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Submission to the Universal Periodic Review of Norway 2014 September 13th 2013

The Norwegian Centre for Human Rights welcomes the opportunity to submit its views to the UPR on Norway, 2nd Cycle.

The Norwegian Centre for Human Rights – National institution for human rights

The Norwegian Centre for Human Rights is at present Norway's national institution for human rights (hereafter NI), accredited with B-status according to the standards of the International Coordinating Committee of the global network of national human rights institutions (ICC). NI is given the specific mandate to protect and promote international human rights and see to that these are being respected and fulfilled by Norwegian authorities. Writing supplementary reports to UPR and international treaty bodies is a core mean by which NI seeks to enhance the respect for human rights in Norway.

Preparation of the report

The report is based on the UN Human Rights Council guidelines on submissions to the Universal Periodic Review, and OHCHR's guidelines for submission of reports from national human rights institutions (NHRIs). The report uses common abbreviations for UN treaties and bodies.

This report is prepared in consultation with the Parliamentary Ombudsman for Public Administration, the Equality and Anti-discrimination Ombud, and the Ombudsman for Children. The Equality and Anti-discrimination Ombud and the Ombudsman for Children have also contributed with written submissions on relevant issues within their mandate.

In line with the broad mandate as Norway's National Human Rights Institution, this report seeks to highlight a wide range of challenges when it comes to implementation of human rights in Norway. However, the report is based on available knowledge and experience within the organization and contributions from our partners. Therefore, the report does not necessarily reflect all relevant human rights challenges in Norway.

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. Reluctance to ratify new international human rights instruments

NI is concerned with the current reluctance of the Norwegian authorities to ratify new international human rights instruments. Authorities are particularly sceptical to instruments that establish individual complaint mechanisms under international human rights monitoring bodies. This scepticism is evident through protracted national consultation processes, which seem to be used to unreasonable delay or postpone the ratification of human rights instruments.

Recommendation:

Norway should move forward in their consideration of ratifying (a) the Optional Protocol to the UN Covenant on Economic, Social and Cultural Rights; (b) the Third Optional Protocol to UN Convention on the Rights of the Child; (c) the Optional Protocol to UN Convention on the Rights of Persons with Disabilities; in addition sign and ratify (d) the International Convention for the Protection of All Persons from Enforced Disappearance.

2. Reconsider the need for interpretative declarations to the CRPD

While the NI welcomes Norway's ratification of the CRPD, it is disappointed with the two interpretative declarations made to articles 12 and 14 of the Convention. These statements are problematic in light of the well-documented excessive use of coercion in the Norwegian mental health care system. Although these problems are acknowledged by the authorities, attempts to substantially reduce use of coercion have not been successful. NI is concerned that these declarations will be construed as an acceptance of these problematic practices and could further delay necessary national reform processes.

Recommendation:

Norway should reconsider the need for the interpretative declarations to the CRPD.

B. Constitutional and legislative framework

3. Review of constitutional human rights protection

The Parliament (Stortinget) has initiated a process of legislative amendments that aims to incorporate central provisions of international human rights norms into the Norwegian Constitution, which celebrates 200 years anniversary in 2014. Proposals have been submitted to the current Parliament and a vote is expected in spring 2014, after the general elections in September 2013. However, in the ongoing debate a number of representatives of political parties as well as some legal scholars, have voiced scepticism towards incorporation of economic, social and cultural rights and some other central international standards, giving preference to inclusion of only a limited number of civil liberties and political rights into the Norwegian Constitution.

Recommendation:

Norway should strengthen constitutional protection of human rights taking into full account the interdependence and indivisibility of civil, political, economic, social, and cultural rights.

4. Central international human rights treaties not incorporated in the Human Rights Act

The Human Rights Act of 1999 enjoys statutory precedence over regular legislation in Norway and includes five human rights treaties: ECHR, ICCPR, ICESCR, CRC and CEDAW. However,

other central human rights instruments are incorporated as ordinary legislation (CERD) or are not incorporated into Norwegian legislation at all (CAT and CRPD).

Recommendation:

Norway should initiate an evaluation of what consequences it has that central human rights instruments such as CERD, CAT and CRPD are given a weaker legal status than those incorporated into the Human Rights Act.

