

Innledende bemerkninger

- Presentation of the delegation :

From the Ministry of Justice and Public Security :

- Ms. Tonje Meinich, Section for European and International Affairs, Head of Delegation
- Mr. Andreas Skulberg, Correctional Services Department
- Mr. Jan Austad, Police Department
- Mr. Sigurd Aaserudhagen, Legislation Department
- Ms. Torill Myhren, Section for European and International Affairs

From the Ministry of Foreign Affairs,

UN, Peace and Humanitarian Issues Department:

- Ms. Monica Furnes

From the Ministry of Health and Care Services,

Specialist Health Services Department:

- Mr. Sjur Øverbø Andersen

In this introductory statement, I will shortly address some recent developments that have taken place after the report was submitted, namely

- The process of ratification of the Optional Protocol to the Convention and the Convention on the Rights of Persons with Disabilities
- The restructuring of the National Institution for human rights
- Proposed amendments in the Constitution in order to further strengthen the respect of the international human rights and
- The newly adopted reform on juvenile offenders

I would also like to give the committee a short overview on some legislative amendments and other measures taken in the aftermath of the terrorist attack 22. July 2011 in Oslo and at Utøya.

- Concerning steps taken to ratify OPCAT para 29 in the list of issues:
 - As mentioned in paragraph 217 in our report, an inter-ministerial working group was appointed in June 2011 to assess the

consequences of a Norwegian ratification of the Optional Protocol and make the necessary proposals for such ratification. The working group submitted its report to the Ministry of Foreign Affairs in April this year. The working group recommended that the Parliamentary Ombudsman is designated as Norway's national preventive mechanism in the event of ratification.

- The report has recently been circulated for general consultation to relevant public bodies and NGOs and the Government is now considering these comments.

- Considering the Convention on the Rights of Persons with Disabilities (para 30 in the list of issues), I am pleased to inform you that the Government presented a proposition to the Parliament in May this year, requesting consent to ratification of the Convention. The Parliament is currently considering the proposal.

- I would like to inform the Committee on the ongoing work on restructuring of the **National Institution for Human Rights**. The Norwegian national institution was established in 2001 under the Norwegian Centre for Human Rights, which is part of the University of Oslo. In 2006 the Centre was found to be in compliance with the Paris Principles and was granted A status by the International Coordinating Committee of National Institutions. However, when considering the application for re-accreditation in October 2011, ICC's Sub-Committee on Accreditation concluded that the Centre as presently constituted did not fully comply with the Paris Principles. It recommended that it should be accredited with B status unless it within one year provides the necessary documentary evidence to establish its continued conformity with the Paris Principles.

At that time it was also clear that the University of Oslo wished to terminate the role of the Norwegian Centre for Human Rights as national institution, as it did not consider the principles of academic freedom and independent research, which are the very foundation of any University, to be compatible with the role of a human rights institution.

The Norwegian Government has established an inter-ministerial working group to consider changes in order to ensure that the national institution is in full compliance with the Paris Principles, including the possibility of establishing a new national institution based on a different institutional model. The Working Group has been asked to submit a report to the Ministry of Foreign Affairs by 14 December 2012.

The University of Oslo will continue its functions as national institution until the Government has decided on the question of restructuring the national institution. We have also been informed that the Centre has implemented several measures to strengthen its capacity to discharge its functions in accordance with the Paris Principles.

I will now turn to the **proposed amendments in the Norwegian Constitution**

According to article 110c of the Norwegian constitution, it is the responsibility of the authorities to ensure the respect of the international human rights. As part of the Parliaments preparations for the Bicentenary of the Norwegian constitution in 2014, the Presidium of the Parliament appointed on 18 June 2009 a commission to prepare and put forward recommendations for a limited revision of the Constitution with the object of further strengthening the position of statutory national human rights by enshrining central human rights in the Constitution.

