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CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER
ARTICLE 40 OF THE COVENANT

Initial reports of States parties due in 1977

Addendum

NORWAY */

[23 November 1979]

*/ This document contains supplementary information pursuant to the consideration of the initial report submitted by Norway (CCPR/C/1/Add 5) at the Committee's 77th, 78th and 79th meetings held on 12 and 13 July 1978 (CCPR/C/SR 77, 78 and 79)

I Introduction

Norway's report under Article 40 in the International Covenant on Civil and Political Rights was submitted on 22 March 1977 (Document CCPR/C/1, Add 5, hereinafter called the report) The report was examined by the UN Human Rights Committee on 12 and 13 July 1978 The minutes of the Committee's discussion are included in documents CCPR/C/SR 77 and 78 (questions from Committee members) and 79 (Norway's oral reply), hereinafter called documents 77, 78 and 79

The present document contains supplementary information pursuant to the discussion on the report in the UN Human Rights Committee, insofar as the questions were not fully answered in Norway's oral reply to the Committee A copy of the manuscript on which Norway's oral reply was based is enclosed as Annex A^{**/} to the present document

The text of the Acts referred to in the present document and in the oral reply is also enclosed, as Annex B^{**/} The number entered in parenthesis after the reference to such a text relates to the number of this text in the Annex In the Annex all laws etc are arranged chronologically for the present documents and the oral reply together

II Supplementary information regarding various Articles

Art 6 - Right to life

In Norway's oral reply an account is given of the Government's move to repeal the rules concerning the death penalty in Norway As to the further progress in the matter, it may be stated that, by Act no 43 of 8 June 1979, the

^{**/} The texts of these annexes are available for consultation (in English) in the files of the Secretariat

Storting has repealed the rules in the relevant statutes concerning the death penalty in wartime and war-like situations (The rules concerning the death penalty in peacetime had already been repealed earlier) The relevant text is not enclosed, since all that is involved is the repeal of former provisions

As a consequence of this, Norway's reservation to Article 6, paragraph 4 was withdrawn on the 21st November 1979.

Art 7 - Use of solitary confinement (dqc 79 item 13)

Concerning the use of solitary confinement, the following information is provided

The point of departure is that prison inmates shall have their own cells, but with access to the company of others According to the prison regulations, confinement to a single cell, in the sense that the prisoner is cut off from the company of other prisoners, may be used in four cases

1 Prisoners detained in custody shall be kept in solitary confinement as long as this is necessary for the purpose of such detention Provided that the person detained in custody has not been refused mail and visitors, that continued solitary confinement is not required by the prosecuting authorities and that it is not contraindicated by the purpose of such detention, the person detained in custody may be permitted the company of other inmates after 2 weeks, if he himself so desires

2 When a convicted person who is to be imprisoned for more than 6 months arrives at the institution, it is important to acquire as much knowledge as possible of the person and his background and general circumstances While these investi-

gations are being carried out, the prisoner may be kept in solitary confinement, but, to the extent deemed justifiable and appropriate, he may be allowed access to the company of other inmates. For this reason, the period in solitary confinement may not exceed 14 days.

3 During the term of imprisonment the inmate may be entirely or partly removed from the company of other inmates, if deemed necessary for disciplinary, security or similar reasons, for example with regard to the safety or health of himself or others, or the risk of his having a bad influence on co-inmates. The confinement in isolation shall be subject to constant review in the institution and a period of solitary confinement in excess of one month shall be notified to the Prison Board. Continuous solitary confinement in excess of one month pursuant to this rule seldom occurs.

4 Finally, solitary confinement without the company of other inmates may be employed as a corrective. A disciplinary measure of this type may be ordered by the Prison Director and may apply for a period of up to one month.

An inmate who is kept in solitary confinement without the company of other inmates shall be seen several times a day by the officers of the institute and regularly visited by the doctor.

5 The proportion of solitary-confinement prisoners is estimated to represent about 10-15 percent of the total number, most of whom are remanded in custody.

Art 10 para 2 litra b and para 3 - Segregation
of juvenile from adult offenders
(doc 77 item 6 and doc 79 item 18)

The Norwegian Government has noted with interest the statements which, in view of Norway's reservation vis-a-vis the rules, were made during the Committee's discussion and which implied that the rules of the Covenant present no obstacle to a certain amount of contact between juvenile and adult inmates. The following supplementary information may be provided:

As stated on page 5 of the Norwegian report, the authorities have been unwilling to establish absolute segregation between juvenile and adult inmates, partly because a certain contact during work and leisure has been found necessary for practical reasons and partly because of doubt as to whether any useful purpose is served by keeping juvenile offenders strictly segregated from adult offenders. It has been proved, for example, that other inmates can have a moderating effect on young offenders. In this connection it may be mentioned that in Norway only the young criminal offenders with the heaviest charges against them are sent to prison. The risk of any harmful influence from older offenders is therefore slight. A recently published survey undertaken by the Ministry of Justice confirms the scepticism with which Norway views total segregation.

