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## **Supplementary information from the Norwegian National Human Rights Institution to the UN Committee on the Rights of the Child in relation to the hearing of the 5<sup>th</sup> and 6<sup>th</sup> periodic report of Norway on 23 – 24 May 2018**

Reference is made to the Committee's invitation to provide updated country-specific information prior to the consideration of Norway's 5th and 6th periodic reports at the Committee's 78<sup>th</sup> session.

The Norwegian National Human Rights Institution (hereinafter: NIM) was established 1 July 2015 as an independent institution under new legislation adopted by Parliament. NIM has a specific mandate to protect and promote international human rights in Norway, as well as to monitor how the authorities respect their international human rights obligations. Submitting supplementary reports to international human rights treaty monitoring bodies is an essential tool for an NHRI to fulfil its mandate.

In March 2017, we were granted A-status by GANHRI, thus recognizing that NIM is fully compliant with the UN Paris-Principles.

We hereby take the opportunity to draw your attention to following eight issues which we suggest that the Committee address in its deliberations with and recommendations to Norway.

Our submission does not reflect all relevant human rights challenges in Norway within the scope of the International Convention on the Rights of the Child (CRC). Thus, we also refer to the submissions from other national actors, including that of the Ombudsman for Children.

Yours sincerely

On behalf of the Norwegian National Human Rights Institution

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This letter is electronically approved and valid without signature

## Contents

1. CHILD WELFARE SERVICES.....	4
2. DISCRIMINATION OF SÁMI CHILDREN .....	5
3. LGBTI CHILDREN .....	6
4. VIOLENCE AGAINST CHILDREN, INCLUDING INDIGENOUS SÁMI CHILDREN.....	8
5. CARE FOR UNACCOMPANIED MINORS SEEKING ASYLUM, INCLUDING DISAPPEARANCES FROM RECEPTION CENTRES .....	11
6. DETENTION OF CHILDREN PURSUANT TO THE IMMIGRATION ACT .....	14
7. RATIFICATION OF OP CRC .....	16
8. JUVENILES IN POLICE CUSTODY .....	17
9. ISOLATION OF JUVENILES IN PRISON .....	18

## 1. Child Welfare Services

Reference is made to List of Issues (LoI) para. 1 and 11, Reply to LoI para. 1, 64 and 65 and Supplementary information to pre-session from NIM para. 1.

The Child Welfare Service is a key institution for the protection of children's rights in Norway, and the State Party has initiated several processes aiming to further strengthen this institution.

The 2016 official Norwegian Report proposed a new Child Welfare Act, which we believe is a thorough and balanced proposal that will strengthen children's rights. Parts of the proposal was adopted by the Parliament in March 2018, e.g. providing children with individual rights to child welfare services and strengthening the child's right to be heard and participate in the child welfare proceeding. Other parts of the proposal have not yet been assessed by the Government. NIM supports and encourages the State Party's efforts to adopt new comprehensive legislation.

We would like to draw attention to the following four issues.

Firstly, although the budgetary allocations to the Child Welfare Services have increased, the lack of resources and capacity is still considered a challenge in the Child Welfare Services.<sup>1</sup> New legislation adopted also underpin the need for sufficient resources to the Child Welfare Services.

Secondly, NIM is concerned about existing differences in quality of child welfare services at the regional and municipal levels, e.g. regarding staffing and coverage.<sup>2</sup> A report published in 2018 by the Office of the Auditor General of Norway (Riksrevisjonen), indicates significant regional differences in the services relating to emergency measures by the Child Welfare Service, and points to both different understanding of the legislation and differences in their capacities.<sup>3</sup> Figures from Statistics Norway further indicate significant municipal differences as to how many children are placed outside their home by the Child Welfare Service.<sup>4</sup> The Ombudsman for Children has raised concerns regarding the disparities among municipal child welfare services, and is concerned that the planned child welfare reform may increase these disparities.<sup>5</sup>

Thirdly, a recent report from Save the Children Norway indicates that the services responsible for the emergency placement of children outside their homes do not always

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<sup>1</sup> Government proposal Prop. 73 L (2016-2017) para. 4.1.3.

<sup>2</sup> Cf. State Report para. 149

<sup>3</sup> Riksrevisjonen, Dokument 3:8 (2017-2018).

<sup>4</sup> Ssb.no/tabell/08838

<sup>5</sup> The Ombudsman for Children, Supplementary Report, page 33.

do this in a child sensitive manner.<sup>6</sup> Although emergency efforts are sometimes necessary to protect children, the professionals involved should have adequate skills and training.

