



ROYAL MINISTRY
OF FOREIGN AFFAIRS

UN Office of the High Commissioner for Human Rights
Committee against Torture
Palais des Nations, CH-1211 Geneva 10

Felice D. Gaer
Rapporteur for Follow-up on Concluding Observations

Your ref.:

Our ref.
07/05992

Date:

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Dear Mr Gaer

United Nations Committee against Torture. Follow-up on Concluding Observations of CAT after its examination of the fifth periodic report by Norway. Response to the Committee's request for clarifications to the response from Norway

We refer to your letter of 12 May 2010 asking for clarifications to Norway's response dated 3 July 2009 regarding the recommendations in paragraphs 6, 7, 8 and 9 in CAT's Concluding Observations to Norway (CAT/C/NOR/CO/5) and to our letter dated 19 November 2010 responding to some of these points. We stated in our letter of 19 November that we would return to the Committee's remaining questions relating to the recommendation in paragraph 8 as well as to the Committee's request for updated information relating to paragraph 9 at a later date. We are now pleased to submit the following updated information on the remaining questions.

Recommendation in paragraph 8 of the Concluding Observations

With reference to the Committee's request for additional information relating to the Immigration Act and detention of foreign nationals, the Ministry of Foreign Affairs would like to provide the Committee with the following information:

There are unfortunately no official statistics relating to the Immigration Act and detention of foreign nationals. However, it is reported that the average length of detention was approximately 8–9 days in 2009. The reason for the average length of

stay being this long is that some foreign nationals have been detained for a relatively long time.

According to section 106 of the Immigration Act, if the police wish to detain an arrested person, they must bring him/her before the district court with an application that he or she be remanded in custody at the earliest opportunity, and if possible on the day following the arrest.

According to section 106 of the Immigration Act, the overall period of custody may not exceed 12 weeks, unless there are particular reasons to prolong the period. Particular reasons can for example include failure on the part of the foreign national to cooperate with the authorities in identifying him- or herself, or a return process being prevented due to circumstances beyond the authorities' control (e.g. a transport strike).

According to section 107 of the Immigration Act, the police may use force where it is strictly necessary in order to maintain peace, order or security, or to ensure implementation pursuant to section 90 (implementation of administrative decisions), provided that other less interventional measures have been attempted to no avail or will clearly be inadequate.

The police may keep a register of information about decisions taken, use of force and forcible means, etc. An independent supervisory board (the Supervisory Board appointed by the Ministry of Justice and the Police) has been established to oversee the operation of the foreign national holding centre and the treatment of foreign nationals present there.

As regards the requested additional information on pre-trial detention, the Ministry would like to forward updated statistics for the period 2004–2010 received from the Ministry of Justice and the Police relating to the use of pre-trial detention:

Remands in custody. Comparison of time spent in custody 2004–2010										
Terminated remands. Includes releases from prison and change in inmate category from remand to sentenced.										
Days on remand in custody										
2010	Total	< 15	15-29	30-59	60-89	90-182	183-365	366-547	548-730	> 730
Incidence	3 920	831	905	741	370	636	310	95	25	7
Percentage		21 %	23 %	19 %	9 %	16 %	8 %	2 %	1 %	0 %
Accumulated percentage			44 %	63 %	73 %	89 %	97 %	99.2 %	100 %	
2009		< 15	15-29	30-59	60-89	90-182	183-365	366-547	548-730	> 730
Incidence	3 674	927	834	723	412	481	211	60	20	6
Percentage		25 %	23 %	20 %	11 %	13 %	6 %	2 %	1 %	0 %
Accumulated percentage			48 %	68 %	79 %	92 %	98 %	99.3 %	100 %	