There is, nevertheless, a certain degree of segregation.

Young criminal offenders are sent for preference to certain prisons, partly in order to facilitate their instruction. According to the prison regulations, in gatherings and groups of inmates, first-time offenders should as far as

possible be segregated from inmates who have already served prison sentences. In addition, the division of the inmates into groups should be undertaken following an overall assessment of the situation, taking their various ages into account.

Art 14 - Procedure before the courts

1 Para 1 - Independence of the courts (doc 77 item 1)

The Constitution of 17 May 1814 is based on the principle of the division of powers and distinguishes between the legislative, executive and judicial powers. Although it is not explicitly stated, it is an undisputed precept of Norwegian constitutional law that the Constitution bases itself on the principle of autonomous and independent courts (functional independence).

As stated in §88 of the Constitution

"The Supreme Court shall pronounce judgment in the final instance"

It is further stated in §90 of the Constitution

"The judgments of the Supreme Court may in no case be appealed against"

Under §88 of the Constitution it is assumed that there is normally a right to have decisions of subordinate courts reviewed by the Supreme Court. It is also assumed that judicial powers shall be exercised in precisely this way, by the courts with the Supreme Court as the final instance. Thus the assumption is that the courts have a definite field of jurisdiction, the judicial decisions, which cannot be delegated to other authorities by legislation. The principle of independence means that the government cannot instruct the courts. This independence applies at all levels of the court hierarchy, covering both the Supreme Court and the High Court, as well as the District or City Courts.

The independence of the courts is only applicable to their judicial functions. When the courts perform purely administrative tasks, the judges are subject to instructions from the appropriate administrative authority in accordance with the same principles as civil servants within the government administration.

To ensure the functional independence of the courts, the judges must also have a certain measure of personal independence. Although it is not explicitly laid down in the Constitution, it is an indisputable principle of Norwegian constitutional law that judges are irremovable senior officials, that is to say they can only be removed from office by a court judgment.

2 Special Courts (doc 77 item 29)

In the Courts of Justice Act (no 5 of 13 August 1915), §1 refers to the courts of general jurisdiction. There are comparatively few courts of special jurisdiction in Norway, see §2 in the Act. The provision is not exhaustive. Of special interest here is the Labour Disputes Court which is a special court for hearing certain disputes in labour relationships, cf. Act no 1 of 5 May 1927 relating to Labour Disputes §7. The Labour Disputes Court consists of a president and 6 members, 4 of whom are chosen on the recommendation of the major organizations representing labour and management. The provisions referred to here are to be found in Annex B no 7 and no 10.

The rules concerning the independence of the courts and equality before the law apply in the same way to the special courts as to the ordinary courts.

3 Public court sittings (doc 77 item 13)

The Courts of Justice Act (no 5 of 13 August 1915) §124 lays down that court sittings shall be public. This means that anyone is entitled to attend and follow the proceedings. The principle applies generally in connection with all court proceedings. §132 in the Courts of Justice Act makes certain exceptions to the general right of attendance at court sittings. Normally, public admission also includes the right to report court sittings (right to publish reports of court proceedings).

Exceptions from the principle of public admission and the right to publish reports of court proceedings in civil cases are to be found in the Courts of Justice Act §125 (due regard for the State's relations with a foreign power or considerations of honour and decency), §127 (respect for privacy or impediments to the elucidation of the case) and §128 (judicial enquiries). Exceptions may also be made in penal cases, cf §126 (inter alia, due regard for respect for privacy and the elucidation of the case). Although the general public has access to most court sittings, in certain cases it is not permitted to publicize court proceedings, see §131. The reason for this is that the publication of reports from court sittings at an early stage of the proceedings may influence the later testimony by witnesses in an undesirable manner. But by means of a court decision the court may decide that the publication of reports is permissible. See also Annex B no 7.

4 Para 3 litra d - Hearing of appeals by the Supreme Court
(doc 77 items 13 and 20 and doc 78 item 14)

As stated on page 5 of the Norwegian report, the accused in a penal case is not summoned to or notified of the hearing

of an appeal in the Supreme Court. When notice of appeal is given, he is, however, informed that the appeal will come up at the earliest opportunity without any further notification being made to him.

