previous report.
328. Most asylum seekers and other persons with an immigration related case never meet (or indeed have any in-person contact with) the persons determining their case. This entails a particularly low standard for legal safeguards in the handling of immigration related cases.
329. The Immigration Appeals Board (UNE) handles appeals over negative decisions reached by the Directorate of Immigration (UDI) in regard to asylum, family reunification, visa and expulsion applications. The main criticism from human rights organisations is that only a very small minority of the appellants (as for asylum seekers, approximately 10 percent) is allowed to meet the board in person to present his/her case. Compared to other categories of cases – such as the handling of criminal cases by the courts – not even meeting the decision maker entails a particularly low standard of legal safeguard. This also involves a substantially lower level of legal safeguards than in our neighbouring countries, where personal meetings with the decision makers in the appeal institutions are routine.
330. It is also the case that the applicants do not have the right to meet the decision-makers in the first instance (the Directorate of Immigration, UDI) either. The applicant might meet a low-ranking caseworker if s/he also conducts the asylum interview; however, the applicant will normally never meet the advisor or sub director who formally decides the case. Since only 10 percent of the asylum seekers who launch an appeal to the Immigration Appeals Board are granted a meeting with the decision makers, it means that the vast majority of applicants never meet the persons deciding their case, neither in the first nor second instance.
331. The situation has not improved since our previous report. As mentioned then, an official committee was established to consider the current system. The Committee presented its recommendations in November 2010, proposing several improvements, particularly in regard to ensuring that more asylum seekers would meet the board in person. However, as of April 2015, no changes have been made or, seemingly, even decided. In its latest report, the State writes that the matter is “currently under consideration”. It is unclear what this process of consideration involves and why – almost three years after an independent committee recommended a number of fundamental changes – there seems to be little or no progress.

### **Recommendations:**

- There is a strong need to strengthen the legal safeguards for asylum seekers, particularly the right of asylum seekers to meet the actual decision maker(s) in person.

- Strengthening the legal safeguards should be a primary concern in a much-needed reform of the appeal process for asylum seekers and other migrants. Preferably, the Immigration Appeals Board should be replaced by a special court, in order to bring the legal safeguards for asylum seekers up to the level enjoyed by asylum-seekers in our neighbouring countries.

### The appeal process for asylum seekers after the new government agreement

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332. In reference to article 5 1 D no. 2 of the Convention.
333. In the new government agreement with its supporting parties, it has been decided that the government will limit the possibility to file new appeals after a final negative decision on an asylum application. As there is a number of cases where the Immigration Appeals Board has rejected cases several times before the asylum seeker was granted protection, as well as cases where asylum seekers, based on the information available, have been forcefully returned to torture and imprisonment, we fear that the idea of limiting the number of times a case can be appealed will seriously weaken the safeguards of asylum seekers.
334. On the other hand, we welcome the government's plans to consider reforms of the Immigration Appeals Board, and possibly replacing it with a court system, which would most likely entail a higher level of legal safeguards. It is particularly important that asylum seekers much more frequently meet the decision makers in person, something that under the current appeals system only happens in a small number of the cases.

#### **Recommendations:**

- We urge the Committee to advise the State Party to reject the plans to limit the number of appeals in asylum cases.

### Solution for children of asylum seekers

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335. In reference to article 5 1 D no.1-2 and point 33 and 99 in the State report.
336. A number of asylum seeking families with children, who have lived in Norway for more than 5 years, still have not got their existence regularized. This results in a situation characterized by instability, fear and anxiety for the children. Child health care professionals have expressed their grave concern about these children's situation and health. In the 2010 report from the Committee on the Rights of the Child, Norway's practice was a point of concern. The Committee urged Norway to ensure that the best interest of the child, and children's affiliation to Norway, should be a primary consideration when assessing asylum cases involving children.
337. In the spring 2012, the previous Norwegian government presented a white paper entitled *Children on the run*<sup>95</sup> and specified that children in migration are in a particularly vulnerable situation. The white paper did not clarify the application of regulations and laws concerning the assessment of asylum cases involving children.