C. Institutional and human rights infrastructure and policy measures

5. Re-establish a National Human Rights Institution with A-status

Both internal and external review processes, 2009-2011, have acknowledged that the current organisational set-up of Norway's NHRI has not functioned optimally. In November 2012 the ICC downgraded Norway's NHRI to B-status. The Government has recently launched an official legal hearing process to make a final decision on how to re-establish an A-status NHRI in Norway.

Recommendation:

Norway should, as soon as possible, establish a new NHRI in compliance with the Paris principles, which will be fully independent, will enjoy a high status and have sufficient resources and capacity to strengthen the implementation of human rights in Norway.

6. Develop a national plan of action for human rights and an effective follow-up mechanism for recommendations of international monitoring mechanisms

Norway's last national plan of action for human rights was adopted in 1999, followed by a report issued in 2004-2005. Since then Norway has had no action plan that can ensure a holistic approach to human rights issues both at the national and local levels. The National Plan of Action of 1999 also foresaw effective follow-up to recommendations of international monitoring mechanisms. However, as of today no such procedure or mechanism has been put in place.

Recommendation:

Norway should strengthen the implementation of human rights by developing a new National Plan of Action for human rights and enhance procedures or mechanism for the effective follow-up of recommendations made by international monitoring mechanisms.

7. National plan for strengthening human rights education

NI strongly believes that education in and for human rights is a critical element in the promotion and protection of human rights. However, assessments undertaken indicate that human rights education in Norway is both limited and fragmented. NI believes that particular focus should be on: higher education in general, staff of the law enforcement agencies and personnel of institutions responsible for care, treatment and/or custody.

Recommendation:

Norway should develop a national action plan for human rights education that consists of a thorough needs assessment and programmes for human rights education at all levels, with the particular focus on staff of the law enforcement agencies as well as personnel of institutions responsible for care, treatment and/or custody.

II. IMPLEMENTATION OF INTERNATIONAL HUMAN RIGHTS OBLIGATIONS

Equality and non-discrimination

8. Discrimination faced by immigrants, particularly in the areas of work and housing

More than half of the immigrant population in Norway has experienced discrimination in one or more of the following areas – labour market, housing sector, education and healthcare.¹ In 2012 the unemployment rate was three times higher amongst persons with immigrant background than in the average population.² A survey conducted in 2012 reveals that the likelihood of being called for a job interview is reduced by 25 percent if the applicant has a foreign name.³ NI is concerned by the discrimination faced by persons of immigrant background and in particular the persistent unemployment rate during the last 20 years, in spite of seven governments having made nine white papers, seven green papers and 23 plans of action; including 672 measures. The lack of results has also led to expressed concern by CERD, CESCR, HRC and CEDAW.

With regard to discrimination in the housing sector, more than 20 percent claim they have been refused to rent or buy property because of their immigrant background.⁴ NI welcomes steps taken by the Government, inter alia by adding anti-discrimination clauses to the Tenancy Act, but is nevertheless concerned they are not complied with in practice.

Recommendation:

Norway should adopt more vigorous measures to combat all forms of discrimination faced by persons with immigrant background. Special attention should be offered to eradicate obstacles faced in accessing the labour market and to eliminate all forms of discrimination in the housing sector, inter alia by monitoring to what extent the anti-discrimination clauses in the Tenancy Act are complied with in practice.

9. Strategy to combat hate speech

NI is concerned with increased instances of hate speech and other expressions of non-tolerance by certain individuals and groups and in isolated cases even representatives of political parties. Such expressions are disseminated through traditional and social media and are primarily directed towards minority groups living in Norway, including Sami (indigenous people), Jews, Muslims, ethnic minorities (particular with non-Western European origin), persons with disabilities, LGBT persons as well as asylum seekers. However, the most exposed targets of hate speech are Roma people traveling from Eastern Europe to Norway. The Norwegian legislation does provide criminal responsibility of hate speech. While there is a visible policy at state level to ensure effective prioritization of investigation of such incidents⁵, it appears that implementation of this policy at local level has shortcomings. Furthermore, there seems to be a lack of systematic state policy that would address the problem of hate speech in general as well as work towards increasing tolerance in Norwegian society.