The Commission submitted its recommendations for a limited revision of the Constitution 19 December 2011. The Commission proposed several human rights to be enshrined in the constitution, including the right to life, the right to a fair trial, the right to freedom of thought, the right to privacy, as well as prohibitions on death sentence, slavery, unfair discrimination and torture. It may be added that these rights already form part of Norwegian law through the incorporation of several international conventions in the Human Rights Act of 1999. Consequently, the enshrining of central human rights in the Constitution

would not result in there being more rights in the statutory framework, but would give the protection of these rights Constitutional status.

Constitutional amendments may be proposed in one of the first three parliamentary sessions after a general election and may only be adopted in one of the first three parliamentary sessions after the following general elections, thus allowing the electorate to have its say through the election of the new Parliament. Several of the amendments proposed by the Commission have been formally proposed by members of the current Parliament, including the provision on prohibition of torture and other inhuman or degrading treatment or punishment. General elections will be held in Norway in September 2013. A possible adoption of the proposed constitutional amendments could therefore take place between October 2013 and September 2016.

- In the Norwegian report paragraph 103 to 105 we describe proposals submitted to Parliament concerning **juveniles in conflict with the law**. I am pleased to inform you that the legislative amendments were adopted by Parliament 15. December 2012.

The reform includes two new major measures, a new criminal sanction – juvenile sentence – and establishment of separate juvenile units for those young people that are sentenced to prison.

- The aim of the new criminal sanction – juvenile sentence – is to reduce the number of young offenders between 15 and 18 in prison. The sanction will be based on processes that are known from restorative justice. The object is to give the sentenced person a better understanding of the consequences his or her acts have had for everyone concerned. This amendment has not yet entered into force.
- The juveniles unites shall be organized according to the juvenile's needs and shall have an interdepartmental team for the purpose of ensuring the needs of the prisoner and preparing him or her for release. The Correctional services (are?) in the process of establishing 2 separate juvenile unites to separate juvenile prisoners from adult prisoners. So

far, 1 unit is open in Bergen city and has a capacity for 4 juvenile prisoners. The establishment of a juvenile unit in the eastern part of the country has proved to be challenging. Until a proper juvenile unit in the eastern part of Norway is established, the prison in Oslo provides a juvenile project/day-time unit for juvenile prisoners in this part of the country. This project has a capacity for 15 juveniles and has been given extra funds to be able to meet the needs of the prisoner here.

- A number of other legislative amendments relating to offenders between 15 and 18 years at the time of the criminal act were also adopted, especially aimed at strengthening their rights following an arrest. These amendments entered into force 20. January. I trust we will be able to present the amendments more in detail during the dialogue tomorrow.
- On the **22. July 2011** Norway was exposed to a terrorist attack. A Norwegian citizen, Ander Behring Breivik, bombed the Government buildings in the Centre of Oslo and then proceeded with a massive shoot-out at Utøya, the location of the Social democratic youth party's summer camp. 69 young persons were killed at Utøya and 8 persons were killed in the bombattack in Oslo. In addition there were many persons injured. The material damages were also significant, especially in Oslo Centre where the bomb caused severe damage to the Government buildings and buildings in a large area around were lightly damaged.

The Government appointed an independent Commission to review the Authorities preparedness and response in order to learn from the tragedy. The Commission was also to propose measures for improved prevention and response to terrorism in the future. The Commission delivered its report in August this year. The report revealed a number of highly critical circumstances, both in the ability of the relevant authorities to prevent such attacks and in the response of the police on the 22. July. A number of measures to improve the situation were proposed and are in the process of being implemented.

The 22th of July 2011 put the Norwegian health services to perhaps its heaviest test ever. The review of the health sector by the commission corresponds largely with the report worked out by The Directorate of Health. The general conclusion in both documents is that there is no need to change the basic structure of the current emergency organisation. Nevertheless, several learning objectives have been identified, i.e. the follow-up of survivors, their families and carers, the systems for alert, communication and information, the need for national guidelines e.g. for collaboration between police, fire and rescue units and emergency health staff, and also a need for further development of plans and competencies. The Ministry of Health and Care Services has given The Directorate of Health a commission for following up recommended measures.

