

Save the Children Norway
Submission to the 2nd Universal Periodic Review of Norway
19th UPR Session, April/May 2014

Submitted to the Office of the UN High Commissioner for Human Rights 16 September 2013.

Please find below an individual submission from Save the Children Norway regarding the Universal Periodic Review of Norway, scheduled for the 19th session in April/May 2014.

Save the Children Norway (referred to as SCN in the submission) is a non-governmental member organization which is party-politically and religiously neutral. Our values and work build upon the UN Convention on the Rights of the Child and the UN Declaration on Human Rights. We work both in Norway and internationally. Save the Children Norway participated in the 1st UPR of Norway through a joint submission by the child rights coalition "Forum for the Convention on the Rights of the Child". Save the Children Norway is a member of Save the Children (ECOSOC accredited).

The report is focused on priority issues and areas of competence within Save the Children Norway. The fact that a subject is not addressed in this report does not necessarily mean that the issue is not relevant to address in the human rights context in Norway. Save the Children Norway has in the preparation of this report collaborated with partners from civil society; however, this submission is from Save the Children Norway alone.

Save the Children Norway welcomes the opportunity to submit its views to the 2nd UPR of Norway. For your reference, the present number of words in the submission is 2513 (excluding footnotes and front page).

Yours Sincerely,



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Head of Domestic Program in Save the Children Norway

I. BACKGROUND AND FRAMEWORK

A. Scope of international obligations

1. The Optional Protocol to the Convention on the rights of the child on a communications procedure¹

1. Norway ratified the Convention on the Rights of the Child (UNCRC) in 1991, the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography (OPSC) in 2001 and the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (OPAC) in 2003. The UNCRC was incorporated into national law in 2003. Signing and ratifying the third optional protocol on a communications procedure (OP3 CRC) should be a logical and complementary step for the Government of Norway to show its commitment to respect, protect and fulfill the rights and obligations under the UNCRC.
2. The communications procedure will cover the full range and details of rights in the UNCRC and its two existing Optional Protocols and will contribute considerably to enhance the realization of child rights across the world. It would significantly contribute to the overall protection of children's rights and strengthen the monitoring of the Convention. The possibility of submitting complaints at the international level will encourage the State to strengthen and develop appropriate remedies at the national level.
3. **Recommendation:** the Government of Norway should sign and ratify the Optional Protocol to the UNCRC on a communications procedure by the end of 2014.

B. Constitutional and legislative framework

2. The Child Welfare Act as an individual rights Act for the child

4. Children who are subjected to neglect and/or abuse by their parents currently do not have a statutory right to assistance from the Child Welfare Services in Norwegian legislation. The Child Welfare Act of 1992 imposes a duty for the Child Welfare Services to initiate appropriate and timely assistance and services to children who particularly need help due to inadequate care situations. The Act stipulates that the best interest of the child shall be *the primary consideration* of the Child Welfare Services. However, as the Act lacks a corresponding *right* of the child to receive assistance from the Child Welfare Services this has resulted in situations where children in need of assistance and alternative care are denied this help.
5. The Child Welfare Services can dismiss a case on their own initiative, or have their assistance dismissed by parents who disagree with the manner of assistance, even if the Child Welfare Services are concerned for the child's situation. In a review carried out by

¹ The Optional Protocol to the Convention on the Rights of the Child on a communications procedure was adopted by the General Assembly of the United Nations on December 19, 2011 and opened for signature on February 28, 2012.

the Office of the Auditor General of Norway (2012), it was reported that 53 percent of cases are dismissed by local Child Welfare Services after initial investigation². Representatives from Child Welfare Services who were interviewed in the review reported that in some of the cases this was because parents disagreed with action being taken by the Services.

6. SCN considers this to be in conflict with the legal obligation of the Child Welfare Services to initiate appropriate and timely assistance to children who are in need of help, and the legal obligation to act in the best interest of the child.
7. **Recommendation:** the Government of Norway should amend the Child Welfare Act to provide children with the statutory right to timely and appropriate assistance irrespective of parental consent.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

B. Implementation of international human rights obligations

3. Efforts to combat human trafficking of children

8. In the previous UPR-examination of Norway, the Government of Norway received a number of recommendations to strengthen efforts to combat trafficking, including from Belarus to pursue efforts to counter trafficking in women and children (*no. 105.32*) and from the Philippines to continue its efforts to provide appropriate assistance to victims (*no. 106.34*).
9. In its Concluding Observations to Norway's 4th State Report to the UNCRC (2010), the Committee on the Rights of the Child expressed concern that information about child victims of trafficking is fragmentary (para. 53-54). Furthermore, the Committee gave recommendations regarding financial resources to combatting trafficking, and on developing and implementing measures to identify victims of trafficking (para. 54b and c)
10. 70 children were identified by the Coordinating Unit for Victims of Trafficking (KOM) as potential victims of trafficking in 2012³. Child trafficking in Norway is concentrated mainly on cases of sexual exploitation but there is evidence and a growing awareness that children are exposed to many different and multiple forms of exploitation⁴.