2008										
Incidence	3 344	815	786	679	348	418	224	54	18	2
Percentage	24 %	24 %	20 %	10 %	13 %	7 %	2 %	1 %	0 %	0 %
Accumulated percentage		48 %	68 %	79 %	91 %	98 %	99.4 %	100 %		
2007										
Incidence	3 172	701	819	620	341	435	197	47	10	2
Percentage	22 %	26 %	20 %	11 %	14 %	6 %	1 %	0 %	0 %	0 %
Accumulated percentage		48 %	67 %	78 %	92 %	98 %	99.6 %	100 %		
2006										
Incidence	3 029	764	687	610	386	390	147	34	10	1
Percentage	25 %	23 %	20 %	13 %	13 %	5 %	1 %	0 %	0 %	0 %
Accumulated percentage		48 %	68 %	81 %	94 %	99 %	99.6 %	100 %		
2005										
Incidence	3 169	837	699	663	343	402	173	37	10	5
Percentage	26 %	22 %	21 %	11 %	13 %	5 %	1 %	0 %	0 %	0 %
Accumulated percentage		48 %	69 %	80 %	93 %	98 %	99.5 %	100 %		
2004										
Incidence	3 338	848	777	686	360	422	172	60	6	7
Percentage	25 %	23 %	21 %	11 %	13 %	5 %	2 %	0 %	0 %	0 %
Accumulated percentage		49 %	69 %	80 %	93 %	98 %	99.6 %	100 %		

As far as the request for additional analyses or information regarding the effectiveness of pre-trial detention is concerned, we would like to inform the Committee that the Ministry of Justice and the Police has prepared a report on the effects of the amendment of 28 June 2002 to section 183 of the Criminal Procedure Act (in force from 1 July 2006). This amendment extends the time limit for bringing the detained person before a court. The report has been circulated for comments, which are to be submitted by 1 March 2011. In the report, the statistics mentioned in earlier comments to the Committee against Torture on pre-trial detention have been analysed. Based on the findings of the report and the comments received, the Ministry of Justice and the Police will consider whether the said amendment should be maintained or reversed.

As mentioned in your letter of 12 May 2010, the statistics show that there has been an increase in the number of pre-trial detentions lasting between 15 and 29 days. The Ministry does not believe that this development is related to the above-mentioned amendment of the time limit for bringing a detained person before a court. The Ministry of Justice and the Police assumes that this time limit only affects shorter pre-trial detentions, i.e. those lasting for one to two weeks. Thus we believe there are other explanations for the increase in the number of pre-trial detentions lasting between 15 and 29 days. When analysing the statistics for the years 2009 and 2010, we conclude that the number of pre-trial detentions lasting between 15 and 29 days are 834 and 905

respectively, in both cases 23% of the total number. In 2007 and 2008, we saw a short-term trend that indicated a decline, but in a longer-term perspective the use of pre-trial detentions lasting between 15 and 29 days appears to be stable. We would also like to add that a large percentage of the pre-trial detention group from 2009 and 2010 have now been convicted and transferred to prison to serve their sentences. In these cases the period spent in pre-trial detention has been deducted from the sentence.

As mentioned in paragraph 130 of Norway's sixth periodic report submitted under the International Covenant on Civil and Political Rights, the courts have imposed increasingly strict requirements for progress in investigations if extended detention on remand is to be approved. The law also instructs the court to pre-schedule the main hearing in cases where the accused is remanded in custody. These measures help to reduce the pre-trial detention period. The Ministry of Justice and the Police is also of the opinion that the cases generally are better prepared when presented to the court, and that the work of the judges, the counsel of the Defence and especially the Police has become somewhat more efficient.

With reference to the request for additional information on the use of solitary confinement, we would like to submit the following updated statistics:

Duration of solitary confinement in days										Total number of pre-trial remands in custody	Incidents of solitary confinement
		< 7	7-13	14-29	30-41	42-59	60-89	90-182	SUM		
2003	Incidence	43	94	355	25	43	5	1	566	3550	15.9 %
	percentage of total	7.6 %	16.6 %	62.7 %	4.4 %	7.6 %	0.9 %	0.2 %			
	accumulated percentage		24.2 %	86.9 %	91.3 %	98.9 %	99.8 %	100.0 %			
2004	Incidence	27	92	320	12	22	15	6	494	3198	15.4 %
	percentage of total	5.5 %	18.6 %	64.8 %	2.4 %	4.5 %	3.0 %	1.2 %			
	accumulated percentage		24.1 %	88.9 %	91.3 %	95.7 %	98.8 %	100.0 %			
2005	Incidence	40	74	297	12	29	4	1	457	3059	14.9 %
	percentage of total	8.8 %	16.2 %	65.0 %	2.6 %	6.3 %	0.9 %	0.2 %			
	accumulated percentage		24.9 %	89.9 %	92.6 %	98.9 %	99.8 %	100.0 %			
2006	Incidence	38	101	340	16	18	0	0	513	3049	16.8 %
	percentage of total	7.4 %	19.7 %	66.3 %	3.1 %	3.5 %	0.0 %	0.0 %			
	accumulated percentage		27.1 %	93.4 %	96.5 %	100.0 %	100.0 %	100.0 %			
2007	Incidence	33	64	348	9	47	8	1	510	3182	16.0 %
	percentage of total	6.5 %	12.5 %	68.2 %	1.8 %	9.2 %	1.6 %	0.2 %			
	accumulated percentage		19.0 %	87.3 %	89.0 %	98.2 %	99.8 %	100.0 %			
2008	Incidence	29	60	298	11	19	6	0	423	3237	13.1 %
	percentage of total	6.9 %	14.2 %	70.4 %	2.6 %	4.5 %	1.4 %	0.0 %			
	accumulated percentage		21.0 %	91.5 %	94.1 %	98.6 %	100.0 %	100.0 %			