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<sup>95</sup> Ministry of Justice and Public Security, 08.06.12, Meld. St. 27 "Barn på flukt", available at: <http://www.regjeringen.no/nb/dep/jd/dok/regpubl/stmeld/2011-2012/meld-st-27-2011-2012.html?id=684767> (accessed 04.08.14)

338. In the agreement between the new government and its supporting parties it was decided on a one-time solution for the asylum seeking children of families which have lived in Norway without permits for a longer period. However, due to strict conditions, this solution only applies to a small percentage of the children who are currently in this situation.
339. The one-time solution grants residency permits to children (including their close family) whose applications for asylum was lodged more than three years ago and who can document having lived in Norway for at least three years, providing they also fulfil the following conditions:
- Their parents must cooperate in documenting their identity,
  - They must originate from a country with which Norway has a return agreement, and
  - Their asylum application must have been registered before the return agreement took effect.
340. Norway currently has effective return agreements with 28 countries. After the agreement was made, the Norwegian immigration authorities said publicly that the conditions relating to return agreements alone would limit the number of children who could benefit from it from 752 to 170. The vast majority of children are thus excluded from a possible solution simply on account of their country of origin, a distinction that is arbitrary and does not address the actual situation.
341. Furthermore, the effect will create a dramatic differential treatment of children in the same situation. Since the return agreement between Norway and Ethiopia dates from 2012, Ethiopian families with children that fulfil the other criteria may get a residence permit. Since the agreement with Afghanistan is from 2005, only children who came as early as 2005 or before might benefit. Since there is no agreement with Iran, Iranian children are excluded from the arrangement regardless of how long they have been here. Particularly from the perspective of the children, this will undoubtedly be experienced as a most severe form of differential treatment.
342. The rules regarding the issue of identity are the same as under the Immigration Act, which means it is unclear what exactly is demanded of the parent(s) to have assisted in proving their identity. It would seem like the necessary level would be to get proof of identification (i.e. passports) from the country of origin, which if they have not been able to obtain already, are likely to not be able obtain after the regulations are in place. It is stated that it may be sufficient if the parents can prove they have tried to obtain the necessary documents, even if they have been unable to obtain them. It then comes down to the credibility of the asylum seekers in question and whether the Immigration Appeals Board (UNE) believes the parents have made an effort or not. Furthermore, the opposite has also been stated, namely, that even the best efforts might not be sufficient if actual documentation has not been obtained. The practice here has always been strict, and we are concerned it will continue to be so, also with this regulation. It is therefore uncertain how many children will fulfil the identity requirement and hence get permits to stay in Norway.

**Recommendations:**

- We ask the Committee to urge the State party to provide a lasting solution for all of these children, which respects their rights as human beings and as children.

- We recommend the State party to not establish practices, which discriminate against children based on their nationality. Any solutions developed for children, particularly as vulnerable as the ones in question, must be based on general and inclusive principles.
- We recommend the State party to establish clear guidelines regarding proof of identity, and to avoid arbitrary negative treatment, particularly when children are involved.

### Return agreements

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343. In reference to article 5 1 D 2 of the Convention.

344. The government wants to form new, additional return-agreements with countries from which Norway receive asylum seekers. Several of the return-agreements Norway currently partakes in are used to return asylum seekers contrary to the recommendations and guidelines from the UNHCR, particularly in regard to Afghanistan and Iraq. Although return agreements in and of themselves may be a necessary and legitimate part of the asylum procedure, we are concerned that new return agreements established also will be used to deport persons who are in need of international protection according to the UNHCR, and therefore will not properly secure the safety of returned asylum seekers. It has also been stated that new return agreements will be connected to financial aid, a matter which is obviously problematic. The return agreement Norway already has with Ethiopia is particularly troubling, since the Ethiopian Security Services are directly involved in the return program.

**Recommendation:**

- Any new or existing return-agreements for asylum seekers should be used in accordance with the UNHCR guidelines and international law, and it should not be connected to financial aid given by Norway.