Fourthly, there are legal issues relating to the most intrusive child welfare measures such as deprivation of parental responsibility and limitation of rights to contact. As we mentioned in our supplementary information to the pre-session, several cases regarding the Child Welfare Services have been brought before the European Court of Human Rights (ECtHR). While seven of the cases are still pending, two of the cases concluded with no violation of the European Convention of Human Rights, one of which will be considered by the Grand Chamber of the ECtHR. The outcomes from the Court in these nine cases are likely to influence the further development of the Child Welfare Act, as well as the practices of the Child Welfare Service, the County Board of Appeal for Child Welfare and the Norwegian courts.

#### **Suggested recommendations:**

- The State Party should continue its efforts to implement new, comprehensive legislation regarding the Child Welfare Service to strengthen the rights of the child. The outcome of the pending cases for the ECtHR should be taken into account when considering new legislation.
- Sufficient resources should be allocated so that the services can provide timely and adequate assistance and protection to children and their families.
- The State Party should initiate research on regional differences and differences between the municipalities in all parts of the Child Welfare Service, and secure that every child receives equal level of protection and care.
- The State Party should ensure that when emergency measures are necessary, the professionals involved in performing the measures, have adequate skills and training.

## **2. Discrimination of Sámi children**

Reference is made to LOI para.5 and the State reply para. 34.

A research review from 2015 indicates that children belonging to the indigenous Sámi people as well as national and ethnic minorities experience discrimination in several areas of social life.<sup>7</sup> However, there is insufficient knowledge about the causes of such discrimination. Various studies and surveys on discrimination of Sámi and other minorities indicate that the attitude of the general population towards minority groups can be one

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<sup>6</sup> «Skånsom henting? – Erfaringer med akuttvedtak i barnevernet» - Save the Children 2017.

<sup>7</sup> Diskriminering av samer, nasjonale minoriteter og innvandrere i Norge, EN KUNNSKAPSGJENNOMGANG

Arnfinn H. Midtbøen og Hilde Lidén, Institutt for Samfunnsforskning/ Norwegian Institute for Social Research, report 2015:001, see also the supplementary report of the Ombudsman for children to the CRC, Chapter 3, A. (2017) <http://barneombudet.no/wp-content/uploads/2018/02/The-Ombudsman-for-Children-in-Norway-Supplementary-Report-to-UN-2017.pdf>

of the main reasons for this situation.<sup>8</sup> This 2015 review demonstrates that all groups face discrimination, but the research concerning immigrants is far more extensive than research on discrimination of the Sámi population and national minorities.

Not all Sámi pupils are currently being afforded their right to Sámi language education, and about one in five Sámi pupils have experienced discrimination in school or an educational context.<sup>9</sup> There is still a lack of teaching resources in Sámi and a shortage of Sámi-speaking teachers. The number of pupils who receive a Sámi language education has decreased significantly since 2005. For Sámi children, the language is an important part of their cultural identity, and kindergartens and schools are important arenas for learning Sámi languages. There is currently no general obligation for local authorities to provide Sámi children with a place in a Sámi kindergarten.<sup>10</sup>

A study from 2015 suggests that Sámi-speaking individuals risk facing structural discrimination in the public health system.<sup>11</sup> The assistance they receive from the health care services is inadequate due to the lack of knowledge of Sámi culture as well as the skepticism that many Sámi have towards the Norwegian health care system.

New research from The Nordic Welfare Centre at the Arctic University of Norway published in 2017, shows that Sámi persons with disabilities may have different and more difficult living conditions than other persons with comparable situations, especially regarding mental health. The situation is particularly challenging for Sámi children with disabilities, as both the health and the educational system lack knowledge of Sámi language and culture.<sup>12</sup>

**Suggested recommendation:**

- The State Party should intensify its efforts to address the issue of multiple discrimination of Sámi children as well as to provide a better understanding of root causes of the situation.

### **3. LGBTI children**

Reference is made to LOI para 5 and State Report paras. 30-31.

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<sup>8</sup> See note 1 and *Antisemitism in Norway? The Attitudes of the Norwegian Population towards Jews and Other Minorities*, Center for Studies of the Holocaust and Religious Minorities (2012)[http://www.hlsenteret.no/publikasjoner/HL\\_Rapport\\_2012\\_web.pdf](http://www.hlsenteret.no/publikasjoner/HL_Rapport_2012_web.pdf)

<sup>9</sup> This is also confirmed in the replies of Norway to the LOI, para. 34.

<sup>10</sup> Official Norwegian Reports 2016:18, Chapter 17.5.

<sup>11</sup> Midtbøen, Arnfinn H, og Hilde Lidén: «Diskriminering av samer, nasjonale minoriteter og innvandrere i Norge» Institutt for samfunnsforskning 2015:18.