¹ Statistics Norway, report 2008/5 *Levekår blant innvandrere i Norge 2005 og 2006*

² Statistics Norway, 16 May 2013. See also the white paper Meld. St. 6 (2012–2013) *En helhetlig integreringspolitikk*, figure 3.1

³ Institute for Social Research, report by Midtbøen and Rogstad 2012; *Diskrimineringsens omfang og årsaker. Etniske minoriteters tilgang til det norske arbeidslivet*

⁴ Statistics Norway, report 2008/5 *Levekår blant innvandrere i Norge 2005 og 2006*. See also the white paper Meld. St. 6 (2012–2013) *En helhetlig integreringspolitikk*, 9.2

⁵ Circular no. 1/2013 from the Director General of Public Prosecutions regarding case processing

Recommendation:

Norway should develop a comprehensive strategy to combat hate speech and intolerance directed against minority groups in Norway, including measures to effectively investigate and prosecute such offences.

Right to life, liberty and security of the person**10. Review of Norway's practice and procedures for the use of solitary confinement**

In 2012, the NI published a thematic report on the use of solitary confinement in Norwegian prisons in light of applicable human rights standards.⁶ The study focused on the use of prison-ordered solitary confinement pursuant to the *Execution of Sentences Act*. There is a broad consensus that solitary confinement can be very harmful to a person's physical and mental health, and the study was initiated as a result of repeated criticism by international and national bodies regarding the use of solitary confinement in Norway.

The report identifies several problematic features of Norwegian law and practice, including highly vague and discretionary legislative framework, findings of excessive and disproportionate use of solitary confinement in practice, lack of statistics and inadequate control and review mechanisms. Documentation shows that prisoners have been subjected to solitary confinement because of *e.g.* oversleeping, minor transgressions of prison regulations and due to resource constraints in prisons. Moreover, particularly vulnerable prisoners such as minors, persons with mental disabilities and remand prisoners are subjected to this measure. The study shows that the legislation, practice and procedural framework has attached excessive importance to prison-related considerations to the detriment of the prisoners' due process rights.

Recommendation:

Norway should, in line with the recommendation of the UN Committee against Torture, undertake a thorough review of the legislative framework, practice, as well as control and review mechanisms to limit the use of solitary confinement to exceptional circumstances only.

11. Stop the extended use of police holding cells for people in custody

The use of police custody in Norway has led to criticism from international bodies, inter alia from the European Committee for the Prevention of Torture (CPT), the HRC, the CAT and the CRC. There is no reason to place persons arrested, suspected of criminal acts, in stripped police holding cells. Exceptions should only be made if necessary for security and safety, in relation to intoxicated and uncontrollable persons. NI expresses serious concern with regard to both the extensive use of police detention cells, the lack of statistical data and the number of cases that extends the 48 hour-limit.

Recommendation:

Norway should ensure that the practice of placing arrested persons, as a general rule, in police holding cells, should be brought to an end, so that these persons are placed directly in ordinary prison cells. Alternatively, the standards of existing police holding cells should be upgraded to meet the standards of ordinary prison cells. Immediate action should be taken to ensure that the practice of exceeding the 48 hour-limit is brought to an end.

⁶ The Norwegian National Human Rights Institution Thematic report 2012, Use of solitary confinement in prison - Norwegian law and practice in a human rights perspective

12. Implement new standards for juvenile justice

Although the Norwegian government has stated that children should not be imprisoned with adults, most children are placed in ordinary prisons with adults and are, to a large extent, subject to the same conditions as adults. Norwegian authorities admit that there is need for stronger protection of the rights of juvenile offenders and adopted new regulations to improve the situation in 2012. However, these amendments have not yet entered into force. NI is concerned about the situation and what seems to be lack of will to make the practical arrangements required. And still, after years of criticism and acknowledgement of the problem, around 1000 children experience to be detained in stripped police cells each year. NI has strong concerns about the extended use of police holding cells for young offenders, including the lack of statistics on the number of children held in police custody, and the lack of consideration of the best interest of the child in these situations.

Recommendation:

Norway must ensure that juvenile justice standards are fully implemented, in particular articles 37 (b), 39 and 40 of the CRC, taking into account the CRC Committee's general comment No. 10, as well as the Beijing Rules, the Riyadh Guidelines and the Havana Rules.