### Fast-track system for criminal asylum seekers

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345. In reference to article 5 1 D no. 2 in the Convention.

346. The government wants to establish a fast-track system for asylum seekers who commit crime (for instance, related to sale of illegal substances), in which the asylum application will be handled quickly and the asylum seeker returned to the country of origin if the case is rejected. We recognise the need for efficient measures to combat the abuse of the asylum system. However, we are concerned that a fast track system will not secure a proper and accurate handling of a complicated asylum application. A fast track system severely limits the time the asylum seeker has to substantiate his/her claim for asylum, for instance by gathering relevant documentation related to a protection issue or a health issue. Generally, a fast track procedure will often entail quicker and more superficial work from the various actors involved, including the applicant's lawyer. Therefore, while we accept the introduction of such a fast track-system, it must not violate basic legal safety standards.

**Recommendations:**

- A fast-track system, if introduced, must still entail proper legal safeguards to ensure that no one is deported to persecution.

**Obstacles to family reunification**

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347. In general reference to the Article 5 in the Convention.

*The income requirement*

348. When applying for family reunification in Norway there is a past and a future requirement for financial support for the person living in Norway. In 2013 the requirement was NOK 242.000 in past income, and NOK 231.880 in future income. Applications that do not meet the criteria are rejected. There are few exceptions to this main rule and we experience that the income requirement is practiced strictly. The new government has announced that they want to increase the financial requirement for family reunification.
349. An obstacle to reaching the financial requirement is the struggle of many immigrant groups to find employment. The low employment rate for certain groups is noted in the State Report in regards to efforts to raise employment.<sup>96</sup> The struggle to find work makes it difficult to fulfil the financial requirements, which again can result in the violation of their right to a family life.
350. As a result, a high number of immigrants and refugees are being denied their right to be reunited with their family members due to low income. Elderly immigrants in their 60's with no refugee status are often faced with this situation. Their pension is too low and the supplementary benefits they are entitled to are not recognized as permanent benefits by the Norwegian immigration authorities.<sup>97</sup> Hence they are denied their right to be reunited with their spouses and children. Another group often faced with this problem are immigrant women. Many of these women have little education, and they often have young children they have to support. A small network and language barriers makes it difficult to find work. The obvious consequence is that children are forced to live for years without their father.
351. The new government wants to introduce a 24-year age limit on family reunification for marriage, apparently to combat the issue of forced marriages and to ensure that the couple will be able to sustain themselves. However, as the age limit for marriage in Norway is 18, we believe the age limit placed upon family reunification is discriminatory. The government also wants to increase the use of DNA-testing to ensure correct identity in cases of family reunification for marriage, which we fear can be a violation of right to privacy.
352. Untill the 1st of January 2015, refugees who were granted family reunification had the possibility to apply for some financial support from the government, to assist their family members with their travel expenses when coming to Norway. This arrangement has been crucial, as many refugees would not have the possibility to reunite with their families without this support. The present government together

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<sup>96</sup> Norway, 21.11.13, *CERD/C/NOR/21-22*, pp. 31

<sup>97</sup> Ref. Immigration Regulations § 10-8.

with the Christian Democrats and the Liberal Party removed this arrangement.<sup>98</sup> This constitutes yet another obstacle to preserve the unity of the family, which is an essential right of those granted protection.

**Recommendations:**

- The income requirement should be evaluated to ensure it does not have a discriminatory effect on particular ethnic groups where limited education and access to work, as well as other criteria, is likely to lead to indirect discrimination of these groups and hence their right to family life.
- The State party should lower the income requirement significantly.
- Supplementary benefits to pensioners should be considered as permanent benefits and equal to ordinary income.
- Benefits to single mothers should be considered as permanent income.
- Actual income, and not contract-based income, should form the basis for the evaluation of applicants' financial situation.
- Scrap the idea of a 24-year age limit on family reunification with a partner.
- Reinstall the financial support given to refugees to assist with travel expenses related to family reunification.