² The Office of the Auditor General of Norway (2012): *Riksrevisjonens undersøkelse om det kommunale barnevernet og broken av statlige virkemidler [The Office of the Auditor General of Norway's review of the communal Child Welfare Services and the use of state measures]* Document 3:15 (2011-2012) – own translation http://www.riksrevisjonen.no/Rapporter/Documents/2011-2012/Dokumentbase_3_15_2011_2012.pdf

³ The Coordinating Unit for Victims of Trafficking (2013): *Report from the Coordinating Unit for Victims of Trafficking 2012* https://www.politi.no/vedlegg/rapport/Vedlegg_2195.pdf

⁴ Council of the Baltic Sea States Child Centre. Expert Group for Cooperation on Children at Risk (2013): *Children trafficked for exploitation in begging and criminality: A challenge for law enforcement and child protection.* http://www.childcentre.info/public/Childtrafficking_begging_crime.pdf

11. The Government's Plan of Action against Human Trafficking 2011-2014 contains specific measures to prevent trafficking of children and significant progress has been achieved in setting up structures and measures for identification and referral of child victims of trafficking. However, the assistance to child victims of trafficking is still fragmentary and there is need for a better cooperation between the relevant and responsible actors and agencies⁵.
12. One group of children that is specifically identified as vulnerable to exploitation and trafficking is unaccompanied minors between 15 and 18 years living in reception centers under the care of the immigration authorities. In 2012, 85 unaccompanied minors aged 15 to 18 years went missing from reception centers⁶. The number has increased since 2011. We fear that the children who have disappeared may have become victims of trafficking. In its Concluding Observations to Norway's 4th State Report to the UNCRC, the Committee recommended the State Party '*make sure that children do not disappear and fall into the clutches of traffickers and exploiters*' (para. 57-j)
13. **Recommendation:** the Government of Norway should:
- Ensure that all children that are identified as victims of trafficking are placed under the care and assistance of child welfare services; and
 - Adapt the system for providing assistance to child victims of trafficking so that it is specifically tailored to their needs and includes specially-trained staff. The cooperation between relevant and responsible actors and agencies should be strengthened so that child victims of trafficking receive adequate care, taking into consideration their individual needs and best interests. This could be done by establishing a national recourse center tasked with providing advice in issues related to child victims of trafficking.

4. Violence and sexual abuse of children

14. Norway received a number of recommendations with regards to combatting violence and abuse in its previous UPR-examination (*no. 105.31 – Italy and Ghana; and no. 106.33 – Belarus*).
15. Norway has ten Children's Advocacy Centers (Statens Barnehus) that provide interdisciplinary and coordinated support for child victims of abuse. The Centers provide police/judicial examination, medical examination and psychosocial support for children.
16. The annual reports of the Centers in Oslo and Bergen⁷ and a 2012 national evaluation⁸ show that not all children who have been reported victims of violence or sexual abuse have access or are referred to the Centers. The main barriers have been the physical

⁵ Group of Experts on Action against Trafficking in Human Beings (2013): *Report Concerning the Implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Norway – First Evaluation Round*. Council of Europe

http://www.coe.int/t/dghl/monitoring/trafficking/docs/Reports/GRETA_2013_5_FGR_NOR_with_cmnts_en.pdf

⁶ PRESS - Save the Children Youth Norway (2013): *Savnet – En rapport om asylsøkende barns om forsvinner fra mottak* <http://www.press.no/files/Rapport-om-asylsokende-barn-som-forsvinner-fra-mottak-ferdig.pdf>

⁷ Statens Barnehus Bergen (2013): *Årsrapport 2012*; and Statens Barnehus Oslo (2013): *Årsrapport 2012*

⁸ Bakketeig, Berg, Myklebust and Stefansen (2012): *Barnehusevalueringen 2012 – Barnehusmodellenes implikasjoner for politiets arbeid med fokus på dommeravhør og rettsmedisinsk undersøkelse. Delrapport 1*. NOVA and the Norwegian Police University College (PHS), on behalf of the National Police Directorate http://www.regjeringen.no/pages/38085154/Barnehus_delrapport1.pdf

distance to the Centers and the national regulations which limit the right to judicial examination to children below the age of 16⁹.

