

## **Submission by the United Nations High Commissioner for Refugees**

### **For the Office of the High Commissioner for Human Rights' Compilation Report –**

#### **Universal Periodic Review:**

### **NORWAY**

#### **I. BACKGROUND INFORMATION**

Norway ratified the *1951 Convention relating to the Status of Refugees (1951 Convention)* on 23 March 1953, and acceded to its *1967 Protocol* on 28 November 1967. Norway also ratified the *1954 Convention Relating to the Status of Stateless Persons (1954 Convention)* on 19 November 1956, and acceded to the *1961 Convention on the Reduction of Statelessness (1961 Convention)* on 11 August 1971.

The Government of Norway is not formally bound by EU law, because it is not a member of the EU. However, Norway continues to seek harmonization of its national legislation with the EU *acquis* on asylum. Norway fully cooperates with the EU and its Member States through its participation in the Schengen Agreement (since 2001) and the Dublin II Regulation (since 2003). The current Immigration Act, which came into force on 1 January 2010, aligns the national legislation with, in particular, the Asylum Procedures Directive (2005/85/EC) and the Qualification Directive (2004/83/EC). The Return Directive (2008/115/EC) was also implemented in Norwegian law on 24 December 2010.

Norway has an advanced and well-established asylum system in place. Domestic legal provisions are primarily to be found in the Immigration Act and in the Immigration Regulation.<sup>1</sup>

#### **II. ACHIEVEMENTS AND BEST PRACTICES**

##### ***1. Access to territory and asylum procedures***

The number of persons who have sought asylum in Norway has fluctuated over the past 10 years. The arrivals have reflected the situation on the ground in various regions resulting in a

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<sup>1</sup> *Act Of 15 May 2008 On the entry of foreign nationals into the kingdom of Norway and their stay in the realm (Immigration Act)*, available at: [http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration\\_Act.pdf](http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration_Act.pdf)  
*Regulations of 15 October 2009 On the entry of foreign nationals into the kingdom of Norway and their stay in the realm (Immigration Regulations)*, available at: [http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration\\_Regulation.pdf](http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration_Regulation.pdf)

relatively high number of arrivals from countries such as Afghanistan, Somalia and Iraq. In 2009, Norway saw the highest number of arrivals to the country since the Balkan wars.

Since 2009, when Norway received 17,226 asylum-seekers, the numbers dropped to 10,064 in 2010. This significant reduction has been partly attributed to restrictive measures introduced by the Ministry for Labour and Social Inclusion in September 2008,<sup>2</sup> as well as changes in countries of origin and/or other countries of reception and transit, shifting international trends and new co-operative efforts within EU/Schengen.<sup>3</sup>

In 2012, Norway received 9,785 applications for asylum, which was a small increase from the previous year. The top three countries of origin for asylum applications were Somalia (2,181), Eritrea (1,183) and Afghanistan (986).

The Government of Norway has been flexible in finding solutions for those arriving, depending on the profile of the individuals and groups and their specific needs.

## **2. Halt of returns to Greece under the Dublin II Regulation**

In October 2010, the Ministry of Justice and Public Security instructed the Directorate of Immigration (UDI) to process on their merit, cases for which Greece is the responsible Dublin State and to halt, until further notice, all returns to Greece under the Dublin II Regulation. This was in line with the ruling by the European Court of Human Rights (ECHR) in the *M.S.S. v. Belgium and Greece* case.<sup>4</sup> This practice still applies.<sup>5</sup>

## **3. Resettlement of refugees**

Norway has continued to be a reliable and key resettlement country, which closely cooperates with UNHCR in the selection and reception of refugees under its annual quota. The size of the annual quota is set by the Parliament following proposals made by the Ministry of Justice and Public Security, which in turn, allocates the quota taking into account the advice of UNHCR and Norwegian Government agencies, notably the Ministry of Foreign Affairs, the Norwegian Directorate of Immigration, the Ministry of Children, Equality and Social Inclusion, and the Directorate of Integration and Diversity.

In the previous period (2009-2012) the annual quota was set at 1,200. In response to the Libyan crises in 2011, Norway replied to UNHCR's appeal for resettlement and offered an additional 250 places for 2011.<sup>6</sup>

## **4. Unaccompanied children seeking asylum**

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<sup>2</sup> News article in the newspaper "Aftenposten", available at: <http://www.aftenposten.no/nyheter/iriks/article3162306.ece#Ud-eKKz31QU>

<sup>3</sup> IMO Report for Norway: "International Migration 2011-2012", available at: [http://www.regjeringen.no/upload/AD/publikasjoner/rapporter/2013/IMO\\_report\\_2011\\_2012\\_final.pdf](http://www.regjeringen.no/upload/AD/publikasjoner/rapporter/2013/IMO_report_2011_2012_final.pdf)

<sup>4</sup> *M.S.S. v. Belgium and Greece*, Application No. 30696/09, Council of Europe: European Court of Human Rights, 21 January 2011, available at: <http://www.refworld.org/docid/4d39bc7f2.html>

<sup>5</sup> IMO Report for Norway: "International Migration 2011-2012", page 22, available at: [http://www.regjeringen.no/upload/AD/publikasjoner/rapporter/2013/IMO\\_report\\_2011\\_2012\\_final.pdf](http://www.regjeringen.no/upload/AD/publikasjoner/rapporter/2013/IMO_report_2011_2012_final.pdf)

<sup>6</sup> For 2012, the resettlement quota has been allocated to 200 Afghan women-at-risk in Iran, 200 Eritreans in Sudan, 150 Somalis in Kenya, 150 Iranians in Turkey and 150 Burmese refugees in Malaysia. In addition, there are 175 unallocated places, 75 emergency places for a fast track procedure and 20 places for refugees with medical needs. Women and girls are given priority within the overall quota, and the target is that at least 60 per cent of total number of resettled refugees should be women.<sup>6</sup>

Unaccompanied children in the asylum procedure are a particularly vulnerable group, placed high on the political agenda and regularly featured in public debate. Concerning Norway's Report of the Working Group on the Universal Periodic Review,<sup>7</sup> UNHCR welcomed the steps taken by the Government of Norway to strengthen the legal status of unaccompanied minor asylum-seekers, through the introduction of a new guardianship system. The new system is set out in Chapter 11A of the Immigration Act, and came into effect on 1 July 2013. The new system, as set out in the legislation, strengthens the legal position of unaccompanied children by clarifying the roles and responsibilities of guardians and by providing for a more consistent practice in their recruitment, training and supervision.