*Time limit for refugees*

353. There is a rule in Norway that refugees who want to apply for family reunification have to submit their application within the first year after being granted asylum. This is a rule that few are aware of in the reception centres, the police and so on. As a result, many are not informed on how important it is to apply within the deadline. The late applications are then generally rejected, on the grounds that it is the duty of the applicant to understand the applicable regulations. One of the governing parties, the Progress Party, have stated that they want the limit set to only six months.

354. We are here referring to newly arrived immigrants who often do not understand Norwegian, who supposedly have a duty to know a very complicated set of rules that even the different public services, which are there to support the refugees, do not know. We have pointed this out to the Department of Justice and Public Security, but they have, to this date, not responded.

**Recommendations:**

- The deadline for applying for family reunification within one year, or even six months, after having been granted asylum should be rejected.
- Information on rules and regulations should be easily accessible, in different languages to refugees arriving in Norway.
- Employees within public services working with newly arrived refugees should receive training in order to appropriately advice the refugees on the different rules and regulations they are required to follow.

The labour market situation for immigrants

355. In reference to article 5 1 E, no.1, paragraphs 22 and 105-108 in the State report,

<sup>98</sup> See for example: Regjeringen (2015) *Ny avtale om asylpolitikken* URL: <https://www.regjeringen.no/nb/aktuelt/ny-avtale-om-asylpolitikken/id2404833/> accessed: 12.05.2015

and the Committee's Concluding Observations Paragraph 9.

356. Immigration provides Norway with much needed labour force, and in a global perspective immigrants do well in the Norwegian labour market. Unemployment rates have however been three times higher for immigrants than for ethnic Norwegians for several years. Organisations, media and recent research have reported discrimination taking place in the process of hiring. A study by the Institute for Social Research found that applicants with a foreign name has almost 25 percentage less chance of being called for a job interview.<sup>99</sup>
357. Immigrants are also more likely to have part time jobs and less secure terms of employment. They are over-represented in professions with high physical demands, stress and low wages, and are more often than ethnic Norwegians over-qualified for their job. There have also been several reported cases of social dumping.<sup>100</sup>
358. The CERD Committee has expressed concern regarding the situation for immigrants in the Norwegian labour market. It recommends that the State implements more effective measures against discrimination and ensures that persons with an immigrant background have access to top-level positions.
359. The State in its 21<sup>st</sup>/22<sup>nd</sup> report refer to measures to increase employment among immigrants, as presented in the Government White Paper on a Comprehensive Integration Policy – Diversity and Community<sup>101</sup>. There are several critical issues to address regarding these measures, none of which are mentioned in the State report. More extensive and systematic efforts are needed.
360. The Anti-Discrimination Act states that enterprises are required to work systematically to promote equality and prevent discrimination. However only a few Norwegian enterprises have implemented extensive plans and measures to prevent racism and discrimination.<sup>102</sup> In the majority of cases the measures are disperse and not systematic and are aimed at qualifying immigrants in the workplace. They do not address attitudes related to discrimination and racism or working routines among employees. In addition, when it comes to private sector employers, the law applies to businesses that employ more than 50 employees on a regular basis. The Anti-Discrimination Act has thereby very limited reach and must be greatly strengthened if the work against discrimination is to be effective.
361. Immigrants are over-represented in job related programs offered by the Norwegian Labour and Welfare Services (NAV). Apprenticeships and vocational training programs are used to a large extent, although having very moderate effects on levels of employment. These programs additionally increase the chances of being exploited by employers. We urge the Government to decrease the deployment of these measures, and instead use other methods, such as wage subsidies, which have been proven to be more successful. There is a need for better quality control of the programs implemented.
362. Concerning issues of poor working conditions, we would like to compliment the State for its ambitions to prevent social dumping. Three action plans have been

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<sup>99</sup> Midtbøe, Arnfinn H. and Jon Rogstad, 2012, *Diskrimineringens omfang og årsaker. Etniske minoriteteters tilgang til norsk arbeidsliv*. Oslo: Institutt for samfunnsforskning.