13. Secure strong protection of persons deprived of their liberty

Persons deprived of their liberty are subjected to a much higher risk of being subject to ill-treatment. Over the years, Norway has received international criticism for the treatment of persons in places of detention such as police holding cells, prisons, psychiatric institutions and immigration detention centers. Norway has ratified the OPCAT, providing for a new system of preventive visits to all places of detention requiring Norway to set up an independent national monitoring body to visit all places of detention— a National Preventive Mechanism (NPM). The Parliamentary Ombudsman has been appointed as Norway's NPM as of 1. July 2013.

Recommendation:

Norway must ensure that the NPM is evaluated with indicators in accordance with the requirements of the OPCAT, included whether the NPM has sufficient resources, required expertise and functional structures for cooperation with civil society, in order to provide strengthened protection to vulnerable individuals against torture and ill-treatment.

14. Strengthen implementation of the national plan of action against domestic violence

In 2009 Norway accepted the recommendation to "Further step up the efforts and allocate sufficient funds to ensure the effective implementation of the national action plan to prevent violence against women as well as broaden the action plan to cover domestic violence". A new action plan was launched in August 2013. NI finds that thorough follow up is needed to ensure that the measures in such plans have the desired effect. Implementation of the measures will rely on allocation of sufficient funds.

Recommendation:

Norway must ensure that sufficient funds are allocated for the implementation of the national action plan against domestic violence, and that the concrete measures are followed up by an evaluation focusing on desired effects.

15. Stronger measures to prevent domestic violence, especially homicides

Among the number of murdered persons in Norway, the number murdered by their partner or ex-partner remains high. Numbers from the National Criminal Investigation Service (Kripes)

show that 71 persons were killed by their partner or ex-partner from 2003 to 2012. 62 victims were women (87 %) and nine men (13 %)⁷. In some cases also children lost their life after domestic violence. NI believes that there is a need to gain knowledge and understanding from these types of cases in order to develop effective preventive measures. In the UPR mid-term report the Government refers to the Spousal Assault Risk Assessment (SARA) project. The project has positive impact, but limited geographical coverage.

Recommendation:

Norway should establish a national commission of experts to look into serious cases of domestic violence, especially homicides, and consider whether experiences from successful local projects should be implemented in all police districts securing national coverage.

Administration of justice and the rule of law

16. Follow up of the time limit for statements from children exposed to violence or abuse

It is stated in Norwegian law that children exposed to violence or abuse shall give their statement within a time limit of 14-days. However, this time limit, determined by the Government is often violated.⁸ Numbers from 2012 show that in Oslo the average time from a case was reported to the police got a statement from the child was 123 days.⁹ Although it seems as the waiting time has been shorter in 2013, it is still very long in comparison to national legal framework. This could have serious consequences both for the child's mental condition and for the quality of the statement and its weight as evidence in court.

Recommendation:

Norway should ensure sufficient resources to make sure that children exposed to violence or abuse can give their statement within the time limit determined by Norwegian law.

17. Sanctions for municipalities in contravention of the Educational Act

The Education Act states that all children have the right to special education, if needed. The law also states that children have the right to a good psychosocial school environment. However, this falls short in practical application in many municipalities. In 2012, the Ombudsman for Children launched a report documenting that children's rights according to the Educational Act, is repeatedly violated in some municipalities, without any further consequences for the municipal educational authorities as the complaint mechanism can state a violation, but has no sanctions.¹⁰

Recommendation:

Norway should introduce sanctions for municipal educational authorities that fail to comply with the provisions of the Educational Act.

Right to work and to just and favourable conditions of work

18. Further strengthen measures for equal pay between women and men

⁷ The Equality and Anti-discrimination Ombud 2013, Gender based violence and harassment. Comprehensive statistics

⁸ Ministry of Justice and Public Security, October 2012, Report by a working group "Avhør av særlig sårbare personer i straffesaker"

⁹ The Children's House in Oslo, Annual report 2011

¹⁰ Ombudsman for children, juni 2012, Bekymringsmelding – Krenkelser i skolen

There is a documented wage gap in Norway based on gender inequality. Women have on average a wage equivalent to approximately 86 % of men's wage.¹¹ NI is aware that measures have been taken by the State, including amendments in the equality law in order to create more transparency in wages whenever discrimination is suspected. However, NI remains concerned, as also expressed by CESCR and CEDAW, by the deep horizontal segregation in the area of employment and by the persistence of a wage gap, which is increasing as the level of education rises.