### III. KEY PROTECTION ISSUES, CHALLENGES AND RECOMMENDATIONS

#### Issue 1: Accommodation and settlement of refugees

A number of practical challenges remain in regard to the accommodation of asylum-seekers. Since December 2012, 105 reception centres remain operational around the country. Even though the number of arrivals has decreased since 2009, the reception capacity remains stretched, partly because many recognized refugees have been compelled to remain for prolonged periods in reception centres due to insufficient placements in municipalities. Also, the number of rejected asylum-seekers remaining for prolonged periods in reception centres pending return to their countries of origin has increased. In effect, it has been difficult to ensure accommodation in a timely manner for new asylum-seekers at the reception centres.

Furthermore, the lack of specialized facilities for unaccompanied children between the ages of 15 and 18 has proven to be a particular challenge. For instance, many of these children were reported to have experienced physical and psychological distress from their experience at the reception centres.<sup>8</sup> In February 2011, the Committee on the Elimination of Racial Discrimination (CERD) raised concerns over conditions in reception centres, especially, for children aged 16-18.<sup>9</sup> The Committee recommended that the State party provide the necessary mental and psychological health services by specially trained qualified staff.<sup>10</sup> The Committee also recommended that Norway "*take all measures necessary to ensure special protection for unaccompanied asylum-seeking children, including health-care services, education and care by competent guardians, in conformity with Norway's international legal obligations.*"<sup>11</sup>

Moreover, disappearance of children from reception centres remains a concern. According to a study conducted by Save the Children's youth organization, 237 children were reportedly

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<sup>7</sup> "18. The Government was working on legal amendments and has recently increased funds to ensure the recruitment of a sufficient number of competent legal guardians for unaccompanied asylum seeking children." A/HRC/13/5/Add.1, 4 January 2010, available at: [http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.5.Add.1\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/13session/A.HRC.13.5.Add.1_en.pdf)

<sup>8</sup> ISF Report (2013.003): "Levekår på mottak for enslige mindreårige asylsøkere", available at: <http://www.samfunnsforskning.no/Prosjekter/Avsluttede-prosjekter/Levekaar-paa-mottak-for-enslige-mindrearige-asylsoekere#sthash.4c1CKdMq.dpuf>

<sup>9</sup> Committee on the Elimination of Racial Discrimination, 8 April 2011, Concluding observations, CERD/C/NOR/CO/19-20, paragraph 13, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fNOR%2fCO%2f19-20&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fNOR%2fCO%2f19-20&Lang=en)

<sup>10</sup> Ibid.

<sup>11</sup> Ibid, at paragraph 13.

missing between 2008 and 2012, most of them between the ages of 15 and 18.<sup>12</sup> Even though measures have been taken to improve reporting and strengthening of competencies, gaps still remain. In 2011, the Government of Norway initiated a study on the reception system and concluded that the facilities and measures concerning this group needed to be strengthened.<sup>13</sup>

In 2012, the Committee against Torture recommended that Norway “*should strengthen its efforts to prevent minors from going missing from asylum centres by allocating sufficient resources to the immigration authorities to prevent and investigate every case of missing minors.*”<sup>14</sup>

### **Recommendations:**

UNHCR recommends that the Government of Norway:

- Ensure that resettled refugees and other beneficiaries of international protection are provided municipality placement in a timely manner;
- Take further steps to ensure that reception policies and programs are age, gender and diversity-sensitive and support participation and empowerment of the asylum-seekers, including children between the ages of 15 and 18;
- Bring the conditions in reception and special return centres, and in reception centres for children, in line with relevant international human rights standards and provide the necessary mental and psychological health services by specially trained qualified staff; and
- Strengthen efforts to prevent minors from going missing from reception centres through enhanced measures to quickly identify and ensure protection of children being trafficked or at risk of becoming trafficked and by allocating sufficient resources to investigate and prosecute cases of trafficking.

### **Issue 2: Racism, racial discrimination, xenophobia and related intolerance**

Immigration and asylum issues have remained high on the political agenda, as well as in the public debate. Large parts of the public opinion continue to be critical towards immigrants and foreigners.<sup>15</sup> In the aftermath of the terrorist attack on 22 July 2011, when Anders Behring Breivik, a Norwegian national, killed 8 persons by setting of a car bomb outside the Government building in the centre of Oslo, and killing 69 at the Labour-party youth camp at Utöya,<sup>16</sup> the debate regarding immigration, Muslims and identity intensified. Amongst other things, the connection between “hate speech” and violent actions was strongly debated.

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<sup>12</sup> PRESS Report(2013):"Savnet - en rapport om enslige asylsøkende barn som forsvinner fra mottak",available at: <http://www.press.no/files/Rapport-om-asylsokende-barn-som-forsvinner-fra-mottak-ferdig.pdf>

<sup>13</sup>NOU 2011: “I velferdsstatens ventrom; Mottakstilbudet for asylsøkere”,available at: <http://www.regjeringen.no/nb/dep/jd/dok/nouer/2011/nou-2011-10/4.html?id=645254>

<sup>14</sup> Committee on Torture, 49<sup>th</sup> session, 13 December 2012, Concluding observations, paragraph 22: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fNOR%2fCO%2f6-7&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CAT%2fC%2fNOR%2fCO%2f6-7&Lang=en),

<sup>15</sup> Council of Europe: European Commission Against Racism and Intolerance (ECRI), *ECRI Conclusions on the Implementation of the Recommendations in Respect of Norway Subject to Interim Follow-up : Adopted on 9 December 2011*, 21 February 2012, CRI(2012)9, available at: <http://www.refworld.org/docid/513da9982.html>

<sup>16</sup> Annual Policy Report 2011, Report to the European Migration Network from the Norwegian Contact Point, section 3.2, available at: <http://www.udi.no/Global/UPLOAD/Publikasjoner/FOU/EMN%20Annual%20Policy%20Report%202011%20-%20Norway.pdf>

Shortly after the attacks, statistical polls showed an increase in positive attitudes towards immigrants. However, this initial favorable response seems to have later leveled off.<sup>17</sup>

In 2013, which is an election year, there continues to be a heated public debate around asylum and immigration issues with increasingly xenophobic tendencies. The main proponent for more restrictive immigration and asylum policies - the opposition Progress Party - continues to challenge the other parties, by addressing the negative effects of immigration and restrictive measures. The Government coalition argued that it has tightened the asylum policies to its limits, and further constricting would risk a breach of Norway's international obligations.<sup>18</sup> Asylum and immigration are expected to be critical issues in the forthcoming parliamentary elections.