<sup>12</sup> The report on the situation of Sámi with disabilities in Norway:  
<https://www.bufdir.no/bibliotek/Dokumentside/?docId=BUF00003486>

The entry into force of the Act on Change of Legal Gender in 2016, has strengthened the rights of transgender<sup>13</sup> children significantly. Moreover, the extent of negative attitudes to transgender people is decreasing in Norway.<sup>14</sup> At the same time, the lives of young transgender people are marked by discrimination, transphobia and lack of knowledge in institutions such as schools and the public healthcare services, including the broader society.<sup>15</sup> Many children fear being open about their gender identity, and at school, to conceal one's gender identity is used as a strategy to avoid bullying and exclusion.<sup>16</sup> This limits the lives of transgender children. Knowledge about gender identity issues and the rights of transgender children is key for ensuring a safe and good school environment for transgender children.

NIM is concerned that narrow gender norms, gender stereotypes and gender binary architectural structures hinder transgender children in being open about their gender identity and limit their choices and opportunities in life. Further, that school leaders, teachers and health care service providers do not hold sufficient knowledge about gender identity and gender diversity.

Many young transgender people suffer from poor mental health and the number of suicide attempts and suicides is high.<sup>17</sup> Gender confirmation treatment,<sup>18</sup> such as puberty suppression hormones, breast or chest surgery and/or hormones, which are the forms of gender confirmation treatment relevant to children, improves the health and lives of many transgender children. Gender confirmation treatment helps transgender children to live in accordance with their gender identity and to be recognized in accordance with their gender identity by the society. The first report on the living conditions of transgender people living in Norway found, however, that knowledge about transgender issues is lacking in the public healthcare system and that those not diagnosed with F64.0

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<sup>13</sup> The term "transgender" is an umbrella term referring to people whose gender identity does not match their birth-assigned gender.

<sup>14</sup> Norman Anderssen and Kirsti Malterud (eds), *Seksuell orientering og levekår* (Bergen: Uni Helse/Uni Research AS, 2013). Available at

[http://bora.uib.no/bitstream/handle/1956/7550/Seksuell\\_orientering\\_og\\_levek%C3%A5r.pdf?sequence=1&isAllowed=y](http://bora.uib.no/bitstream/handle/1956/7550/Seksuell_orientering_og_levek%C3%A5r.pdf?sequence=1&isAllowed=y)

<sup>15</sup> Janneke van der Ros, *Alskens Folk: Levekår, livssituasjon og livskvalitet for personer med kjønnsidentitetstematikk*

(Likestillingssenteret: Hamar, 2013). Available at <http://likestillingssenteret.no/wp-content/uploads/2016/02/Alskens-folk.pdf>; Norman Anderssen and Kirsti Malterud (eds), *Seksuell orientering og levekår* (Bergen: Uni Helse/Uni Research AS, 2013); The Norwegian Directorate of Health, *Rett til rett kjønn: helse til alle kjønn*. Available at

[https://www.regjeringen.no/contentassets/d3a092a312624f8e88e63120bf886e1a/rapport\\_juridisk\\_kjonn\\_100415.pdf](https://www.regjeringen.no/contentassets/d3a092a312624f8e88e63120bf886e1a/rapport_juridisk_kjonn_100415.pdf);

Folkhälsomyndigheten, *Hälsan och hälsans bestämningfaktorer för transpersoner: En rapport om hälsoläget bland transpersoner i Sverige* (2015) (Sweden).

<sup>16</sup> Janneke van der Ros, *Alskens Folk: Levekår, livssituasjon og livskvalitet for personer med kjønnsidentitetstematikk* (Likestillingssenteret: Hamar, 2013).

<sup>17</sup> Transgender Europe, *Overdiagnosed but Underserved* (2017), p. 21; Folkhälsomyndigheten, *Hälsan och hälsans bestämningfaktorer för transpersoner: En rapport om hälsoläget bland transpersoner i Sverige* (2015) (Sweden).

<sup>18</sup> Provision of gender confirmation treatment is organized as a national treatment unit at the Norwegian National Unit for Gender Dysphoria and Transsexualism to which people seeking gender confirmation treatment shall be referred.

*transsexualism* do not receive the public healthcare they need.<sup>19</sup> In 2015, an expert committee, appointed by the Norwegian Directorate of Health, concluded that many transgender people, including children, do not receive the healthcare they need and have a right to receive. The Committee unanimously recommended to provide gender confirmation treatment to more people.<sup>20</sup>

Knowledge about the living conditions and needs of intersex<sup>21</sup> people is lacking. Moreover, data on current medical practice is lacking, and investigations on whether the medical practice complies with intersex children's rights have not been initiated. In 2016, the first Norwegian symposium on intersex issues took place, gathering activists and scholars from a broad specter of disciplines such as law and medicine. Concern was raised about the extent of medically unnecessary and irreversible surgery performed during infancy and childhood in Norway.<sup>22</sup> Reports from treatment units in 2017, do not provide information on the number of surgical and gynecological treatment.<sup>23</sup> It is unclear how the term "medically necessary" is understood and practiced at these units that are assigned to provide such treatment.