<sup>100</sup> See for example: <http://www.tv2.no/nyheter/innenriks/fikk-beskjed-om-aa-lyve-om-gardermoenloenn-4037633.html>

<sup>101</sup> Meld- St.6 2012-2013

<sup>102</sup> See for example: Tronstad, Kristian, 2010. *Mangfold og likestilling i arbeidslivet. Holdninger og erfaringer blant arbeidsgivere og tillitsvalgte*. Oslo: FAFO.



implemented and have had positive effects.<sup>103</sup> However, there are several issues that still need to be addressed. This particularly concerns the Norwegian Labour Inspection Authority's limited resources in relevance to work load, and its little authority to hold employers accountable when breaches are revealed. There is also a need to strengthen legal aid institutions that can help victims of social dumping holding employers accountable.

363. In general, there is a need for more extensive and systematic measures in order to ensure that article 5 E 1 in the Convention is fulfilled. The State must ensure better guidelines and stronger requirements for relevant parties, such as the labour organisations. Furthermore we need high quality evaluations of measures implemented and the evaluations must be followed by appropriate adjustments to ensure that programs do not end up as "empty promises". Coherency across measures is essential.
364. The State refers in paragraph 22 of the State report to the Action Plan: We need the skills of immigrants. Similar action plans have been implemented on a regular basis over the last 20 years without any assessment as to what has worked, what has not and why. We therefore ask how this action plan will ensure the desired impact. Will there be an assessment and tracking of impact and outcome?

**Recommendations:**

- We request CERD to recommend the State party to implement more effective programs targeted at employers. The activity and reporting duty in the Anti-Discrimination Act should be extended to private enterprises with less than 50 employees, and tools to encourage employers to fulfil their duties must be strengthened. Routines to control compliance with the duties must also be improved greatly.
- There is a need for more effective measures to ensure high quality and good end-results in job related programs. The effects of different programs must be monitored in a more systematic fashion and when the end-results are poor, such as in the case of apprenticeships, new methods must be implemented.
- Efficiency and coherency in measures must be improved and contact between the State, organisations, enterprises and other relevant parties must get better, with the State leading the way. A coherent effort is essential if we are to succeed in preventing discrimination and racism in the labour market.

**The Norwegian Police University College: recruitment of students with minority backgrounds**

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365. In reference to the Convention's article 5 E 1 and 5 E 5.
366. The goal set by the National Police Directorate, is that five per cent of the employees within the national police force should come from a minority background. The Police University College supports this goal through their process of recruitment and approval of entry. The number of students with minority background has been monitored, showing that in 2010 only three per cent of those accepted had minority background. In 2012 it was four per cent and for 2013, almost five per cent. The communication unit at the University College has informed us that the percentage might in reality be higher, as they have experienced problems

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<sup>103</sup> Eldring, L., Ødegård, A. M., Andersen, R. K., Bråten, M., Nergaard, K. og Alsos, K. (2011). *Evaluering av tiltak mot sosial dumping*. Fafo-rapport 2011:09.

with underreporting. They are currently working to resolve this within the school administration.

367. Although we are positive to see a small increase in the numbers, we further invite the authorities to create statistics on the number of students with minority background that complete the education and successively find employment within the police. It is of high importance that the police reflects the general population.

**Recommendations:**

- It is important that the efforts to recruit students with a minority background continue.
- We call for further research related to students who complete their education and subsequently find work within the police, and those who do not and why, in order to monitor the number of people with minority background within the police force.

## Housing

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368. In reference to the Convention's article 5 1 E number 3.

369. There are two issues we would like to raise in regard to housing. The first issue is ethnic discrimination on the property market, the second is housing politics as a tool for integration and to avoid segregation.

370. However, we would first like to point out that we are positive towards the recent effort made by the Ministry of Local Government and Regional Development, inviting different organisations to a meeting on establishing a national strategy on social housing. We hope the work continues and that the national strategy will result in concrete and real measures to improve the housing market for ethnic minorities.