In February-March 2011, the Committee on the Elimination of Racial Discrimination raised concerns over the *“situation of migrants, persons from a migrant background, asylum-seekers and refugees with regard to discrimination against them in terms of access to public services, housing, the labour market and health, and in particular adequate physical and mental health services for traumatized refugees and asylum-seekers.”*<sup>19</sup> It urged Norway, in respect of non-citizens, to *“consult regularly with the groups and communities concerned and take measures to address the discrimination they face, including with regard to access to public services, housing, education, the labour market and health, including the provision of specialized mental and physical health services for traumatized refugees and asylum-seekers.”*<sup>20</sup> It further invited Norway to *“consider re-opening the Psycho-Social Centre for Traumatized Refugees,”*<sup>21</sup> to *“devote more financial resources to training teachers for a multicultural educational environment;”*<sup>22</sup> and to *“take the necessary steps to ensure that persons from an immigrant background have access to positions in higher branches of government, academia and businesses.”*<sup>23</sup>

### **Recommendations:**

UNHCR recommends that the Government of Norway:

- Continue preserving asylum and integration space by strengthening governmental efforts in the prevention and fight against racism, racial discrimination, xenophobia and related intolerance;
- Ensure equal and indiscriminate access to all the basic social services, including free of charge language instruction; and
- Take appropriate measures to ensure that the origin (namely immigrant one) does not constitute an obstacle to access to highly skilled professions and where/when possible,

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<sup>17</sup> Survey on attitudes towards immigration, Statistic Norway, available at: <http://www.ssb.no/innvhold/>

<sup>18</sup> Article in the newspaper “Aftenposten”, available at: [http://www.aftenposten.no/nyheter/iriks/politikk/Faremo-Tar-avstand-fra-Frps-menneskesyn-7224710.html#.Ud\\_FE6z3IQV](http://www.aftenposten.no/nyheter/iriks/politikk/Faremo-Tar-avstand-fra-Frps-menneskesyn-7224710.html#.Ud_FE6z3IQV)

<sup>19</sup> Committee on the Elimination of Racial Discrimination, 8 April 2011, Concluding observations, CERD/C/NOR/CO/19-20, paragraph 9, available at: [http://tbinternet.ohchr.org/\\_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fNOR%2fCO%2f19-20&Lang=en](http://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fNOR%2fCO%2f19-20&Lang=en)

<sup>20</sup> Ibid.

<sup>21</sup> Ibid.

<sup>22</sup> Ibid.

<sup>23</sup> Ibid.

promote the inclusion of persons with an immigrant background, including refugees, in this sector of the labour market.

### **Issue 3: Children in the asylum procedure**

The situation of children, predominantly in families, who have been determined not to have legal grounds for asylum or stay in Norway, has been a key topic in public debate. Many of the children concerned (some 300-500 children) were born in Norway and have stayed in the country for as long as 10 years. In Norway, the Convention on the Rights of the Child (CRC) was incorporated into the Human Rights Act 1999 No. 30 and is now directly applicable and takes precedence over conflicting national statutes. Section 38 of the Norwegian Immigration Act also states that “in cases concerning children, the best interests of the child shall be a fundamental consideration”.

In June 2012, the Government presented the White Paper to the Parliament (*Stortingsmelding*) on children seeking protection (*Barn på flukt*), in response to criticism from civil society actors regarding the situation of these children. Following the presentation of the White Paper, an ongoing debate took place concerning the interpretation of Article 3 in the CRC and to what extent immigration control can override the principle of the best interests of the child.<sup>24</sup> Authorities were criticized for allowing immigration considerations to outweigh the best interests of child for those children living in Norway for many years, thus developing strong ties to the country.

A policy introduced in 2009<sup>25</sup> provides that an unaccompanied child whose claim has been rejected is allowed to remain in Norway in a reception centre until s/he turns 18 years and can be forcibly returned.<sup>26</sup> This policy has been criticized for not being in compliance with Article 3 of the CRC.<sup>27</sup> The Committee on the Rights of the Child, expressed its concern that the principle of the best interests of the child was not yet applied in immigration cases. The Committee recommended that Norway “*Ensure a primary consideration of the best interests of the child and his or her affiliation to Norway whenever decisions about the child’s future are under consideration.*”<sup>28</sup>

It is also worth noting that during the Ministerial Intergovernmental Event on Refugee and Asylum seekers (7-8 December 2011 in Geneva), Norway pledged to “*make sure that all unaccompanied minor asylum-seekers are entitled to a legal guardian to secure and promote their rights in general, and in the asylum procedure in particular;*”<sup>29</sup> to this effect, Norway

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<sup>24</sup> The authorities were criticized for having allowed immigration considerations to outweigh the best interests of children who have stayed for many years in Norway.

<sup>25</sup> Ministry of Labour, Press Release 17 April, 2009, available at: <http://www.regjeringen.no/en/dep/ad/pressesenter/pressemeldinger/2009/regjeringen-iverksetter-ytterligere-fire.html?id=555145>

<sup>26</sup> This policy was criticized for not being in compliance with Article 3 of the Convention on the Rights of the Child. Convention on the Rights of the Child, 2 September 1990, Article 3 available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>27</sup> Convention on the Rights of the Child, 2 September 1990, Article 3 available at: <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx>

<sup>28</sup> Committee on the Rights of the Child, 3 March 2010, Concluding observations, paragraph 22, available at: <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G10/410/42/PDF/G1041042.pdf?OpenElement>

<sup>29</sup> UN High Commissioner for Refugees, Ministerial Intergovernmental Event on Refugees and Stateless Persons - Pledges 2011, October 2012, page 102, available at: <http://www.refworld.org/docid/50aca6112.html>

had pledged to “introduce a new system that will better address the unaccompanied minors’ specific needs for a guardian.”<sup>30</sup>

In December 2012, the Supreme Court rejected the appeal of two asylum-seeking families with children who had developed strong ties to Norway, concluding that the Immigration Appeal Board had conducted a proper balancing.<sup>31</sup> However, following the Supreme Court rulings, no clear practice has been established in such cases.

The White Paper was discussed and endorsed by Parliament in November 2012. With the White Paper, the Government intended to make clarifications to the existing legislation. No new legislation has yet been announced; however, the Ministry of Justice and Public Security has initiated some projects, such as an independent review/evaluation of the Immigration Appeal Board’s practice in child asylum claims.

### **Recommendation:**

UNHCR recommends that the Government of Norway:

- Take further steps to integrate the best interests of the child in all stages of the asylum and migration process, from the initial meeting with the child, until a durable solution has been found; and
- Take all measures necessary to ensure special protection for unaccompanied asylum-seeking children, including health-care services, education and care by competent guardians, in conformity with Norway’s international legal obligations.

### **Issue 4: Penalization of asylum-seekers for illegal entry or stay**

UNHCR had been made aware of several cases where asylum-seekers were penalized, sentenced to jail or fined for having presented false passports/ID-documents on arrival to Norway, in contradiction with Article 31 of the *1951 Convention*. According to the Norwegian Immigration Act, an asylum-seeker is not required to present an ID-document at the time of applying for asylum.<sup>32</sup> It is, however, the duty of the applicant to assist in clarifying his/her identity to the extent that the immigration authorities require such action.<sup>33</sup>

The Norwegian General Prosecutor issued guidelines clarifying that persons seeking protection, who arrive with forged ID-documents, should be exempted from penalization.<sup>34</sup>

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<sup>30</sup> Ibid.