**Suggested recommendations:**

- The State Party should take measures to increase the knowledge about gender identity issues and the rights of transgender children in schools and the public health care services.
- The State Party should ensure that gender confirmation treatment is accessible to transgender children who need such medical treatment and who provide their informed consent to gender confirmation treatment
- The State Party should take steps to increase the knowledge about intersex children's needs, living conditions and rights, as well as to map and assess current medical practices.

#### **4. Violence against children, including indigenous Sámi children**

Reference is made to State Report chapter 5, Lol para. 9 and Reply to Lol, paras. 55-57.

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<sup>19</sup> Janneke van der Ros, *Alskens Folk: Levekår, livssituasjon og livskvalitet for personer med kjønnsidentitetstematikk* (Likestillingssenteret: Hamar, 2013). Available at <http://likestillingssenteret.no/wp-content/uploads/2016/02/Alskens-folk.pdf>

<sup>20</sup> The Norwegian Directorate of Health, *Rett til rett kjønn: helse til alle kjønn*. Available at [https://www.regjeringen.no/contentassets/d3a092a312624f8e88e63120bf886e1a/rapport\\_juridisk\\_kjonn\\_100415.pdf](https://www.regjeringen.no/contentassets/d3a092a312624f8e88e63120bf886e1a/rapport_juridisk_kjonn_100415.pdf)

<sup>21</sup> The term "intersex" is an umbrella term referring to people born with variations in sex characteristics which do not fit the typical definition of male or female.

<sup>22</sup> Oppsummeringsrapport Symposium om variasjon i kroppslig kjønnsutvikling. Available at [https://www.bufdir.no/Global/Oppsummeringsrapport\\_Symposium\\_om\\_variasjon\\_i\\_kroppslig\\_utvikling.pdf](https://www.bufdir.no/Global/Oppsummeringsrapport_Symposium_om_variasjon_i_kroppslig_utvikling.pdf)

<sup>23</sup> See the 2017 annual report from the two national units for disorders of sex development in Oslo and Bergen, *eRapport Flerregional behandlingstjeneste for usikker somatisk kjønnsutvikling*. Available at <https://forskningsprosjekter.ihelse.net/senter/rapport/FF-OUS-HB4/2017>



NIM is concerned about recent reports that reaffirm weaknesses in securing effective prevention, protection and remedy for children exposed to violence and sexual abuse, including domestic violence. We would like to draw the Committee's attention to two reports from the Ombudsman of Children regarding violence and sexual abuse, published in 2018.

The first report is called *"If we had gotten help at an earlier stage, everything would have been different"*, and is based on the Ombudsman's conversations with children and young adults who has experienced violence and sexual abuse in their childhood. One concern is that children lack knowledge on what adults are allowed to do to them, both physically and psychologically actions. Another is that there is a lack of safe and available adults for children to talk to about the abuse they experience. A third one is that the follow-up of the children by the public services should be more adapted to the child's individual needs.

The second report is called *"Everyone knows someone who has experienced it"*, and is based on the ombudsman's conversations with 200 youths about their experiences with sexual abuse and being sexually offended.<sup>24</sup> Based on the conversations, the Ombudsman underpins, among other things, the need for more knowledge among youths about their sexual boundaries, that the youth's knowledge about social media should be strengthened and that the parents must know more about what is happening with their children and how to help them.

More specifically, we would like to draw attention to the following four issues.

Firstly, in 2017, the Official Norwegian Report "Failure and Betrayal" was published, evaluating 20 serious cases of violence, sexual abuse and neglect of children.<sup>25</sup> One of the questions addressed in the report was whether the situation could have been prevented or identified by social and health services at an earlier stage. The report reveals an extensive failure at the systemic level.<sup>26</sup> The report concludes that mistreatment of children should have been identified at an earlier stage and calls for better protection of these children.

NIM has recommended that the State Party review the 20 cases to assess whether the State Party has given the children appropriate protection against the abuse and mistreatment described in the report. If this is not the case, the State Party should ensure that the children are given an effective remedy.<sup>27</sup>

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<sup>24</sup> «Alle kjenner noen som har opplevd det», The Ombudsman of Children, 2018.

<sup>25</sup> NOU 2017:12 Svikt og svik. The committee seems to be mentioned in the State Report para. 94.

<sup>26</sup> Two key findings were lack of knowledge and relevant competence in the public services, and weak cooperation and coordination between the public services. In some cases, the child's situation was known to some public services, but no further action was taken. In other cases, the children had not been heard, thus not been given the opportunity to tell their story.