The defence counsel is notified and will always be present when the appeal is heard in the Supreme Court, together with a representative for the prosecution. The defence counsel will assess whether the accused, in his own interest, should be present. The accused is in fact entitled to attend, since his attendance is not prohibited, but in practice this seldom happens.

The reason for this arrangement is that the Supreme Court deals with a great many appeals, and, for this to be possible, it is a prerequisite that as far as most cases are concerned, a date for the appeal proceedings must be able to be set at short notice. In Norway all cases regarding appeals against sentences are heard by the Supreme Court (appeal proceedings from the local inferior courts which do not concern the assessment of evidence in connection with the question of guilt also go direct to the Supreme Court). This arrangement means that appeals can be dealt with much more quickly than would otherwise have been the case. The fact that the Supreme Court hears appeals concerning sentences is an important guarantee for a certain uniformity of practice in regard to sentences.

As stated in Norway's report, the Supreme Court has only limited competence. The Supreme Court may review the question of guilt and the juridical aspects of the guilt question, but not its factual aspect, since the decision on this point by the inferior court and by jury may not be the subject of review by the Supreme Court. The right to be "tried in his presence" is deemed to be of particular

importance in connection with the question of guilt. It must be emphasized that the reasons for the appeal proceedings in penal cases being lodged directly before the Supreme Court - namely, regard for a sufficiently prompt hearing of the appeal and the wish to ensure uniform practice - are also in general to the benefit of the accused, and, after assessing all the arguments, it was found that these considerations could best be taken care of by having the appeal proceedings heard by the Supreme Court.

An Odelsting Bill for a new Criminal Procedures Act is at present being dealt with by the Storting (Cf. doc 77 item 20 and doc 78 item 4). The Act will probably have passed through all its stages in the Storting session 1979-80. According to the draft, the accused shall be informed that a defence counsel has been appointed for the Supreme Court and that he may contact the defence counsel if there is any point he wishes to bring up. He shall also be informed that the appeal will be heard in the Supreme Court as soon as possible, and that he will not be summoned to the hearing. As a stage in the follow-up of the law reform, the question of facilitating attendance by the accused, also in the Supreme Court, will be studied in more detail.

5 Choice of defence counsel

(Cf. doc 77 item 45 and doc 78 item 6)

The principle of free choice of defence counsel at each stage of the case is an established right under Norwegian law and in the new Criminal Procedures Act the rule will expressly be laid down. There are no limitations on the accused's right of choice. But the defence counsel must usually satisfy the general conditions required for practising as an advocate or deputy advocate (authorization etc.). The defence counsel chosen by the accused is normally entitled to be officially appointed as official defence counsel.

On official appointment the defence counsel acquires certain rights which he does not have as long as he is no more than a chosen defence counsel. Of particular importance here is the right to unsupervised correspondence with and visits to the accused if the latter has been remanded in custody.

It is laid down by statute that in certain cases the accused shall have a defence counsel. This applies primarily when he has been remanded in custody, as well as during the main hearing and during the taking of evidence for use during the main hearing. In such cases the defence counsel's fee shall be met from public funds. In the draft of the new Criminal Procedures Act, the obligation to have an official defence counsel is extended. In other cases, in exceptional circumstances, there may be a possibility of the fees being covered under the rules concerning free legal advice. In addition, attention is drawn to §§99-112 (Annex B no 3) in the Criminal Procedures Act.

6 Regarding the other questions in doc 77 item 45, the following should be noted:

There are no statutory rules laying down set time limits for legal proceedings - which are dealt with at an acceptable pace in Norway. In respect of punishable offences there are specific periods of limitation for prosecution. The periods of limitation vary from two to 25 years.

Anyone who is apprehended shall be brought before the courts at the earliest opportunity. If the person has not been brought before the courts within 24 hours after apprehension, the reason therefor shall be entered in the court record.

If the court decides to remand the accused in custody, it shall at the same time set a definite time limit for such detention. The term of detention may be extended by

the court by means of judicial decision. If a charge is brought before the time limit for detention expires, the accused may be held in detention beyond the time limit, but for not more than 4 weeks after the charge has been brought, unless the main hearing has by then begun. Detention shall cease as soon as there are no longer grounds for detention, or when the previously set time limits expire, or at the request of the proper prosecuting instance.

The provision of bail may supersede imprisonment. In practice the institution of bail is very seldom used.

The specific rules concerning apprehension and detention in custody are set out in §§228-245 (Annex B no 3) in the Criminal Procedures Act.