<sup>31</sup> Supreme court judgment, 21.12.2012, HR-2012-02398-P, available at: <http://www.domstol.no/no/Enkelt-domstol/-Norges-Hoyesterett/Avgjorelser/Avgjorelser-2012/Alle-avgjorelser-/Sporsmalet-om-gyldigheten-av-et-avslag-pa-soknad-om-asyl-og-opphold-pa-humanitart-grunnlag-for-en-iransk-familie-med-barn-som-hadde-bodd-lenge-i-Norge-uten-lovlig-opphold/>

Supreme court judgment, 21.12.2012, HR-2012-02399-P, available at: <http://www.domstol.no/no/Enkelt-domstol/-Norges-Hoyesterett/Avgjorelser/Avgjorelser-2012/Alle-avgjorelser-/Sporsmal-om-gyldigheten-av-et-avslag-pa-opphold-pa-humanitart-grunnlag-for-en-bosnisk-familie-og-som-har-en-datter-som-har-bodd-lenge-i-Norge-uten-lovlig-opphold/>

<sup>32</sup> Section 83, Act of 15 May 2008 On the Entry of Foreign Nationals into The Kingdom of Norway and their stay in the realm (Immigration Act), available at:

[http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration\\_Act.pdf](http://www.regjeringen.no/upload/JD/Vedlegg/Forskrifter/Immigration_Act.pdf)

<sup>33</sup> Ibid.

<sup>34</sup> The General Prosecutor’s letter “Retningslinjer for påtalebehandling av straffbare handlinger som avdekkes i utlendingsaker mv.”, 1 December 2008, was addressed to heads of the police departments, as well as to the Director of Public Prosecutions, available at:

Nonetheless, UNHCR has been made aware of cases where asylum-seekers using forged documents are processed as confession cases, whereby the asylum-seeker pleads guilty and is then sentenced to jail or fined.

**Recommendation:**

UNHCR recommends that the Government of Norway:

- Exempt asylum-seekers and refugees from penalization for illegal entry or stay, pursuant to Article 31 of the *1951 Convention*.

**Issue 5: Outcome of refugee claims emanating from Palestinians**

Norway does not grant automatic entitlement to the benefits of the 1951 Convention to Palestinians falling under the personal scope of article 1D who are unable to demonstrate an individualized fear of persecution to qualify for asylum in Norway, even when they are notable to re-avail themselves of UNRWA's protection or assistance for objective reasons outside their control. While in such situation UNRWA's protection or assistance is considered to have ceased and "ipso facto" entitlement to the 1951 Convention ought to be granted, they are denied access to such recognition on the one hand, and on the other cannot be returned to their habitual place of residence inside UNRWA areas of operations. Such interpretation is not in line with UNHCR's recommended approach.<sup>35</sup>

As a consequence of the current practice since mid-2009, many Palestinians seeking asylum in Norway are rejected. While the authorities claim that Palestinians can return voluntarily to Gaza and the West Bank, they have faced difficulties in implementing forced returns to these areas, which has resulted in hundreds of Palestinians remaining in limbo. As a consequence, Palestinians who should in such situation qualify for refugee status under the terms of Article 1 D of the 1951 Convention are facing difficulties in obtaining such protection.<sup>36</sup>

**Recommendation:**

UNHCR recommends that the Government of Norway:

- Apply Article 1D of the 1951 Convention in line with UNHCR's interpretation, including by ensuring that access to the 1951 Convention coverage to Palestinian refugees is not unduly delayed.

**Issue 6: Prevention and reduction of statelessness and protection of stateless persons**

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<http://www.riksadvokaten.no/no/dokumenter/retningslinjer/Nye+retningslinjer+for+straffbare+handlinger+som+avdekkes+i+utlendingssaker.9UFRvGZH.ips>

<sup>35</sup> See UN High Commissioner for Refugees, *Note on UNHCR's Interpretation of Article 1D of the 1951 Convention relating to the Status of Refugees and Article 12(1)(a) of the EU Qualification Directive in the context of Palestinian refugees seeking international protection*, May 2013, available at: <http://www.refworld.org/docid/518cb8c84.html>. According to the Note, a Palestinian falling within the personal scope of Article 1D and who is unable to return to an UNRWA area of operation, is a refugee for the purposes of Article 1D of the 1951 Convention. It is UNHCR's position that where the protection or assistance of UNRWA has ceased "for any reason" within the meaning of Article 1D, a Palestinian refugee (who falls within the personal scope of Article 1D and is eligible for UNRWA assistance), is automatically entitled to the benefits of the 1951 Refugee Convention.

<sup>36</sup> UN High Commissioner for Refugees, UNHCR's Oral Intervention at the Court of Justice of the European Union- Hearing of the case of *El Kott and Others v. Hungary* (C-364/11), 15 May 2012, paragraph 20, available <http://www.refworld.org/docid/4fbd1e112.html>



Norway, as a State party to the *1954 Convention* has an obligation to identify stateless persons within its jurisdiction and provide them appropriate treatment in accordance with the *1954 Convention*. Establishing a statelessness determination procedure is the most efficient means for States to do so, and UNHCR therefore looks forward to a dialogue with Norway, *inter alia*, on the possibility of establishing such a procedure.

UNHCR also looks forward to a dialogue on how the safeguards in the *1961 Convention*, aimed at preventing statelessness at birth and later in life, can be further implemented into national legislation and practice to prevent statelessness of children born in Norway who would otherwise be stateless.

**Recommendations:**

UNHCR recommends that the Government of Norway:

- Establish a statelessness determination procedure in line with the standards set out in the *1954 Convention*; and
- Ensure the prevention of statelessness of children by abiding by the safeguards set out in the *1961 Convention*, which should be reflected in the national law and practice.

**Human Rights Liaison Unit  
Division of International Protection  
UNHCR  
September 2013**

## Excerpts of Concluding Observations and Recommendations from UN Treaty Bodies

### Universal Periodic Review:

#### NORWAY

We would like to bring your attention to the following excerpts from UN Treaty Monitoring Bodies' Concluding Observations and Recommendations relating to issues of interest and persons of concern to UNHCR with regards to Norway.