<sup>27</sup> Årsmelding 2017 s. 78 flg.

Secondly, in 2017, a new report about domestic violence in Sami communities was published.<sup>28</sup> In the report, police officers as well as social and health personnel share their experiences on how they are facing many barriers when encountering situations with domestic violence in Sami communities. The report suggests that there is a lack of knowledge of Sami language and culture among public services, which represent a barrier for the public services to fulfill their obligations to protect Sami people from violence. Another key finding in the report is that there is need for more research on the topic.

Further, in 2016 the police initiated an investigation after eleven women and men from the small Sami community Tysfjord came forward in the media with stories of sexual abuse. The police have since investigated 151 cases involving various forms of sexual abuse in Tysfjord. In total, there are 82 victims and 92 suspects. There are approx. 2000 inhabitants in Tysfjord. The timeline for these assaults starts as early as 1953 and the most recent cases are from 2017. Most of the victims were under the age of 16 at the time the assault. Almost 70 % of the victims and the suspects belongs to the Lule-Sámi community in Tysfjord.<sup>29</sup> In their summary report of the investigation, the police stated that their own lack of cultural and linguistic understanding on the Sami culture and language, represented a barrier in their investigation of the cases. In addition, research from 2015 indicates that Sami people in general are exposed to violence more often than ethnic Norwegians.<sup>30</sup>

NIM has called for a specific action plan against violence and sexual abuse in Sami communities, which was also recommended by CEDAW in its concluding observations to the State party in November 2017.<sup>31</sup> In April 2018, the Human Rights Committee recommended the State Party to *“Investigate further the root causes of higher levels of violence against women in the Sami Community. Take effective measures to address these root causes, eliminate cultural and linguistic barriers and build trust between the Sami community and authorities.”*<sup>32</sup> NIM has also recommended the State Party to review the cases of Tysfjord to assess whether the State Party have given the children appropriate protection against the sexual abuse and mistreatment they have been exposed to. If this is not the case, the State Party should ensure that the children are given an effective remedy.<sup>33</sup>

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<sup>28</sup> «Om du tør å spørre, tør folk å svare», NKVTS, rapport nr. 2 2017. Violence against Sami children is mentioned in the State report para. 95 and the Reply to Lol para. 56.

<sup>29</sup> «Overgrepene i Tysfjord – erfaringer og funn fra politiets etterforskning», Nordland politidistrikt, 2017.

<sup>30</sup> Eriksen A. Hansen K.L., Javo C. and Schei B., «Emotional, physical and sexual violence among Sami and non-Sami population Norway: The SAMINOR 2 questionnaire study», Scandinavian Journal of Public Health, 2015.

<sup>31</sup> Årsmelding 2017 s. 78 flg.; CEDAW/C/NOR/CO/9 para. 25

<sup>32</sup> CCPR/C/NOR/CO/7 para 14 e

<sup>33</sup> Årsmelding 2017 s. 78 flg.

Thirdly, as stated by the State Party itself, there is currently no action plan targeting violence and sexual abuse against children. There is an Escalation Plan against Violence and Abuse (2017–2021), but it has been criticized by several actors, such as the ombudsman for children, for being too vague in its commitment and follow-up measures. NIM has stated that the Escalation Plan, in order to be effective, must be followed up by sufficient means and resources.<sup>34</sup> In April 2018, the Human Rights Committee recommended the State Party to *“Proceed with plans to launch a new national plan of action to eliminate violence against women and girls, with a focus on eliminating rape and other forms of sexual violence in the State party, including in the Sami community, in consultation with Sami people and other stakeholders”*<sup>35</sup> NIM supports the plans on launching a new national action plan, including in the Sami community as mentioned above.

Fourthly, we also note with satisfaction that Norway ratified the Council of Europe Convention on preventing and combating violence against women and domestic violence (CEST. 210) in November 2017. At the same time, the ratification underpins the need to have a special focus on the protection of vulnerable groups such as children.

**Suggested recommendations:**

- The State Party should launch a new national action plan to eliminate all forms of violence against children, including in the Sami community. The part of the action plan concerning the Sami community, should be made in consultation with relevant Sami experts, civil society and the Sami Parliament.
- The State Party should review the 20 cases described in its Report as well as the cases of Tysfjord, to assess whether the State Party has given the children appropriate protection against the abuse and mistreatment they have been exposed to. If this is not the case, the State Party should ensure that the children are given an effective remedy.

**5. Care for unaccompanied minors seeking asylum, including disappearances from reception centres**

Reference is made to State Report part 9 a, Lol para. 12 and the replies of Norway to the Lol, paras. 66, 67 and 70.