7 Para 5 - Full review of the case (cf doc 77 item 20)

There has been no change under Norwegian law as regards the limited competence of the Supreme Court, cf page 6 in the Norwegian report. The rules are considered necessary out of regard for the jury system. An arrangement whereby the professional judges should review the verdict of the jury is regarded as undesirable in principle.

8 Para 7 - Resumption of the case (doc 77 items 6 and 20)

Resumption of a case to the detriment of the convicted person may only be instituted in certain special circumstances, cf Criminal Procedures Act §415 on the resumption of a penal case when, for example, on the basis of fresh evidence it is beyond doubt that the convicted person has committed a punishable act of which he has previously been acquitted etc.

The provision runs as follows

"§415 Resumption of a case to the detriment of the person indicted may be instituted at the request of the prosecuting authority

1 when by reason of his own subsequent confession or other subsequently produced evidence it appears to be beyond doubt that he has committed a punishable offence or an offence incurring considerably more severe punishment than that for which he has been sentenced,

2 when false or forged documents have been used in the case or false statements have been made during the case by witnesses or experts, or the person indicted himself or any judge, clerk of the court or jurymen has been guilty of a punishable act, and where there are reasonable grounds for supposing that this has caused or contributed to his acquittal or to the application of a considerably less severe penal provision

When the punishable offence which is alleged to have been committed cannot be punished more severely than by a prison sentence of 3 years, the resumption of the case can even so only be instituted on the grounds that the person indicted has been guilty of a punishable act "

It is proposed that similar rules be included in the draft for the Criminal Procedures Act

Art 18 - Religious freedom (doc 77 items 21 and 30 and doc 78 items 7 and 14)

A 1 As stated on page 7 of the Norwegian report, freedom of religion is expressly laid down in the first paragraph of §2 in the Constitution which runs as follows

"All inhabitants of the Kingdom shall have the right to free exercise of their religion"

The principle of freedom of religion embraces all philosophies, including not having any religion whatever

The principle of freedom of religion is stated in more detail in Act no 25 of 13 June 1969 relating to Religious Communities etc , in particular in §1

"§1 Everyone is entitled to pursue religious activities either alone or together with others and to organize religious communities, provided that law and decency are not violated thereby "

2 The Evangelical-Lutheran church is the state church of Norway This means that religious equality does not prevail in every respect in Norway However, the special rules concerning the state church system do not entail any encroachment on religious freedom

The difference between the Church of Norway and the other religious communities in Norway may be summed up as follows the Church of Norway occupies a special position by virtue of its relationship to the State and the fact that its status is protected by the Constitution, while the other religious communities have a greater organizational independence and autonomy

The state church system is based on the first sentence of the second paragraph in §2 of the Constitution and on other constitutional provisions and it is regulated in more detail in Act no 1 of 29 April 1953 relating to the Organization of the Church of Norway

The first sentence of the second paragraph in §2 of the Constitution runs as follows

"The Evangelical-Lutheran religion shall remain the official religion of the State "

Other constitutional provisions too give the state church a special status Under §4 the King shall profess the Evangelical-Lutheran religion, as well as upholding and protecting it According to the second paragraph in §12, over half of the members of the Government must profess the official religion of the State According to §16 the

King gives directions for all public church services and public worship, all meetings and assemblies dealing with religious matters, and shall ensure that the public teachers of religion follow the rules prescribed for them. Finally, the second paragraph of §27 lays down that a member of the Government who does not profess the official religion of the State shall not take part in the consideration of matters which concern the state church (§§4, 12, 16 and 27 in Annex B no 1)

The national church system means among other things that the clergy and certain other church officials are appointed by the public authorities, that these church officials are paid from public funds etc

Various aspects of the relationship between Church and State have been discussed in a comprehensive official report published on 21 May 1975 (NOU 1975 30). No proposals have as yet been submitted for possible changes in the relationship between Church and State on the basis of this report.

Other religious communities choose their organizational form themselves. By following the rules in Act no 5 of 13 June 1969 relating to Religious Communities etc they may, by becoming registered, inter alia attain equality of financial status with the state church. Pursuant to the Act, the registered religious communities have a right to financial assistance from the State and the municipality. The grant shall be calculated in such a way as to correspond approximately, in a ratio to its membership, to what the State and the particular municipality have budgeted for the Church of Norway.

Moreover, registered religious communities have certain functions pertaining to public law, for example the right to solemnize marriages and certain powers of registration.