#### I. Excerpts from UN Treaty Monitoring Bodies

##### Committee against Torture

CAT/C/NOR/CO/6-7, 49<sup>th</sup> Session

13 December 2012

##### **Positive aspects**

4. The Committee welcomes the State party's ongoing efforts to revise its legislation in order to give effect to the Committee's recommendations and to enhance the implementation of the Convention, including the adoption of:

(a) The Royal Decree of 11 April 2008, providing a comprehensive set of rules for persons staying at a detention centre, including the regulations dealing with conditions for temporary limitation of the rights and freedoms of persons kept at the detention centre, and the Immigration Act of 15 May 2008 on detention centres for foreign nationals, which includes their rights to receive visitors, to have access to health services and to associate with others;

(c) The Act of 2009 relating to Crisis Centres and the strengthening of the legal protection of victims of trafficking through the new Immigration Act of 15 May 2008 and the Immigration Regulations of 15 October 2009, entered into force on 1 January 2010.

5. The Committee also welcomes the efforts made by the State party to amend its policies, programmes and administrative measures in order to ensure greater protection of human rights and give effect to the Convention, including:

(a) The establishment of a supervisory board for the Police Immigration Detention Centre at Trandum in May 2008, with authority to ensure that the rights of foreign nationals are safeguarded at the centre;

(c) The measures taken to improve the protection of victims of trafficking, such as the new Plan of Action against Human Trafficking, launched in December 2010.

##### **Preventive detention**

9. The Committee expresses its concern regarding the system of preventive detention, in particular concerning the frequency by which it is used as well as, in some cases, its prolonged length. The Committee further notes with regret that minors between 15 and 18 years old may be subject to preventive detention (arts. 2, 11 and 16).

**The State party should revise its system of preventive detention, reducing its use to an absolute minimum. Taking into account the provisions of the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the State party should also consider abolishing the practice of subjecting young offenders to preventive detention, except in exceptional and extraordinary cases according to specific and strict criteria defined by law.**

### **Detention of foreign nationals and *non-refoulement***

15. The Committee expresses its concern regarding the use of lengthy detention for asylum seekers who enter the State party undocumented. The Committee also regrets the lack of full legal protection for persons fleeing States due to generalized violence who can neither show that they are individually at risk, nor are considered to be at risk of torture if returned, as article 2 of the Aliens Act requires an individualized risk in order for persons to qualify for subsidiary protection in the State party (arts. 3, 11 and 16).

**15. The State party should consider reducing the use and length of detention for asylum seekers who enter the State party undocumented. The State party should also consider refraining from returning foreign nationals to States in situations of internal armed conflict or generalized violence, on humanitarian grounds.**

16. The Committee regrets that the legal safeguards prescribed by law are not always guaranteed to all asylum seekers and foreign nationals pending expulsion, such as the right to information concerning their rights in a language they understand and the right to free legal aid in the case of expulsion. The Committee notes with concern the publishing of a consultation paper by the State party on the possibility to restrict further the right to free legal aid (arts. 3, 11 and 16).

**16. In order to fulfill its obligations under article 3 of the Convention, the State party should guarantee all necessary legal safeguards to ensure the rights of persons facing expulsion or return. The State party should also offer appropriate legal aid to foreigners in all expulsion cases if necessary to safeguard their rights and establish procedures to ensure that foreign nationals are informed of their rights in a language they understand.**

### **Trandum Holding Centre**

17. While welcoming with appreciation the improvement of the facilities at Trandum Holding Centre, the Committee notes the findings of the annual reports of the Supervisory Board for the Police Immigration Detention Centre at Trandum, raising remaining concerns with regard to health and the overall conditions of detention at the centre, in particular with regard to unhealthy sanitary conditions and overcrowding. Furthermore, the Committee notes with concern the increased numbers of detainees at Trandum, as well as the few cases of excessively long duration of detention (arts. 10, 11 and 16).

**17. The State party should ensure that persons are held at Trandum only according to the law and only for the duration prescribed by law. The State party should ensure that all detention conditions are in total conformity with international standards, including the United Nations Standard Minimum Rules for the Treatment of Prisoners, in particular with regard to the sanitary conditions and overcrowding.**

### **Missing minors and trafficking**

22. The Committee has received reports of NGOs raising concerns about the number of unaccompanied minors who have not returned to asylum centres in the State party, including the 68 children who were still missing from these centres on 31 August 2012. The Committee is also concerned about the provision in the Immigration Regulations (Section 8-8) which grants unaccompanied asylum-seeking minors between the ages of 16 and 18 years a temporary permit that expires at the age of 18, as this may encourage minors to leave the asylum centres before their permit expires. Furthermore, while welcoming the different measures taken to combat human trafficking such as the new Plan of Action against Human Trafficking launched by the Government in December 2010, the Committee notes with regret

that trafficking in persons still remains a problem in the State party, especially concerning girls (arts. 2 and 16).

**22. The State party should strengthen its efforts to prevent minors from going missing from asylum centres by allocating sufficient resources to the immigration authorities to prevent and investigate every case of missing minors. The police should be provided with all the necessary resources to investigate and prosecute cases of trafficking.**

#### **Data collection**

24. The Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement, security and prison personnel, as well as on the number of asylum seekers, the use and length of solitary confinement and the occurrence of trafficking and domestic and sexual violence, including means of redress (arts. 2, 11, 12, 13, 14 and 16).

**24. The State party should compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, the number of asylum seekers, the use of solitary confinement and the occurrence of trafficking and domestic and sexual violence, as well as on means of redress, including compensation and rehabilitation, provided to the victims.**

The Committee draws the attention of the State party to the recently adopted general comment No. 3(2012) on article 14 of the Convention which explains the content and scope of the obligations of States parties to provide full redress to victims of torture.

#### **Committee on the Elimination of Discrimination against Women**

CEDAW/C/NOR/CO/8, 51<sup>st</sup> Session

9 March 2012

#### **Trafficking and exploitation of prostitution**

25. While welcoming the enactment of the Government's Plan of Action against Human Trafficking 2011 - 2014 (2011), the establishment of the National Coordination Unit for Victims of Human Trafficking (KOM), and the criminalization of the purchase of sexual activity or a sexual act from adults; the Committee remains concerned that the number of victims of trafficking is constantly increasing (203 in 2007, 256 in 2008 and 292 in 2009), and that the reporting rate remains low. Notwithstanding the recent changes in the State party's au pair scheme, the Committee is also concerned at the lack of monitoring of the au pair system and insufficient protection of women and girls working as au pair, which can lead to exploitation.