### *Ethnic discrimination on the property market*

371. Although there are little research done on ethnic discrimination on the property market in general and the rental market specifically, there are clear indications that ethnic discrimination does occur.

372. The report *Ethnic Minorities and Discrimination in the Rental Market* made by International Migration and Ethnic Relations (EMIR) in 2010, states that especially people with Somali and Iraqi background experience a large degree of discrimination.<sup>104</sup> They often have to accept apartments in bad conditions, in unattractive areas. They also experience arbitrary eliminations of contracts and increases in rent.

373. The Norwegian Centre Against Racism has recently conducted a research on ethnic discrimination on the rental market. We created "flat-wanted" advertisements on a recognised website for two couples, one with ethnic Norwegian names, and the other with names from the Middle East. Except for the names, the ads were the same. The goal was to compare the amount of responses the couples

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<sup>104</sup> Sjøholt S. & Astrup, K., 2009, etniske minoriteter og forskjellsbehandling på leiemarkedet, Norsk institutt for by- og regionforskning, available at: [http://www.husbanken.no/bibliotek/bib\\_boligsosialt/diskriminering-pa-leiemarkedet/](http://www.husbanken.no/bibliotek/bib_boligsosialt/diskriminering-pa-leiemarkedet/) (accessed 04.08.14)

got in order to see if there are indications of ethnic discrimination. The result was 200 against 115 - showing that the ethnic Norwegian couple received almost twice as many responses as the couple with a minority background. Although this is an informal test, it gives clear indications of discrimination against ethnic minorities on the rental market.

374. Another research conducted by the Norwegian Institute for Urban and Regional Research (NIBR) shows that some ethnic groups pay a higher rent than what is stipulated in the contract in order to gain access to housing.<sup>105</sup> A Statistics Norway research from 2009 gave the same result.<sup>106</sup> One of the explanations for this is that minorities fall behind in the queues for the best and cheapest apartments.

375. Both the Norwegian Centre Against Racism and the Equality and Discrimination Ombud receive many complaints from people who feel discriminated against on the property market. However, as it is difficult to prove that discrimination has taken place, the problem is hard to resolve.

**Recommendation:**

- We request the State party to commence a reinforcement of the discrimination laws and to better oversee both agencies and private persons on the housing market in order to expose ethnic discrimination.

*Housing politics as a tool for integration*

376. There is a problem in Oslo today that communal housing to a large degree is available on the eastern side of the city, but hardly exists on the western. As the majority of people in communal housing are people from a minority background, this can contribute to segregation in society.

**Recommendations:**

- Measures need to be taken to assist ethnic minorities to enter the housing market.
- Communal housing should be built in the west side of the city, in order to avoid segregation and to strengthen integration of minorities.

*Settlements for refugees granted asylum*

377. Refugees granted asylum in Norway live in reception centres until accommodation is organised in one of the municipalities. We are concerned with the length of time it takes from a person is granted asylum until s/he is settled in their new home. The annual report from the Norwegian Directorate of Immigration (UDI) shows that by the end of 2012, 24 % of the refugees in the reception centres had been granted asylum and were awaiting settlement.<sup>107</sup> Further, the report revealed that of those settled in 2012, almost 40 % had waited between six months and a year, and almost 10 % had been waiting for more than a year.

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<sup>105</sup> Ibid

<sup>106</sup> Statistic Norway, 14.12.09, *Husleieundersøkelse*, available at: <http://www.ssb.no/sosiale-forhold-og-kriminalitet/artikler-og-publikasjoner/halvparten-opplever-diskriminering> (accessed 04.08.14)

<sup>107</sup> Norwegian Directorate of Immigration, 2013, *Årsrapport for 2012*, available at: <http://www.udi.no/statistikk-og-analyse/arsrapporter/eldre-arsrapporter/arsrapport-2012/> (accessed 04.08.14)

### **Recommendations:**

- The government should ensure that the municipalities implement effective measures, in order to make the settlement of refugees granted asylum in Norway more efficient.