Recommendation:

Norway should further strengthen its measures to ensure that women and men receive equal pay for work of equal value, and closely follow each measure to evaluate effect and impact.

Right to social security and to an adequate standard of living

19. Ensure adequate and affordable housing, especially for families with children

While most Norwegians enjoy adequate housing conditions, a substantial number of individuals may be described as disadvantaged in the housing sector. An official report estimates that 150.000 people cannot protect their interest in the housing market.¹² Furthermore, there is a persistent problem of homelessness in Norway – the most recent study found that approximately 6.250 persons are without a home.¹³ The situation is especially worrying for families with children. Numbers show that in 2012, 679 children were living homeless with their parents; which represents a 70 per cent increase from 2008. It is also estimated that around 5 per cent of the homeless are living rough or in emergency shelters.

Recommendation:

Norway should intensify its efforts to ensure affordable and adequate housing to disadvantaged persons with low income, in particular by ensuring an adequate supply of social housing units and by considering a legally enforceable right to permanent housing. Furthermore Norway should take immediate measures to ensure that emergency shelters and social housing units meet an adequate standard, especially for families with children.

Right to health

20. Ensure access to adequate healthcare for irregular/undocumented migrants

In 2011 the State party approved a regulation which limits access to necessary health services for persons without legal status in Norway.¹⁴ Even the very basic health care (except emergencies) that they are entitled to is not available in practice because no financing-scheme exists and they are being turned away from the public hospitals and health centers. Experiences have shown that health practitioners lack knowledge of the legal framework, which has proven to constitute a *de facto* barrier to access health services in some cases. Lastly, children in an irregular situation do not have access to a regular General Practitioner as other children do.

Recommendation:

Norway should reconsider their practice and ensure that irregular migrants have access to basic human rights and receive adequate health care services.

¹¹ Statistics Norway, published 20 March 2013. Numbers by September 2012

¹² Green paper 2011:15, Room for all (NOU 2011:15 Rom for alle – En sosial boligpolitikk for framtiden)

¹³ Dyb, E & K.Johannessen (2013), NIBR Report 2013:5, Homelessness in Norway 2012 – A survey

¹⁴ Regulation No. 1255 of December 16, 2011 on the Right to Health and Social Services for Persons Without Permanent Residence in Norway.

21. Strengthen local health services for children and young people

Local health services constitute low threshold programs that play a vital role in fulfilling the right to health for children and young people. Despite this, there seems to be an inadequate level of staffing in these services. An official report from 2010 shows that local health services for children and young people have a lack of 1500 positions¹⁵. The government has proposed an additional NOK 180 million to strengthen the municipal health services in the years to come, but it remains to be seen whether local authorities will allocate more funding for health services for children and young people.

Recommendation:

Norway should follow the development of the level of low threshold health services for children and young people, and evaluate whether the situation improve over the next four years.

Right to education

22. Stronger implementation of the Roma children's right to education

Only vague estimates exist for how many national minority Roma children of compulsory school age are living in Norway. Estimates vary between 50 and 150 children. In Norway, children have both a right and an obligation to compulsory education. Figures from Municipality of Oslo show that Roma children on average were absent from school 54 out of 190 days in 2012/13.¹⁶ The very high level of absenteeism among Roma children gives reason for concern. The level of absenteeism does not only affect the children's education and ability to participate in society on an equal basis with other children; it also makes it difficult for schools to identify breaches of the children's rights in other areas.

Recommendation:

Norway should introduce an action plan to ensure the right to education for Roma children.