2009	Incidence	20	51	415	7	10	2	0	505	3674	13.7 %
	percentage of total	4.0 %	10.1 %	82.2 %	1.4 %	2.0 %	0.4 %	0.0 %			
	accumulated percentage		14.1 %	96.2 %	97.6 %	99.6 %	100.0 %	100.0 %			
2010	Incidence	16	55	483	7	14	3	0	578	3920	14.7 %
	percentage of total	2.8 %	9.5 %	83.6 %	1.2 %	2.4 %	0.5 %	0.0 %			
	accumulated percentage		12.3 %	95.8 %	97.1 %	99.5 %	100.0 %	100.0 %			

The number of days of solitary confinement includes both partial solitary confinement and complete solitary confinement. Taking as its basis the figures from 2009 and 2010, the Ministry of Justice and the Police is of the view that in a long-term perspective the total use of solitary confinement is stable. The annual average total number of days of solitary confinement for the years 2004—2010 is 505.75.

In recent years, Norway has also been subject to new forms of theft crimes, e.g. itinerant criminal groups committing serial burglaries over large areas. The Government has been determined to combat this new trend. Targeted work, especially over the last two years, has yielded results in the form of a series of convictions. In the view of the Ministry of Justice and the Police, the high priority given to combating these forms of crime could partly explain the increase in the use of solitary confinement in 2010.

As far as changes in the security and safety of remand centres and prisoners in connection with solitary confinement are concerned, we would like to inform the Committee that solitary confinement is decided by the court according to the Criminal Procedure Act sections 186 and 186a. This is therefore not a decision made by the Correctional Service as a sanction or a preventive measure in order to maintain peace, order and security according to the Execution of Sentences Act section 37, first paragraph (e).

In 2007, the Ministry of Justice and the Police commissioned an official study to examine the use of detention for minors. The study was completed in 2008 (NOU 2008:15). According to current law, minors can be kept in solitary confinement for up to eight weeks. The report proposes that any use of solitary confinement for minors should be banned. The Ministry of Justice and the Police is currently preparing to follow up the proposals.

Recommendation in paragraph 9 of the Concluding Observations

An external supervisory board for the Trandum Holding Centre was established in May 2008, in order to ensure that foreign nationals are treated in accordance with applicable legislation. As mentioned in our letter of 3 July 2009, this supervisory board began its activities in September 2008. The board carried out two inspections in 2008 and five inspections in 2009. Nine inspections were completed in 2010. An English translation of the annual report for 2008 (Appendix 3) was forwarded by the Ministry of Foreign Affairs to the Committee against Torture on 2 September 2009. The annual report for

2009 has not yet been translated to English. The report for 2010 was released on 11 February 2011 and has not yet been published.

According to the report for 2009, two of the five inspections that year were carried out without prior notice, and two were carried out in the evening. A health team participated in one of the inspections.

The results of the inspections were as follows:

- Health service: no comments;
- Buildings: not satisfactory for the number of people present (ventilation systems, sanitary installations etc.);
- Use of force/coercive measures: no comments.

According to the report for 2010, some of the defects relating to the buildings have now been repaired. We will provide further information from the inspections in 2010 at a later stage. However, we can inform the Committee that the supervisory board appears to be performing its tasks according to its mandate, in a satisfactory manner.

The Ministry of Foreign Affairs looks forward to pursuing the constructive dialogue with the Committee against Torture on the follow-up to its Concluding Observations.

Yours sincerely



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