## Health

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378. In reference to the Convention's article 5 1 E no. 4 and paragraphs 112-116 in the State report.

### *Psychosocial assistance to refugees in Norway*

379. In reference to the Convention's article 5 1 E no. 4, paragraph 16 of the Committees Concluding Observations and paragraph 11 in the State report.

380. The issue of psychosocial assistance to refugees in Norway, in particular to those traumatized after war, torture and other forms of ill-treatment, was raised with the State party during consideration of the last report to CERD in 2011.<sup>108</sup>

381. This issue has been discussed at length by professionals involved in psychological and specialized health care for traumatized refugees, and there have been meetings looking into the possibilities of establishing one or more centres especially prepared and equipped for these services, both to provide services directly, but also to assist mainstream health care in the daily work with this group. Until now the state has shown little willpower to make changes in this issue.

382. Based on comments given by clinicians working in Norway's public health care sector, we do not share the views presented by the Ministry of Children, Equality and Social Inclusion, stating that available services of psychosocial treatment and rehabilitation have been strengthened for refugees, asylum seekers and victims of human rights violations after the discontinuing of the work of psychosocial teams and the establishment of the Norwegian Centre for Violence and Traumatic Stress Studies (NKVTS) and regional resource centres (RVTSES). While having contributed positively on many arenas, we do not share the Ministry's expressed belief that the clinical work has been strengthened in the aftermath of closing down the Psychosocial Centre for Refugees and the other psychosocial teams.

383. The centres that the Ministry refers to in point 16 of the State report, are defined as centres for research and training, and have done good work within this area, but they do not at all provide clinical services. The ideal would be to further develop these resource centres by establishing clinical patient units with a good network of specialized services, in order to receive traumatized refugees and asylum seekers in need of long term specialized services.<sup>109</sup>

384. Though public health care facilities have been granted funding for the treatment of traumatised refugees, these funds have not been earmarked for such work, but have rather been incorporated into the regular cost budget. This gives cause for uncertainty as to whether the funds have actually benefitted the said group. Reports from clinicians working with the group indicate that coincidence rather than a

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<sup>108</sup> See paragraph 9 of the Committees concluding observations to Norway's 19<sup>th</sup>/20<sup>th</sup> report.

<sup>109</sup> See J.Ø. Halvorsen, 26. juni 2012, «Fraværende tilbud for torturofre», Klassekampen; Den Norske Legeforening sitt brev til HOD ang. Nasjonal strategi for innvandrerhelse, <http://tidsskriftet.no/article/2989368/>

solidly built base of competency, determines whether traumatised refugees (victims of trauma/human rights violations) will receive the required and necessary treatment they are entitled to in the specialized services.

385. We want to reiterate that the argument in the State report about the services being strengthened, do not match the actual situation. We are aware that there is a political aim to establish equal services to all residents in Norway, including traumatized refugees, but this is far from the case today.

**Recommendations:**

- With reference to the newly adopted General Comment to art 14 under the Convention against torture, on the right to reparation, including rehabilitation to victims of torture, the State party must strengthen its efforts to establish adequate and available services with the necessary conditions to provide multi-disciplinary and often long term services, including rehabilitation services.
- Furthermore, and also in line with the general comment (CAT, 2012), there should be developed a national plan regarding rehabilitation to this group, in line with the requirements of assessment, including the use of the Istanbul protocol to detect torture and ill-treatment, and to develop services taking into account the situation of the torture victims. We thus support the former recommendation from CERD on the establishment of specialized therapy and rehabilitation services to this particular group.
- The State party should establish specialized health and rehabilitation services to refugees in need of such services.
- Develop a plan for such services including measures to strengthen the interpretation services.

*Health care services for victims of human trafficking (VOTs)*

386. Already in the first action plan against human trafficking from 2003,<sup>110</sup> the government decided that VOTs should have a predictable and adequate health care service. Until today, the different support networks for the victims have challenged the authorities to specify exactly what kind of health care the group has a right to, and who should pay for the service. There has been no considerable response to this challenge.