Persons with disabilities

23. Use of coercion against persons with mental disabilities

NI is concerned about the high frequency of the use of coercion in mental health care in Norway. More than ten years ago the Norwegian Government stated that it was a goal to obtain a substantial reduction of the use of coercion in the mental health care. Nevertheless, the numbers remains high compared to other European countries. NI believes that this is a consequence of institutional practice, as well as of inadequate legal framework regulating the application of coercion. A number of authoritative reports as well as official statistics highlight the various challenges within the Norwegian mental health care system.¹⁷ The reports reveal huge differences in the use of coercion amongst mental health institutions. It is evident that some psychiatric wards use coercion in a disproportionate way. Furthermore, Norway's Mental Health Care Act of 1999 explicitly links the existence of a "serious mental illness" to criterions of danger and treatment, as legal prerequisites for forced admission and treatment in a psychiatric ward. The upholding of special legislation which singles out a particular group of

¹⁵ Directorate for Health, TNS Gallup 2010, Strategi for helsestasjon- og skolehelsetjenesten

¹⁶ Municipality of Oslo July 2013, Letter to The Ombudsman for Children

¹⁷ The Directorate of Health IS-1861, Bruk av tvang i psykisk helsevern for voksne 2009, December 2010; Bjørkly et al (2011), Innsamling og analyse av data om bruk av tvangsmidler og vedtak om skjerming, Centre for forensic psychiatry; T.Husum et al (2010), A cross-sectional prospective study of seclusion, restraint and involuntary medication in acute psychiatric wards: patient, staff and ward characteristics, BMC Health Services Research, 10:89

disabled people as particularly dangerous or in particular need of forced treatment is worrying in light of the principle of non-discrimination. In light of all this, the Government should intensify efforts to reduce the use of coercion in mental health care.

Recommendation:

Norway should take immediate steps to improve the situation in psychiatric wards with the most frequent use of coercion. Furthermore, Norway should move forward with the review of the national legislation to ensure that persons with mental disabilities have adequate legal protection against disproportionate use of coercion.

24. Minorities and indigenous peoples

Sami is the indigenous population in Norway. Teaching in schools is very important for upholding the Sami culture. However the teaching materials on the Sami population are reportedly outdated and lack a fair, accurate and informative portrayal of the societies and cultures of indigenous people as required in ILO convention 169 article 31.¹⁸ NI is, inter alia, concerned over the lack of information in school curricula on the assimilation policy towards the Sami and the movement fighting for Sami rights.¹⁹

Recommendation:

Norwegian Authorities should involve the Sami population in a process to review all teaching materials on the Sami population to make sure they are up to date and non-biased.

25. Need for efforts to protect and promote the Kven language

While measures have been taken to revitalise the Kven language, the situation is still precarious and further pro-active steps is needed to encourage its use and development.²⁰ There is a lack of qualified teachers speaking the Kven language, reportedly at all levels. Furthermore, the position of the Kven language in broadcasting and literature is limited.

Recommendation:

Norway should strengthen efforts to protect and promote the Kven language, in particular through improving the situation of the language at all appropriate levels of education.

Migrants, refugees and asylum-seekers

26. Tendency towards criminalization of activities and stay in public places for Roma

NI is deeply disturbed by the situation of the Roma-people staying temporary in Norway. NI is concerned that the current political debates have little focus on the fact that persons with Roma origin are entitled to respect for their human rights while staying in Norway, but focus almost exclusively on measures to criminalize their activities and stay in public spaces, including the

¹⁸ Lile, Hadi Khosravi 2011: FNs barnekonvensjon artikkel 29 (1) om formålet med opplæring: En retts sosiologisk studie om hva barn lærer om det samiske folk. Ph.D. Universty of Oslo and UN E/C 19/2013/8 IV.C.44, Study on the right to participation of indigenous youth in the Nordic countries in decision-making processes, Study on the right to participation of indigenous youth in the Nordic countries in decision-making processes UN E/C 19/2013/8 IV.C.44

¹⁹ See Nis Statement to the UN Human Rights Council regarding the report of the UN Special Rapporteur on Indigenous Peoples on the Situation of the Sami people in Norway, Sweden and Finland, 20 September 2011.