**26. The Committee calls upon the State party to fully implement article 6 of the Convention, including through:**

**(a) Effective implementation of the existing legislation and the new Plan of Action against human trafficking, ensuring that perpetrators are prosecuted and punished and victims are adequately identified, protected and assisted;**

**(b) Ensuring a systematic monitoring and periodic evaluation, including the collection and analysis of data on trafficking and exploitation of women in prostitution, as well of the au pair system and to include such data in its next periodic report;**

**(c) Increasing efforts at international, regional and bilateral cooperation with countries of origin, transit and destination to prevent trafficking through information exchange and to harmonize legal procedures aiming at prosecution of traffickers;**

**(d) Taking necessary steps to ensure that trafficked women and girls have access to quality medical care, counselling, financial support, adequate housing and programmes for reintegration in the education system and labour market, as well as access to free legal services, regardless of their availability or willingness to testify against their traffickers; and**

**(e) Studying the effects of the amendment of section 202a of the Penal Code, including on the type and extent of prostitution and trafficking, as well as on social perceptions on prostitution and on the purchase of sex services, as well as on women who engage in prostitution.**

### **Health**

31. While acknowledging the increased supportive measures for Sami women regarding social and health services, the Committee is concerned that Sami women continue to face multiple discrimination, including difficulty in accessing adequate health care due also to the unavailability of adequate services for the Sami women living outside the defined Sami area. The Committee is also concerned at disturbing evidence regarding outcome of the voluntary interviews and examination offered by municipalities under the Action Plan for Combating FGM 2008-2011, which may result in further stigmatization of communities of ethnic minorities, while its success in reducing the extent of the phenomenon is unclear.

**32. The Committee calls upon the State party to:**

**(a) Ensure that all Sami women are provided with adequate social and health services, including mental health services;**

**(b) Ensure that gender perspectives are mainstreamed in all policies and programmes regarding the Sami people; and**

**(c) Re-evaluate the Action Plan for Combating FGM 2008-2011 with the view to revitalising the role of civil society in the effort to combat FGM.**

33. While noting the elaboration of a Bill “prohibiting discrimination on grounds of sexual orientation and gender identity”, which will be presented to the Parliament in 2013, and the establishment of the national LGBT Knowledge Centres in 2011, the Committee is concerned at the discrimination in the State party against lesbian, bisexual, transgender and intersex women in the provision of health care services.

**34. The Committee urges the State party to:**

**(a) Accelerate adoption of the relevant legislation mentioned above ensuring non-discrimination in the health care system; and**

**(b) Provide appropriate training to health service providers, in order to avoid abuse and mistreatment of these women.**

### **Disadvantaged groups of women**

35. The Committee is concerned about the situation of disadvantaged groups of women, including women with disabilities, women of ethnic and minority communities and migrant women, who may be more vulnerable to multiple forms of discrimination with respect to education, health, social and political participation and employment. The Committee is concerned that requirements under the national legislation, such as proof of at least three years of marriage as precondition for claiming residency by foreign women or of difficulties in social integration in the country of origin, may pose difficulties for women victims of violence to acquire or renew residency or asylum permits and may continue to prevent them from leaving abusive relationships and from seeking assistance. The Committee notes difficulties some lesbian and trans-gendered asylum seekers have faced due to narrow

construction of gender-related persecution as a relevant factor when considering asylum, as acknowledged by the State party.

**36. The Committee calls upon the State party to:**

- (a) Take effective measures to eliminate discrimination against women of ethnic and minority communities and migrant women, irrespective of country of origin, both in society at large and within their communities;**
- (b) Take proactive measures, including through the development of targeted programmes and strategies, to increase women of ethnic and minority communities' and migrant women's awareness of and access to education, health and social services, legal aid, training and employment;**
- (c) Keep under review and carefully monitor the impact of its laws and policies on women of ethnic and minority communities and on migrant women, with a view to taking remedial measures that effectively respond to the needs of these women; and**
- (d) Take specific measures to address difficulties faced by lesbian and transgendered asylum seekers.**

**Human Rights Committee**

CCPR/C/NOR/CO/6, 103<sup>rd</sup> Session

18 November 2011

**Discrimination against persons with an immigrant background**

7. While welcoming the efforts by the State party to eliminate all forms of discrimination in the granting of housing subsidies, the Committee is concerned at reports that persons with immigrant backgrounds experience discrimination and negative stereotypes in the housing sector. The Committee is also concerned at reports of discrimination in employment experienced by persons with immigrant backgrounds (arts. 2 and 26).

**7. The State party should take measures to eliminate all forms of discrimination in the housing sector and take measure to challenge negative stereotypes and prejudices that landlords and property owners might have against renting accommodation to those with an immigrant background. The State party should also intensify its efforts to combat discrimination against persons with immigrant backgrounds in employment matters.**

**Committee on the Elimination of Racial Discrimination**

CERD/C/NOR/CO/19-20, 78<sup>th</sup> Session

11 March 2011

**Discrimination against those with a migrant background**

9. The Committee is concerned by the situation of migrants, persons from a migrant background, asylum-seekers and refugees with regard to discrimination against them in terms of access to public services, housing, the labour market and health, and in particular adequate physical and mental health services for traumatized refugees and asylum-seekers. The Committee is also concerned at the dropout rate of students from an immigrant background, including from upper secondary education. (arts. 4, 5 and 6)

**9. In light of its general recommendation 30 (2004) on non-citizens, the Committee urges the State party to consult regularly with the groups and communities concerned and take measures to address the discrimination they face, including with regard to access to public services, housing, education, the labour market and health, including the provision of specialized mental and physical health services for traumatized refugees**

and asylum-seekers. **The Committee invites the State party to consider reopening the Psycho-Social Centre for Traumatized Refugees. The Committee also recommends that the State party devote more financial resources to training teachers for a multicultural educational environment. The State party should also take the necessary steps to ensure that persons from an immigrant background have access to positions in higher branches of government, academia and businesses.**

#### **Minority groups**

10. The Committee is concerned at the lack of qualified and professional interpreters, especially in the medical and legal fields, for Sami and in particular languages spoken by members of minority groups and non-citizens. The Committee is also concerned about ethical issues arising with regard to interpretation, including the reported use of minors as interpreters for their parents and the reported use of family members as interpreters for those whom they have abused. (arts. 2, 5 and 6)

**10. The Committee urges the State party to improve the availability, accessibility and quality of professional interpretation services, especially in the medical and judicial fields, including by earmarking budget funds to accommodate multiple languages. The Committee recommends that legislation be enacted on the right to professional interpretation regarding public services and prohibiting the use of minors and relatives as interpreters. The Committee also recommends that public service professionals receive information and guidance on how to hire and work with qualified interpreters.**

#### **Language instruction**

11. While noting the importance of adequate command of the State language as a vehicle for social integration and participation, the Committee is concerned that the requirement in the Norwegian Nationality Act that the applicant between the age of 18 and 55 has completed 300 hours of Norwegian language lessons may be a barrier for access to citizenship and naturalization for certain groups. The Committee is concerned at the dropout rate from the mandatory language instruction; that it is not of uniform quality and free of charge for all; that the introduction programme lapses after three years; that it depends on the person's basis for residence and can be lost if the person moves to another municipality. (arts. 2 and 5)