In its Concluding Observations in 2010, the Committee on the Rights of the Child expressed concern that the State Party had limited the responsibility for the Child Welfare Services to children under the age of 15, and called on the Norwegian authorities to

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<sup>34</sup> Årsmelding 2017 s. 78

<sup>35</sup> CCPR/C/NOR/CO/7 para 14 a

expand the responsibility of the Child Welfare Services also to children aged 15, 16 and 17, as announced in 2008. This recommendation, and the many challenges linked to increased influx of asylum seekers in 2015, gave impetus to one of the first thematic studies undertaken by the NIM. A thematic report on care for unaccompanied asylum-seeking minors in the asylum-seeking phase was published in 2017.

The report argues that article 22 paragraph 2 of the Convention on the Rights of the Child obliges Norwegian authorities to give unaccompanied asylum-seeking minors aged 15-17 a standard of care and protection which is equivalent to what is offered to other children in Norway under the responsibility of the Child Welfare Services.

The report shows that there are significant differences in the accommodation and care given to children, including unaccompanied asylum-seeking children under the age of 15, and unaccompanied minors aged 15, 16 and 17. The younger children are under the responsibility of the Child Welfare Services, while the older children live in designated reception centres. The reception centres differ with respect to staffing levels which are much lower, staff competence requirements and physical conditions. The reception centres are only regulated by instruction from immigration authorities rather than by law. Taken together, the differences imply that the level of care and protection offered to unaccompanied asylum-seeking minors aged 15-18 is much lower than what is offered to unaccompanied asylum-seeking minors under 15 and other children in Norway under the responsibility of the Child Welfare Service.

According to the Child Welfare Act, the King in Council have the possibility to extend the care centres to unaccompanied asylum-seeking minors aged 15, 16 and 17. The plan to do so was announced in 2008, but was later postponed due to lack of resources in the Child Welfare Service.

We note that the States' current position on this is that there are "no immediate plans to expand the child welfare services' care responsibilities for unaccompanied asylum-seeking children older than 15."<sup>36</sup> No reasons are provided for this position. In a letter from the acting Minister of Justice to the Parliament (Stortinget) on 11 May 2017, the Minister explains that an expansion of the care centres for children aged 15-18 will have major economic consequences. It thus seems reasonable to assume that there are budgetary reasons for the significant differences in the accommodation and care arrangements.

It is our understanding that the Convention on the Rights of the Child does not allow for differential treatment of one group of children solely based on economic grounds. The Committee has previously stated that the right to non-discrimination applies irrespective of budgetary resources. There are also several studies, including Living Conditions for

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<sup>36</sup> CRC/NOR/Q/5-6/Add.1 para. 67.

Children during the Asylum-Seeking Process (NTNU 2015) which document the divergences in living conditions and quality of life among younger and older youth. Our conclusion is that unaccompanied asylum-seeking minors aged 15, 16 and 17, are being subjected to discrimination contrary to the Convention on the Rights of the Child Article 22 para 2 and Article 20 read in conjunction with Article 2. The report thus recommend that Norwegian authorities should give unaccompanied asylum-seeking minors aged 15-17 a standard of care and protection which is equivalent to what is offered to other children in Norway under the responsibility of the Child Welfare Services.

The findings in the said report is supported by findings in a report published in 2018 by UNICEF - *“Protected on Paper? An analysis of Nordic country responses to asylum-seeking children”*.<sup>37</sup> The report points out that the current division of responsibilities between asylum and child protection agencies appears to leave too many asylum-seeking children reliant on second-rate protection mechanisms that do not sufficiently and satisfactorily comply with the standards laid down by the Convention, and enables continuation of a context where lower standards for asylum-seeking children are tolerated. The research did not find sufficient justification for the variation on the levels and types of protection offered to children above and below the age of 15. Among other things, the report recommends that the child protection authority take responsibility for all unaccompanied asylum-seeking minors.

The situation for unaccompanied asylum-seeking minors in reception centres has for the last years been of great importance to their development and well-being, as there has been a marked increase in the use of temporary resident permits to unaccompanied asylum-seeking minors aged 16-18. Children with temporary resident permits are not settled, and risk spending years in reception centres. The Ombudsman for Children is concerned about worrying reports of psychological health issues, incidents of self-harm and suicide attempts as well as an increased number of disappearances from the reception centres.