17. Furthermore, the average time it takes from the police report to the judicial or police examination varies from 42 to 123 days, a considerable deviation from the statutory deadline which is 14 days in cases concerning sexual abuse¹⁰. It is clear that the due process of law for children needs to be strengthened. It is worth to note that, according to the Center's own reports, the reason for the delays was not due to a lack of capacity at the Centers, but was perceived to be due to the resource situation in the police districts and lack of capacity at the local courts.

18. **Recommendation:** the Government of Norway should:

- Urgently ensure that the services of the Child Advocacy Centers are available and accessible to all children up to the age of 18; and
- Allocate more resources to the police districts and ensure that sufficient effective procedures are in place to strengthen the due process of law for child victims of violence or sexual abuse, in line with the Committee on the Rights of the Child's Concluding Observations to Norway in 2010 (para. 52e)

5. Strengthened family income support to reduce and prevent child poverty and social exclusion

19. The past ten to fifteen years, the proportion of the population living in continuous poverty remained stable, while the proportion of poor children has increased significantly^{11,12}. In the past years, many people have experienced an increase in personal wealth and living conditions, but children living in families with a low economic status have not benefitted proportionally from these developments.

20. Norway has a decentralized decision-making system and the range of services and supports varies from municipality to municipality. The amount of support that families with children receive varies significantly according to where in Norway they live. E.g. in some municipalities the child benefits and the child's own income is included in the family's total income, which can lead to the family receiving less support from the municipality. Furthermore, social security benefits such as sickness- and disability benefits have unequal additional child allowance depending on where you live. In its concluding observations to Norway's 4th State Report (2010), the Committee on the Rights of the Child urged *'the State party to ensure that poor families get adequate assistance independent of where they are living in Norway'* (para. 47)

⁹ FOR 1998-10-02 nr 925: Forskrift om dommeravhør og observasjon [FOR 1998-10-02 nr 925: Regulation on Judicial examination and Observation]: §1 – Når avhør skal foretas [§1 – When examination shall take place] – own translation <http://www.lovdatab.no/for/sf/jd/xd-19981002-0925.html#1>

¹⁰ Ibid, § 4 – Tidspunktet for avhøret [§4 – the timing of the interrogation] – own translation

¹¹ Continuous (3 year) poverty defined as income below 60% of the national median income (EU definition). 7,7% of the general population (excl. students) lived on an income below the poverty line in 2009-2011, compared to 8,1 % in 1997-1999. For children, the percentage was 7,6 % in 2009-2011, compared to 4 % in 1997-1999.

¹² Kirkeberg et al (2012): *Økonomi og levekår for ulike lavinntektsgrupper 2011*. Statistics Norway. http://www.ssb.no/a/publikasjoner/pdf/rapp_201208/rapp_201208.pdf table 4.13. (2009-2011 statistics can be found here: <http://www.ssb.no/inntekt-og-forbruk/statistikker/inntind>)

21. A universal and non-stigmatizing measure such as the Child benefit has proven to be an important factor to ensure social mobility and cohesion in society, but it is today very low as it has not been adjusted for inflation for the last 17 years. Social benefit rates for families, including both universal measures as the Child benefit and additional child allowances, must be strengthened and equal for all families with children in Norway.
22. **Recommendation:** The Government of Norway should:
- Ensure that social benefit rates for families, including universal measures such as the Child benefit and additional child allowances, are strengthened and equal for all families with children in Norway; and
 - Ensure a universal minimum standard for family income support that is above the national poverty line.

6. Asylum-seeking children and best interest considerations

23. In the Norwegian Immigration Act, provisions related to immigration control and clear and specific. There is currently no regulation that provides the immigration authorities with a common understanding as to which aspects should be considered when determining the best interest of the child, or how it should be weighed against other (primary) considerations in cases of conflict. This creates an unnecessary uncertainty and confusion related to which assessments and factors are deemed relevant in assessments of the best interests of the child, and ultimately result in decisions that are not based on the UNCRC.
24. To ensure that the immigration authorities conduct a thorough assessment of and give due considerations to the best interest of the individual child, there is need for a provision to the regulations that govern *how* the interests of the child shall be considered in immigration matters, and *what weight* should be given to these considerations. In its Concluding Observations to Norway's 4th State Report, the Committee on the Rights of the Child recommended that "*practicable directions for how to operationalize the principle*" should be elaborated (para. 23)¹³.
25. In the previous UPR-examination of Norway, Argentina recommended that Norway '*take measures to guarantee proper and genuine analysis of each refugee petition on a case-by-case basis*' (no. 105.38).
26. **Recommendation:** The Government of Norway should adopt a regulation governing how Norwegian Immigration authorities interpret the best interests of the child in immigration matters, in line with the Committee on the Rights of the Child's General Comment No. 14¹⁴.