**11. Recalling its general recommendation 30 (2004), the Committee urges the State party to take appropriate measures to ensure that the free of charge language instruction programme is available to everyone who wants it and that its pedagogic methods and content are adapted to the gender, educational and national background. In order to reduce the dropout rate and ensure that the programme is not a barrier for citizenship and naturalization, the Committee recommends that the State party monitor its implementation more closely to determine whether it is of uniform quality, is adapted to certain groups in terms of gender and origin, and that eligibility is not lost when changing residence.**

#### **Asylum-seeking children**

12. The Committee takes note of the stricter rules under the new Immigration Act which entered into force on 1 January 2010, in particular with regard to asylum seekers. It is especially concerned with the situation of unaccompanied asylum-seeking children aged 15 to 18 who live in reception centres, are given a temporary residence permit until the age of 18 and are subsequently liable to removal by force or to voluntary return. The Committee is also concerned with the access of this category of children to health services, education and qualified guardians. (arts 2, 5 and 6)

**12. In light of its general recommendation 30 (2004), the Committee recommends that the State party take all the necessary measures to address the situation of asylum-seekers in a humane manner and in accordance with the law. It recommends that the State party take all measures necessary to ensure special protection for unaccompanied asylum-seeking children, including health care services, education and care by competent guardians, in conformity with Norway's international legal obligations. It also recommends that these children are settled in local communities, outside reception centres, as rapidly as possible and enabled to study beyond primary education.**

#### **Conditions in reception centres**

13. The Committee is concerned with conditions prevailing in reception centres and special return centres for asylum-seekers and rejected asylum-seekers, as well as with conditions in the Trandum detention centre as regards asylum seekers or rejected asylum-seekers if conditions for detaining them have been fulfilled. It is also concerned by conditions in the reception centres for children aged 16-18, including those affecting their physical and mental health. The Committee is also concerned with the proposed lowering of the threshold for imprisonment and the duration of provisional detention of persons whose identity is being verified. (arts. 2, 5 and 6)

**13. The Committee, recalling its general recommendations 30 (2004) on noncitizens and 31 (2005) on the prevention of racial discrimination in the administration and functioning of the criminal justice system, recommends that the State party bring the conditions in reception and special return centres, and in reception centres for children, in line with relevant international human rights standards. It recommends that the State party provide the necessary mental and psychological health services by specially trained qualified staff.**

#### **Discrimination against women with an ethnic/immigrant background**

16. The Committee is concerned at the double or triple discrimination against women from certain ethnic minority or immigrant backgrounds, in particular those who are victims of violence and/or human trafficking. It also expresses its concern at the cessation of earmarked government grants to crisis centres after the entry into force of the Crisis Centre Act, the majority of whose occupants are women from this type of backgrounds. The Committee is also concerned at the lack of adequate knowledge and specific competences of crisis centre staff and the difficulties encountered in finding alternative housing for persons who leave the centres. (arts. 2, 5 and 6)

**16. Recalling its general recommendations 25 (2000), 29 (2002) and 30 (2004), the Committee recommends that the State party monitor and assess the effectiveness of care provided and financed by municipalities after the cessation of earmarked government grants to crisis centres. It urges the State party to ensure that crisis centres under the new arrangement have professional staff with adequate knowledge and specific competences to work with persons from ethnic minority or immigrant backgrounds, in particular those who are victims of violence and/or human trafficking. It also recommends that all efforts be made to find adequate housing for those leaving the centres, away from persons by whom they were abused.**

#### **Indigenous peoples**

17. The Committee is concerned about the effects on indigenous peoples and other ethnic groups in territories outside Norway, including impact on their way of life and on the



environment, of the activities by transnational corporations domiciled in the territory and/or under the jurisdiction of Norway. (arts. 2, 5 and 6)

**17. In light of its general recommendation 23 (1997) on the rights of indigenous peoples, the Committee recommends that the State party take appropriate legislative or administrative measures to ensure that the activities of transnational corporations domiciled in the territory and/or under the jurisdiction of Norway do not have a negative impact on the enjoyment of rights of indigenous peoples and other ethnic groups, in territories outside Norway. In particular, the State party should explore ways to hold transnational corporations domiciled in the territory and/or under the jurisdiction of Norway accountable for any adverse impacts on the rights of indigenous peoples and other ethnic groups, in conformity with the principles of social responsibility and the ethics code of corporations.**

### **Roma people**

20. The Committee expresses its concern with regard to the Roma and Romani/Tater communities and in particular their access to public places, housing, employment and the measures taken to integrate children from Roma communities, especially from travelling families, into the educational system in accordance with their way of living. (arts. 2, 5 and 6)

**20. In light of its general recommendation 27 (2000) on discrimination against Roma, the Committee recommends that the State party take active measures to prevent discrimination against the Roma and Romani/Tater communities, in particular regarding their access to public places, housing and employment, and allocate additional resources to find appropriate solutions for integrating children from Roma and Romani communities, especially those from travelling families, into the educational system, to ensure that they benefit fully from all levels of the system, taking into account the community's lifestyle and including enhanced teaching provision in their language.**

### **Committee on the Rights of the Child**

CRC/C/NOR/CO/4, 53<sup>rd</sup> Session

29 January 2010

### **Follow-up measures and progress achieved by the State party**

3. The Committee notes with appreciation the adoption of:

(d) the new Immigration Act (15 May 2008);

(e) the Act on Prohibition of Discrimination based on ethnicity, religion, etc. (January 2006);

4. The Committee welcomes the ratification by the State Party of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime in September 2003.

### **Non-discrimination**

19. The Committee welcomes the entry into force in January 2006 of the Anti-discrimination Act and the establishment also in 2006 of an Equality and Anti-Discrimination Ombud, an Equality and Anti-Discrimination Tribunal and the adoption of an Action Plan to Promote Equality and Prevent Ethnic Discrimination. The Committee takes note of the ongoing debate as to whether age discrimination of children should be included in the law and whether children should be given the right to file complaints if they are discriminated against due to their age. However, it is concerned at information, including from children, that minority and indigenous children feel stigmatized and maltreated,

including by other children, and that children with disabilities complain that their rights are not respected.

**20. The Committee urges the State party to take all necessary steps to combat discrimination against children from minority groups, indigenous children and children with disabilities and to familiarize children from an early age with the right of every child to be protected against discrimination. The Committee also recommends that the State party carefully examine the possibility of expanding legislation to provide protection of children against discrimination on the grounds of their age.**

**21. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance as well as the outcome document adopted at the 2009 Durban Review Conference, taking into account general comment No.1 (CRC/GC/2001/1) on the aims of education.**

### **Best Interests of the Child**

22. The Committee recognizes that the best interests of the child are stressed as a guiding principle in the case treatment regulations of 2004 and the amendments to the Children Act of 2006, both referring to protection of children in custody cases, as well as in the new immigration Act of 2008 which regulates the decision making process in children's asylum and residence on humanitarian grounds applications. The Committee is nevertheless concerned that the principle of primary consideration of the best interests of the child is not yet applied in all areas affecting children, such as child custody cases and immigration cases, and that those responsible for taking the child's best interest into account are not always sufficiently trained to conduct a thorough case-by-case assessment of the best interests of the affected child.