Further, in 2018, FAFO published the research report *“A safe place to wait. Care practices in reception centres for unaccompanied minor asylum seekers”*.<sup>38</sup> In the report FAFO investigates the provision of care to unaccompanied minor asylum seekers aged 15-18 who live in reception centres in Norway. The report shows that there are differences in care practices between the reception centres. The report reveals that in some reception centres there are fundamental defencies when it comes to food and nutrition, and in the manner in which the reception centres facilitate the childrens’ possibilities to sleep at night. The report also shows that many reception centres struggle to detect and prevent

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<sup>37</sup> UNICEF, Protected on Paper? <https://www.unicef-irc.org/publications/940-protected-on-paper-an-analysis-of-nordic-country-responses-to-asylum-seeking-children.html>. See page 12 and 81

<sup>38</sup> FAFO, A safe place to wait. <http://www.fafo.no/images/pub/2018/20654.pdf>. An English summary can be found on page 17-26 of the report.

conflicts between residents. The reception centres were initially intended for stays of a short period of time. In 2017 however, the children stayed in average more than one year, and some children had stayed for approximately two years. According to the report, this requires a different and higher standard for the care provided in the reception centres.

Research further suggests that during the period 2008 to June 2015, a total of 625 unaccompanied asylum-seeking minors disappeared from reception centers and care centers.<sup>39</sup> The numbers for 2016 and 2017 are also high; 150 disappeared in 2016, and from 1 January to 31 October 2017, a total of 223 unaccompanied asylum-seeking minors disappeared.<sup>40</sup>

On 10 January 2017, the Norwegian Institute for Urban and Regional Research, published the report *“Prevention and follow up of unaccompanied minor (UAM) asylum-seekers that disappear from UAM reception centres and care centres in Norway”*.<sup>41</sup> According to the report, in 59 % of the cases where unaccompanied minors have disappeared in the period between January 2011 to June 2015, it is unknown to Norwegian authorities where they have disappeared to and what has happened to them.<sup>42</sup> The report has several recommendations on how the Norwegian government could strengthen its work on unaccompanied asylum-seeking minors that disappear from reception centres in Norway.

Lastly, please note the concluding observations of the Human Rights Committee on the seventh periodic report of Norway.<sup>43</sup>

***Suggested recommendation to Norway:***

- The State Party should eliminate differential treatment and ensure that unaccompanied asylum-seeking minors aged 15-18 are provided a standard of care and protection equivalent to what is offered to children under the responsibility of the Child Welfare Services.
- The State Party should continue its efforts to strengthen protection of unaccompanied minor asylum-seekers, including prevention of, and effective follow-up on disappearance-cases.

## **6. Detention of children pursuant to the Immigration Act**

Reference is made to the State Report point 9g, page 46, List of issues para. 12 and Replies of Norway to the list of issues, paras. 68-69

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<sup>39</sup> Norwegian Institute for Urban and Regional Research, Report 2016:17 page 19.

<sup>40</sup> Press, Save the Children Youth Organization, “Vi kan ikke reise tilbake” (“We can’t go back”), page 8.

<sup>41</sup> English summary is available pp. 18-28 in [NIBR-rapport 2016:17](#).

<sup>42</sup> One of the conclusions of the report is that the children should be offered a strengthened care system for minors.

<sup>43</sup> CCPR/C/NOR/CO/7, para. 31.

The States' reply mentions a bill proposed to Parliament in order to amend the Immigration Act's rules on the use of coercive means. In March 2018 the Parliament passed a new act on the use of coercive means in immigration cases which includes new rules on the detention of children in forced return situations. The new act has not yet entered into force. The new act section 106c addressed most of the concerns described in our written contribution to the Committees' pre-session.<sup>44</sup> According to the new act section 106c, children shall be treated as formal parties in the detention proceedings before the Court and have the right to be heard. Further, the new rules specify that the best interest of the child shall be a primary consideration, and that it must be made clear in the verdict how the Court has assessed the best interest of the child. On one point the new act goes further than what is described in the States' replies to the list of issues paragraph 68. According to the new act section 106c, paragraph 6, children can only be detained for 72 hours. If there are special and strong reasons, the detention period can be extended. The maximum total detention period for children is 9 days.

Provided that the law makes it possible to detain children in forced return processes only when detention is absolutely necessary as a measure of last resort to ensure return, the new act on detention in immigration cases provides children with much stronger rights than in the current act. The new rules are aimed to implement the requirements of the Convention on the Rights of the Child, and to be in line with the practice from the European Court of Human Rights.

The Trandum holding centre is the main facility in Norway for those who await deportation after having been rejected asylum, and have not left the country voluntarily despite an obligation to do so. The Ministry of Justice and Public Security is currently working on establishing a new permanent immigration detention centre outside Trandum for families with children. A temporary facility for families with children was established in Hurdal from 1 January 2018.

The Parliament has asked the Government to secure that families with children only can be detained in separate immigration detention facilities especially adapted for children. The Parliament has also specified that the children shall have access to activities, health-care and legal aid in the specialized unit, and that there should be specific requirements with regards to the units' physical facilities. The Parliament has also asked the Government to study and propose further alternatives to detention of children in the forced return process, and, as a matter of urgency, to establish real alternatives to the detention of unaccompanied asylum-seeking minors. Finally, the Parliament has

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<sup>44</sup> Letter from NIM to the Committee on the Rights of the Child, 30 June 2017 point 5.

specifically asked the Government to investigate the possibility of using electronic control as an alternative to detention for families with children.