The terrorist attack also puts the Norwegian court system to a test. Close to 700 persons were present either in or around the bombed government buildings or on Utøya. Adding to these numbers are the family members of the victims. In recent years the rights of victims of violent crimes and their family members in criminal procedure, have been strengthened. The sheer number of people affected by the 22 July attacks represented a challenge in terms of how to provide for the rights of each of them in the criminal case against the terrorist.

The solution was, among other things, to establish a legal and practical procedure for transferring of video and sound from the court case to several court rooms around the country – thus allowing for all those affected to follow the trial from somewhere close to home also on the court days where, on grounds of limited capacity, it would not have been possible for them to be physically present in the main court room. It also proved necessary to implement some changes in the way the court relates to the counsels of the victims. One of the most important rights in Norwegian criminal procedure for certain groups of victims of violent crimes and their family members, is the right to a state financed counsel. A great number of such counsels were appointed for the criminal case against Mr. Breivik. In order for every one entitled to such counsel to freely choose the lawyer the preferred, and on the other hand avoid the

practical challenges of the court having to relate to more than 150 counsels, an arrangement of a coordinating counsel was adopted.

The terrorist attack also resulted in amendments in the Compensation for Victims of Violent Crime Act and the Criminal Procedure Act in March 2012. Among the amendments were;

- The maximum amount for compensation was raised
- Persons who suffered personal injury while helping victims were entitled to compensation.

Mr. Breivik is serving his sentence in the prison wing with Particularly High Security level. Before the sentence was passed, he also carried out his pre-detention period in this wing. A regime of Particularly High Security level may only be enforced when special security provisions are deemed necessary. This is the most stringent regime possible to impose on inmates in Norwegian prisons and Mr. Breivik is the only prisoner under this regime. It entails especially secure cells and wing, no contact with inmates from other wings or units and special security provisions pertaining to correspondence, visits and telephone calls. The limited contact with other inmates are compensated by extended contact with prison employees and adequate work-, education-, and other activities as well as leisure time activities.

The criminal case against Mr. Breivik raised a principle discussion on the rules on mental incapacity and criminal liability in the Penal Code, and on the use of forensic psychiatric expert witnesses in criminal cases. The Ministry of Justice is working on a mandate and on establishing a committee to look at criminal law rules on mental incapacity. The committee will also consider rules and practices concerning the experts used in criminal cases where there is doubt about whether the perpetrator is criminally responsible on account of mental issues. The plan is for the committee to be appointed before Christmas, so that its work may start at the beginning of next year.

We would also like to bring your attention to a consultation document sent on a public hearing by the Ministry of Justice in July 2012. The document contains proposals from the Police Security Service aimed at

criminalizing certain acts of preparations for terrorism. The proposals raise some difficult questions, and the Ministry hopes for a wide spectre of input from the civil society during the public hearing. The Government has not made any decisions yet, but awaits the responses from the public hearing. Thus, it is not possible at the present time to say anything about if and when any of the proposals will be introduced for the Parliament.

Another consequence of the 22. July bombings relates to the Ministry of Justice itself. The Ministry lost 4 employees and many more were injured. The ministerial offices were completely destroyed and the non-electronic archives were damaged. Combined with the fact that the responsibility of follow-up measures after the bombing mostly fall under the Ministry's responsibility, this has unfortunately led to a delay of other reforms.

- Before I close this statement, I would like to take the opportunity to correct a mistake in the Norwegian state report. In para. 66. Of the report it appears that all foreigners who have received a decision on expulsion, are entitled to free legal aid. The right to free legal aid only applies to foreigners who are expelled due to a breach of the Immigration Act and not to persons expelled due to having committed a criminal offence.
- Finally we would like to thank the Norwegian NGO-forum for Human Rights, the Norwegian Centre for Human Rights and We Shall Overcome for their valuable contributions to this hearing through their alternative reports to the UN Committee Against Torture.
- We now look forward to hearing your questions. We will do our best to give satisfactory answers to any question from the Committee.