7. Equal treatment of asylum-seeking children in the right and access to kindergarten and secondary education

27. In 2009 the Kindergarten Act was amended and all children in Norway (from the age of 1) were given a right to attend kindergarten¹⁵. Children living in Norwegian reception

¹³ The Committee on the Rights of the Child (2010): *Concluding Observations: Norway*. CRC/C/NOR/CO/4 29 January 2010, para. 23.

¹⁴ The Committee on the Rights of the Child: *General Comment No.14 on the right of the child to have his or her best interests taken as a primary consideration (art. 3, para. 1)*. CRC/C/GC/14, 29 May 2013

¹⁵ Barnehageloven [The Kindergarten Act] <http://www.lovdatab.no/all/tl-20050617-064-004.html#>

centers, irrespective of their immigrant status, have not been afforded the same right. Two government-appointed committees have in two separate green papers recommended that the Government extend the right to attend kindergarten to *all* children¹⁶. The government initiated a process to do so in 2009, but this initiative has not been followed up. In its concluding observations to Norway in 2010, the Committee on the Rights of the Child encouraged Norway to ‘*provide places in good quality kindergartens for all children, particularly immigrant and other children in need of early educational support*’ (para. 49).

28. According to the UNCRC article 28, secondary education shall be available and accessible for every child. Asylum-seeking children aged 16 and up do not have the right to secondary education¹⁷. It is currently up to each county administration to allow their enrollment in secondary education, which leads to geographical disparities in these children’s right to secondary education. In its 2011-green paper *I velferdsstatens venterom*, the government-appointed Berge Committee recommended that the Government extends the right to secondary education to include asylum-seeking children¹⁸.
29. Norway received a number of recommendations to strengthen and support efforts to ensure the right and access to education for migrants (*no. 106.21 – Uzbekistan; and no. 106.28 – Bangladesh, Canada, Russian Federation, Japan and Ghana*). Furthermore, recommendations related to integration efforts were given from the Netherlands (*no. 105.19*) and the United Kingdom (*no. 105.20*)
30. **Recommendation:** The Government of Norway should ensure equal right and access to kindergarten and secondary education to all children in Norway, including asylum-seeking children

8. Discrimination of unaccompanied asylum-seeking children and care services

31. In December 2007, the Norwegian Parliament voted to include a chapter to the Child Welfare Act which ensures that the Child Welfare Services assumed responsibility for the care of unaccompanied asylum-seeking children below the age of 15¹⁹. Unaccompanied asylum-seeking children between the ages of 15 and 18 are subject to discrimination in so far as they are not given the same access to care provided by the Child Welfare Services pursuant to the Child Welfare Act as other children, nor do the standards in reception centers meet the norms in the Child Welfare Services²⁰. Despite repeated concern voiced by civil society²¹ and the Committee on the Rights of the Child in its Concluding Observations to the 3rd (2005) and 4th (2010) state reports of Norway²², the responsibility

¹⁶ The Berge Committee (2011): *NOU 2011: 10 – I velferdsstatens venterom – Mottakstilbudet for asylsøkere*; and The Østberg Committee (2010): *NOU 2010: 7 - Mangfold og mestring*

¹⁷ Unntaksbestemmelse i Opplæringslova [*exemption clause in the Education Act*]

¹⁸ The Berge Committee (2011): *NOU 2011: 10 – I velferdsstatens venterom – Mottakstilbudet for asylsøkere*

¹⁹ The Child Welfare Services Act, Chapter 5A (Omsorgssentre for mindreårige) §5A-1

²⁰ Liden, H. et.al (2013): *Levekår i mottak for enslige mindreårige asylsøkere*. Institutt for Samfunnsforskning

²¹ Ombudsman for Children (2009): *Supplementary Report to the Committee on the Rights of the Child*; and Norwegian Forum for the Convention on the Rights of the Child (2009): *Supplementary Report to the Committee on the Rights of the Child*. Both reports were submitted to the Committee on the Rights of the Child’s review of Norway.

²² The Committee on the Rights of the Child’s Concluding Observations: Norway. 2010 CRC/C/NOR/CO/4), para. 51-52e; and 2005 (CRC/C/15/Add.263) para. 41-42

for the care of these children still rests with the immigration authorities. In its concluding observations in 2010, the Committee on the Rights of the Child recommended that the government go through with the planned expansion of the Child Welfare Services responsibility to asylum-seeking children aged 15, 16 and 17 (para. 52e). The government has not yet amended the Act, nor has it made available the required resources to change this discriminatory practice in norms and standards.

32. **Recommendation:** The Government of Norway should revise the Child Welfare Act to ensure that children without parental care in Norway, including unaccompanied asylum-seeking children aged 15-18, have equal right and access to the care provided by the Child Welfare Services, and allocate sufficient resources to the Child Welfare Services.