Reference is also made to the joint general comment No. 4 (2017) of the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families and No. 23 (2017) of the Committee on the Rights of the Child on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, where the Committee after a thorough assessment concludes that “child and family immigration detention should be prohibited by law and its abolishment ensured in policy and practice.” NIM adjoins the view of the Committee that detention is harmful to children, that detention of children based on their parents’ immigration status is never in the best interest of the child, and that in general, children should not be detained.

Lastly, on 23 May 2017, the Norwegian Organisation for Asylum Seekers (NOAS) and Save the Children issued a report on the experiences of children and parents having been returned by force in immigration cases. The report gives an insight into how these children and parents experienced arrest, immigration detention, and deportation from Norway to their home country. The report indicated that the whole process of forced return is a scary and difficult experience for children. NIM would point out that forced return procedures often consist of several coercive measures; arrest, detention and deportation. Each of these measures could be traumatic for a child. Currently, to our knowledge, there is a lack of an overall assessment of the cumulative effects of these measures on each child being subjected to forced return. The cumulative effect is of importance in the assessment of whether the forced return process in total is in violation of the Convention on the Rights of the Child article 37 letter a and the European Convention on Human Rights article 3.

***Suggested recommendations to Norway:***

- The State Party should continue its efforts to strengthen the rights of children in forced return processes, in line with the recommendations from the Committee and the orders from the Norwegian Parliament.
- The State Party should adopt procedural safeguards for ensuring that the cumulative effects of the coercive measures in the forced return process for a child is not in violation of CRC article 37a.

**7. Ratification of OP CRC**

Reference is made to Concluding Observation 2010, point 9, para. 62 (CRC/C/NOR/CO/4) and State report para. 8.



In 2016 the Government concluded that it will not accept the complaint mechanisms under OP CRC. In its report to Parliament, the Government argued, among other things, that there is considerable uncertainty about what will be the consequences of Norwegian accession to the complaints mechanism, and that the committee is composed in such a way that it is not well suited for processing cases. There is also concern that the committee's statements could lead to increased judicialization and limitation of national political autonomy.

In the public debate and at the public hearing of the report, NIM argued that the expressed concern of restricting national political autonomy was exaggerated and that a right to complain does not impose any new human rights obligations on the state. Secondly, we argued that a consistent foreign policy goal for Norway has been to strengthen the international human rights system and its implementation. A ratification would strengthen Norway's legitimacy when advocating for ratification by states where the need for supranational complaint systems is high. Thirdly, to the extent that a Norwegian government believes that there are weaknesses in the committee's composition of members or its working procedures, full support and participation in UN treaty body reform is the most efficient strategy to strengthen the system. Lastly, it was also underlined that the report did not address the best interests of the child in the question of ratification, which should have been done.

In the end, the majority in the Parliament supported the Government's position and decided not to ratify the OP CRC.

**Suggested recommendation:**

- The State Party is encouraged to reconsider its position on ratification of the Optional Protocol to CRC.

## **8. Juveniles in police custody**

Reference is made to Lol para. 20(a)

It is positive that the number of children in police custody has decreased in recent years and that annual statistics on children in custody have been made available. Nevertheless, in 2016, children were placed in police cells on 343 occasions. Thirty-four children were detained more than 24 hours without court hearing, despite the Criminal Procedure Act's provision that minors must be presented before a court as soon as possible, and at latest, the day after the arrest.<sup>45</sup>

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<sup>45</sup> The National Police Directorate (2016) – Report to the Ministry and Public Security on detention figures, overstayers and children in detention in 2016.

Significant variation in the number of children detained and in the use of alternative measures between the different police regions, highlights opportunities for better practices. Measures to secure equal practice between the districts have still not been put in place.

**Suggested recommendation:**

- The State Party should promote alternative measures to police detention and to police cells when children are detained by the police
- Development of new national instructions on police detention with specific rules regarding detention of minors should be prioritized.

## **9. Isolation of juveniles in prison**

Reference is made to Lol para. 20(c)

It is positive that the Norwegian parliament in 2012 passed amendments to the Execution of Sentences Act, so that isolation could no longer be used as a disciplinary measure against minors, and that isolation as a preventative measure must be limited to a maximum of seven days. However, the particular provision that limits the exclusion of minors as a preventative measure to a maximum of seven days, has not yet entered into force (Act article 37, para. 4)

**Suggested recommendation:**

- The State Party should enact the provision in the Execution of Sentences Act which limits the isolation of minors to maximum seven days.