Oral Statement to the UN Committee Against Torture, April 23 2018

Mr. Chairperson, distinguished Members of the Committee,

On behalf of the Norwegian Parliamentary Ombudsman I thank you for this opportunity to present and discuss key concerns regarding the Norwegian government's implementation of the Convention.

We have submitted a written report to the Committee 22nd of March. My address to the Committee today will highlight some of the findings and arguments presented in this report.

Firstly, I will briefly outline the **organisation, methodology and mandate** of the Norwegian NPM.

Secondly, I will address a major concern cutting across all sectors of detention; the lack of **meaningful human contact and the isolation that follows from this situation**.

Thirdly, I will highlight some of the NPM's main concerns regarding **physical interventions** against personal integrity.

Lastly, I will briefly comment on Norway's treaty obligations when moving prisoners to detention facilities outside the national boarders.

Mr Chairperson,

When Norway ratified the OPCAT in 2013 and the Norwegian Parliamentary Ombudsman was assigned the NPM mandate, a separate, interdisciplinary unit was established to carry out the NPM tasks. The unit presently consists of 7 staff members with degrees in the fields of law, criminology, sociology and psychology.

As of today, the NPM has undertaken 47 visits to 45 places of detention, including prisons, police establishments, mental health care institutions, immigration detention and child care institutions. The visits normally last 2–4 days and always includes a high number of private interviews with those deprived of their liberty. Triangulating information received from private interviews with information and data from a broad variety of open as well as confidential sources give, we believe, our findings a high degree of credibility.

Mr Chairperson, let me present some of our key findings,

Across all sectors of detention, the NPM has found a worrying degree of excessive and sometimes prolonged isolation or similar restrictive regimes in violation of human rights. Given what we know today about the harmful effects on the human being of isolation this is an issue that gives rise to concern.

In prisons, the Execution of Sentences Act permits isolation for up to one year at the time. Some inmates are isolated for prolonged periods, exceeding weeks, months and even years, in contravention with human rights standards. In 2017, the directorate has registered isolation for up to 760 days in one case and 509 days in another. For inmates on preventive detention the number is possibly even higher.

Moreover, administrative use of isolation is not limited to exceptional circumstances. Many decisions are made due to building or staffing conditions, unrelated to the inmates' conduct. As a matter of fact, inmates are often locked up in their cells as part of the normal daily regime, without an individual administrative decision that could be appealed, as it has been left to each prison to decide how many hours out of the cell the inmates normally will have each day. As a result, many inmates in Norway do not have the possibility of being out of cell the minimum 8 hours as recommended by i.a. the CPT.

Distinguished Committee,

A particular concern is that **highly vulnerable persons are subjected to isolation, including inmates with serious mental health problems or acute suicide risk**. Similarly, in the immigration detention centre of **Trandum**, we found that detainees were subjected to isolation due to **poor mental health, self-harming or risk of suicide.** Our findings show that the use of isolation against persons with serious mental health problems clearly constitutes an elevated risk of ill-treatment in many prisons and at the immigration detention centre.

Mr. Chairperson,

Many mental health care hospitals practise extensive and sometimes prolonged segregation of patients. This is referred to as '**shielding'** in the State report. **Patients may be segregated in prison-like premises, with very limited opportunity for human contact and activities**. Because the staff may instruct patients to stay alone in their room, this measure in practice often resembles isolation, even if the doors are not locked. So called "shielded patients" are often also deprived of the possibility to be out doors or to take part in physical or social activities.

Furthermore, in child care institutions, the NPM has found institutions that have established illegal routines where prison-like segregation units are used as a routine measure during the arrival phase and for minor violations of internal rules. According to the law, segregation may only be used in response to situations of acute danger. We have also found that institutions carry out forced, long term "field trips" to cabins in the woods for up to 14 days for violations of internal rules, thus efficiently establishing a situation of segregation.

And finally, in police stations, custody facilities are generally designed without premises that make it possible to have social contact with others. As a result, all detainees are placed in isolation under austere physical conditions, sometimes for several days, without reasons relating to the investigation.

Mr Chairperson,

Let me now briefly turn to the issue of **physical interventions** against personal integrity.

At several occasions the NPM has voiced its concern regarding the immigration centre at Trandum, and its excessive attention to control and security, based on administrative detention. All detainees are denied access to their mobile phones, they are locked in cells behind reinforced doors and routinely subjected to body searches including removal of all

clothing and having to make embarrassing squat positions. On one occasion pepper spray had been used within the confinements of a cell to carry out a body search.

In mental health care institutions, a grave concern is the prolonged use of restraint beds, including where patients are restrained continuously for days. In many such cases, we do not find concrete efforts to discontinue the restraints. Moreover, the Norwegian legal framework does not establish any upper time limit for the use of restraint beds, or any reporting obligation to a higher authority in cases of prolonged use. Nor is there a legal requirement of external scrutiny in such cases.

Mr. Chairperson,

Another main concern in mental health care is the use of Electroconvulsive treatment (ECT) without the patient's consent. ECT without consent is prohibited in Norway, but the treatment may be given as a life-saving urgent measure based on principles in the penal code, on 'grounds of necessity'. However, our findings show that ECT without consent are given in cases where it could not be shown that a life-threatening condition exist. In most of these cases, ECT was repeated over several days or weeks to have effect. Among these cases we found patients about whom the medical journal stated that the treatment had resulted in grave serious bodily/cognitive harm. The application over days and weeks in our view further demonstrate the problem of applying the penal code exception "grounds of necessity" for the use of ECT.

Chair,

The way in which the practice has developed appears to be a circumvention of the legislators' decision not to allow ECT without the patient's free and informed consent. Another concern is, that as there is no national registration of ECT administered without consent there is no national overview of the prevalence of the practice. Our findings suggest that ECT without a free and informed consent constitutes a high risk of ill-treatment. The government should make sure that the law which prohibits serious interventions except medication and nutrition without consent is fully respected by health personnel.

Mr Chairperson, Committee members,

In 2015 the Norwegian government entered into an agreement with the Government of the Netherlands to lease a prison on Dutch territory for a three-year period. After its visit to this prison in 2016, the NPM voiced its concern that the Norwegian government had waived the possibility to investigate or prosecute in potential cases of torture or ill-treatment. The Ministry subsequently dismissed the NPM's view, in effect stating that the Netherlands obligations to investigate and prosecute would substitute those of Norway.

Earlier this year, the Minister of Justice and Public Security announced its decision not to prolong the lease agreement beyond 1 September 2018. The NPM nevertheless find it important to inform the Committee of the Agreement as it appears to have been concluded in contravention of public international law, as set out in the Convention Against Torture. The NPM is concerned about the potential detrimental effects of schemes to lease prisons abroad on the efficient work to prevent torture and ill-treatment globally.

Finally, Chair, we have generally found a worryingly low degree of knowledge among staff in places of detention about the Istanbul protocol and the duty to identify, document and provide rehabilitation to victims of torture and ill-treatment.

Thank you.