**23. The Committee recommends that the State party continue and strengthen its efforts to ensure that the general principle of the best interests of the child is appropriately integrated in all legal provisions as well as in judicial and administrative decision-making procedures, including those related to family and alternative care issues and immigration cases, and in all projects, programmes, and services that have an impact on children. The Committee also recommends that the State party elaborates practicable directions for how to operationalize the principle and train all those involved in the determination of best interests of a child or children.**

### **Education, including vocational training and guidance**

48. The Committee takes note of the State party's policy to achieve young children's full attendance of a kindergarten of high quality, but is concerned that children with immigrant backgrounds are underrepresented despite an earmarked grant for the inclusion of newly arrived young refugee children. The Committee is further concerned that a number of municipalities do not follow the new curricula in basic Norwegian and mother tongue, which has a negative impact on the whole school career of children. The dropout rate of children, including from the majority population and from both academic and vocational secondary schools, is a further concern to the Committee. The Committee welcomes the many efforts to combat bullying in kindergartens and schools, but is deeply concerned at the reported high level of bullying occurring in these settings.

**49. The Committee encourages the State party to intensify its efforts to educate all parents about the value of early education and provide places in good quality**

kindergartens for all children, particularly immigrant and other children in need of early educational support. The Committee also recommends that the State party urgently advise municipalities to introduce the new language curricula in their schools so that children can better follow class instruction and that it take measures to ensure that children complete their schooling, with a particular focus on groups that traditionally do not have a good completion rates. The Committee further recommends that the State party continue and strengthen its efforts to combat bullying in school and invite children to participate in efforts to reduce and eliminate these harmful behaviours.

### **Refugee, asylum seeking and unaccompanied children**

50. The committee welcomes the State party's indication that the consideration of cases involving unaccompanied asylum seekers shall be prioritized. The Committee notes with interest that the new Immigration Act, along with new Immigration Regulations, specifies that the best interests of the child are to be a primary consideration and lowers the threshold for granting residence permits for children. The Committee also welcomes the fact that the new Chapter 5A of the Child Welfare Act transfers responsibility for unaccompanied children to the child welfare services. However, the Committee expresses its concern:

- (a) at the cursory identification of children affected by armed conflict;
- (b) at the length of time until decisions are taken;
- (c) at the fact that guardians are often overburdened and thus cannot adequately exercise their role;
- (d) at the consideration by the State party of the possibility of using age determination methods regarded as indecent, culturally insensitive and generally unreliable;
- (e) at the fact that an increasing number of unaccompanied children have disappeared from reception centres;
- (f) that unaccompanied asylum seeker children are not being adequately followed up by Child Welfare Services;

51. The Committee is also concerned that that the State party has limited the responsibility of the Child Welfare Services to children under the age of 15 leaving older children with reduced assistance and that despite the State party's statement that emphasis will be placed on children's affiliation to Norway in decisions on residence permits on humanitarian grounds, there are reports that children who have spent many years in Norway may be deported despite sound documentation of affiliation to Norway. The Committee is further concerned about the State party's plan to establish care and education centres for unaccompanied asylum-seeking children in their countries of origin, since these children mostly come from war and conflict ridden countries where their protection cannot be guaranteed.

### **52. The Committee recommends that the State party:**

- (a) Carefully identify children affected by armed conflicts among asylum-seeking children and ensure rehabilitation and social reintegration of these children;**
- (b) Expedite the assignment of a guardian to assist asylum-seeking children in understanding the procedures and clarify the role of guardian through the initiated guardianship legislation;**
- (c) Take measures to shorten the waiting period for determining the status of asylum seekers;**
- (d) Ensure that age determination procedures are conducted in a scientific, safe, child and gender-sensitive and fair manner, avoiding any risk of violation of the physical integrity of the child;**

- (e) Expand, as planned, the responsibility of the Child Welfare Services to children aged 15, 16 and 17;**
- (f) Carefully follow up on these children during their stay in Norway;**
- (g) Make sure that children do not disappear and fall into the clutches of trafficker and exploiters;**
- (h) Investigate cases of disappearances and find ways to make access available to hidden children;**
- (i) Avoid sending children back to unsafe places from which they have fled and use their stay in Norway to equip them with the competencies and skills they will need when they return under more peaceful conditions;**
- (j) Ensure a primary consideration of the best interests of the child and his or her affiliation to Norway whenever decisions about the child's future are under consideration; and**
- (k) Take into account the Committee's General Comment no. 6 (2005) on the treatment of unaccompanied and separated children outside their country of origin.**

#### **Sale, trafficking and abduction**

53. The Committee notes with interest that the Penal Code provision on trafficking (section 224) was amended in June 2006 to emphasize the fact that exploitation and leading someone astray to begging is also covered. The Committee notes with appreciation the existence of the Coordinating Unit for Assistance and Protection of Victims of Trafficking (KOM), a project for nation-wide coordination of assistance and protection of victims of trafficking. The Committee is further concerned that information about child victims of trafficking is fragmentary and that sellers and traffickers and persons who exploit trafficked children are not effectively brought to justice.

#### **54. The Committee recommends that the State party:**

- (a) Evaluate the results of the Plan of Action which ended in 2009 and use the review to elaborate a new Plan of Action;**
- (b) Set a focus on child victims of sale and trafficking and allocate the necessary human and financial resources to the units mandated to combat this crimes;**
- (c) Develop and implement measures to systematically identify victims of trafficking in the country, enforce the laws that criminalise the sale, trafficking and abduction of persons and make sure that victims are competently treated.**

#### **Children belonging to a minority group and indigenous children**

60. The Committee welcomes efforts by the State party to ensure the rights of minority and indigenous children and takes note of the New Plan of Action to Promote Equality and Prevent Ethnic Discrimination (2009-2012), the Plan of Action to Strengthen Sami Languages, and the Plan of Action to Improve the Living Conditions of the Roma in Oslo. The Committee notes with interest the State party's indication that it will encourage mass media to give special consideration to the linguistic needs among children who belong to an indigenous group. However, the Committee notes with concern that child welfare assistance for children from ethnic minority is of a much lower standard and that 10 percent of children from immigrant backgrounds have experienced threats or violence due to their cultural background and that boys from minority backgrounds experience more frequent bullying than children from the majority population.

**61. The Committee recommends that the State party make every effort to ensure that children from ethnic minority backgrounds and indigenous children have equal access**

**to all children's rights, including access to welfare, health services and schools and are protected against prejudice, violence and stigmatisation.**