387. It is, with a certain optimism that we read in the government's latest action plan that they will prepare a document on the right to health care for VOTs<sup>111</sup>. We hope this document will become a reality within the near future.

**Recommendations:**

- We request the Committee to ask the State party about the situation for VOTs in relation to health care, and to urge the government to create clear guidelines on the legal rights of this group.

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<sup>110</sup> Ministry of Justice and Public Security, 12.02.03, Handlingsplan mot handel med kvinner og barn 2003-2005, available at: [http://www.regjeringen.no/en/dep/jd/dok/rapporter\\_planer/rapporter/2004/statusrapport---regjeringens-handlingspl.html?id=457572](http://www.regjeringen.no/en/dep/jd/dok/rapporter_planer/rapporter/2004/statusrapport---regjeringens-handlingspl.html?id=457572) (accessed 04.08.14)

<sup>111</sup> Ministry of Justice and Public Security, 27.12.10 Handlingsplan "sammen mot menneskehandel" 2011 - 2014

388. In reference to article 5 1 E, no.5, paragraph 21 in the State report, and the Committee's Concluding Observations, paragraph 9.

*Special needs education:*

389. Students with a minority background are overrepresented in special needs classes in Norway. In a comprehensive study, Joron Phil finds that assessments of students for special needs classes do not take account of migration, language or other factors that are particular to the students' backgrounds<sup>112</sup>. The result is that many are placed in special needs classes on an unsound basis, which can have very negative effects on future aspirations and education.

**Recommendations:**

- Norwegian education authorities should implement measures to increase the intercultural competence of teaching staff, guidance counsellors and educational psychological counselling services.
- The representation of pupils with a minority background in special needs classes must be regularly assessed to evaluate the effects of measures implemented.

*Mother tongue tuition*

390. To learn one's first language is important for cognitive development, but also for one's identity. The Convention on the Rights of the Child says that the aim of education is to develop respect for identity, language and values. In Norway, students currently have very limited access to mother tongue tuition; they only receive this initially, when considered to have very low abilities in Norwegian. We are pleased to see that the State in its 21<sup>st</sup>/22<sup>nd</sup> report states that: "From the autumn of 2013, efforts to upgrade expertise on meeting the needs of multi-cultural pupils will be intensified". What this entails is however vaguely stipulated and we thus call for a more detailed plan on how this upgrade is to be achieved.

**Recommendations:**

- Norwegian education authorities must ensure students better opportunities to mother tongue tuition, both through economical means and training of teachers, and not only as a tool to learn Norwegian.

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<sup>112</sup> Phil, J., 2010. *Etnisk mangfold i skolen. Det sakkyndige blikket. 2. Utgave.*: Universitetsforlaget.

## Article 7: Measures to combat prejudices which lead to racial discrimination

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### *Funding for the production of the alternative report*

391. In reference to Convention's article 7.
392. In the introduction to the Concluding Observations, CERD notes with appreciation the close collaboration with civil society in the elaboration of the report.
393. Although we commend the Ministry of Children, Equality and Social Inclusion for good practice concerning distribution of information to civil society and funding the production of a alternative report, we do not find the funding provided sufficient to produce an alternative report reflecting all areas of society.
394. The amount funded to produce the report is not sufficient to allow any sub-funding to smaller organisations and networks, which do not have the opportunity to write contributions without financial support. Neither does it cover travel costs for organisations based outside of Oslo, which makes it difficult for them to participate in the work.
395. This mainly harms the organisations representing national minorities and the Sámi people, as they are often small, with voluntary staff and often situated in areas far away from the capital. As a result, their contribution to the alternative report is not as strong as we would have liked it to be.

### **Recommendation:**

- We urge the authorities to increase the funding to include travel expenses and sub-funding to small organisations, which can otherwise not contribute to the alternative report.
- We urge the authorities to increase the funding, and in particular core funding, of NGOs representing national minorities and indigenous people.