²⁰ See Committee of Experts of the European Charter for Regional or Minority Languages, findings and proposals for recommendations to Norway, CM (2012) 143, 25. October 2012 and Resolution CM/ResCMN (2012)11 on the implementation of the Framework Convention for the Protection of National Minorities by Norway, adopted by the Committee of Ministers 4 July 2012.

regulation or total ban on begging, and the imposition of blanket bans against sleeping outdoors in the capital, Oslo. Having said this, the central government has taken some proactive steps to accommodate the basic needs of this group through a grant scheme to ensure the provision of basic needs. However, in light of the restrictive legal steps described above, the funding appears to be insufficient. It is also unclear whether funding to alleviate basic needs will be allocated in the future.

Recommendation:

Norway should reconsider the measures to impose sanctions on begging and rough sleeping, and instead further strengthen strategies (in cooperation with affected local governments) to provide for the basic needs of the Roma-persons and to ease tensions between them and the general public.

27. The right to education for asylum-seeking children

Asylum-seeking children in Norway do not have the same right to kindergarten and upper secondary education as Norwegian children. NI is concerned about how this influences their integration into the Norwegian society, as it leaves young asylum seekers in a very disadvantaged situation in the labour market, and limit their possibilities of higher education.

Recommendation:

Norway should give asylum-seeking children the same right to kindergarten and upper secondary school as Norwegian children.

28. Best interest of the child vs. the need to regulate immigration

Over the last years the official policy to limit the number of asylum seekers coming to Norway has led to discussion about how Norwegian authorities consider the weight of the best interest of the child against the need to regulate migration. NI has, along with child rights organizations and other parts of the society, great concerns about this practice and wishes to draw the attention to the Committee on the Rights of the Child's interpretation of the best interests of the child principle in Article 3 of the CRC, stating that "Non rights-based arguments such as, those relating to general migration control, cannot override best interest considerations".

Recommendation:

Norway must ensure regulations in the area of migration which secure that practice are in line with Norway's human rights obligations under the CRC and likewise in compliance with the guidelines for European countries concerning the best interest of the child, developed by UNHCR.

29. Restricted residence permit for unaccompanied asylum-seeking minors aged 16 to 18

Due to migration control unaccompanied asylum-seeking minors between 16-18 years that are found to have no grounds for protection are given a restricted permit to stay in Norway until they reach the age of 18. In this way they can be returned to their country of origin when it is no longer required to trace their family. This practice leaves these young persons in a limbo situation that is very stressful and traumatic. NI is deeply concerned about the serious and harmful effects these temporary residence permits and uncertainties it entails, have on this vulnerable group of children.

Recommendation:

Norway should repeal the provision regarding restricted residence permits for unaccompanied asylum-seeking minors between 16-18 years.

30. Residence permit in cases of gender based violence

A person who marries a Norwegian citizen is dependent on this person for a resident permit in the country. As a general rule the spouse will not be granted a separate residence permit until the marriage has lasted for at least three years. There is a rule of exception in cases of domestic violence. However, practice is not satisfactory. The victims lack knowledge about this regulation, and if victims are in contact with welfare services the violence is often not documented well enough for use in the consideration of a resident permit. There is also a problem that the authorities responsible for granting these permits lack competence on gender based violence and the effects this has on the victims. NI is worried that this lack of ability to implement the regulation leaves persons with foreign citizenship dependent on the perpetrators, causing that many remain in violent relationships.

Recommendation:

Norway should conduct a study of the regulation of residence permits for spouses and the special regulation in situations of domestic violence to identify challenges and secure that required changes are made to protect persons exposed to violence.

31. Detention of Foreign Nationals – Trandum

Since the establishment of the Police Immigration Detention Centre at Trandum (hereafter Trandum) in 2004 it has been difficult to get access to adequate statistics concerning the length of detention and the use of coercive measures. The Government has committed to set up a new ICT system to address this lack of statistical data, originally planned to become operational in 2012. However, the NI cannot see that the situation has improved, which hampers the possibility of monitoring the conditions at Trandum in a satisfactory way. NI is particularly concerned by the fact that also children are detained. Statistics are difficult to find, but the 2011 numbers from Trandum show that 33 detainees claimed to be below 18 years.²¹

Recommendation:

Norway should, without further delay, make adequate statistics accessible regarding *inter alia* the length of detention, the use of coercive measures and the age of the detainees.

²¹ Norwegian Police, Unit for foreign nationals (Politiets utlendingsenhet), Letter to the Ombudsman for Children 13. January 2013