In recent years a corresponding system of public grants has been introduced in respect of non-registered religious communities. The same applies to the Humanetisk Forbund (Human Ethical Association) in Norway which works for a way of life on a non-religious basis. These arrangements have not been statutorily enacted.

3 On the subject of membership of the Church of Norway, the following may be stated:

Membership is voluntary. Traditionally, however, the greater proportion of the population subscribe to the state church and, if its parents subscribe to the state church, a child belongs to the state church from birth. The child first becomes a member of the state church at baptism. If a person reaches 18 years of age without having been baptized, he or she is no longer regarded as belonging to the Church of Norway. Anyone over 15 years of age may join or resign from the Church of Norway. In respect of younger children, it is the parents or whoever has custody of the child who may do this, but due account shall be taken of the views of children over 12 years of age. The rules regarding membership in the state church are found in particular in Act no 1 of 29 April 1953 relating to the Organization of the Church of Norway, §2 (Annex B, no 17).

According to the 1970 census, approximately 94 per cent of the population subscribed to the state church.

4 Concerning the right of appointment, the following may be stated:

Originally §92 in the Constitution laid down that only those who professed the Evangelical-Lutheran religion could be appointed as senior officials in the State. This requirement in respect of the faith of senior officials has been gradually done away with, and according to §67 in Act no 1 of 29 April 1953 relating to the Organization of the Church of Norway, it only applies to church officials and chosen representatives.

in the Church of Norway and to teachers at a theological faculty. As far as the latter are concerned, in special cases however dispensation may be granted pursuant to the provision which runs as follows

"§67 Church officials and chosen representatives and teachers at a theological faculty shall be members of the Church of Norway. In special cases the King may grant dispensation from the requirement in respect of teachers at a theological faculty."

The concession requirement for teachers in religious knowledge ceased to apply by Act no 24 of 13 June 1969 relating to the Basic School. Pursuant to subsection no 3 in §18, anyone who is to give instruction in religious knowledge must teach in conformity with the Evangelical-Lutheran doctrine. But anyone who does not subscribe to the state church has the option of deciding whether he will undertake to teach religious doctrine.

Subsection no 3 in §18 runs

"Anyone who is to give instruction in religious knowledge must teach in conformity with the Evangelical-Lutheran doctrine.

A teacher who does not belong to the Church of Norway or the Evangelical-Lutheran Free Church shall not be obliged to teach the subject even if he is qualified to do so, cf §27 no 2"

5 According to §1 in Act no 26 of 13 June 1969 relating to the Basic School, the school must give the pupils "a Christian and moral upbringing". According to §7 the teaching of religion is a statutory subject in the schools and the teaching of religious knowledge shall be, as already stated, in conformity with the Evangelical-Lutheran doctrine. According to subsection no 9 in §13, the parents of a child may, however, demand that it have dispensation from religious instruction, when they themselves do not belong to the Church of Norway. According to subsection 8 in the same section, pupils who belong to a

religious community outside the Church of Norway shall have the right to absent themselves from school on the days observed by that community as holy days

The provisions referred to here are to be found in Annex B no 26

According to Act no 25 of 13 June 1969, registered religious communities are entitled to grants from the municipality for religious instruction for children who belong to that religious community and who are exempt from religious instruction in the basic school. There are also other non-statutory aid schemes for the teaching of alternative philosophies

B During the verbal examination of Norway's report, questions were also raised concerning the legal status of persons who on grounds of conscience refuse to do military service (doc 77 page 9 item 39 in fine)

§109 in the Constitution runs

"Every citizen of the State is in general equally bound to defend his native country for a certain length of time, without any regard to birth or fortune

The application of this principle, and the restrictions it may become subject to, shall be determined by law"

This provision does not prohibit the exemption of certain individuals from the duty to do military service because of their convictions, and this is specifically provided for in Act no 3 of 19 March 1965 concerning Exemption from Military Service on Grounds of Personal Conviction. It is laid down in §1 of the Act that if there is reason to suppose that a recruit cannot do military service of any kind without coming into conflict with his deep personal convictions, he may be exempted from such service. According to §10, a conscript who is exempted from military service shall do civilian national service. Such service shall be of a civilian nature and be under civilian leadership, as well as being unconnected with

military arrangements or undertakings (See also Annex B no 23) The Act is at present being revised

Article 19 - Freedom of expression

(doc 77 item 33 and doc 78 items 8 and 15)

§100 in the Constitution runs

"There shall be liberty of the Press No person must be punished for any writing, whatever its contents may be, which he has caused to be printed or published, unless he wilfully and manifestly has either himself shown or incited others to disobedience to the laws, contempt of religion or morality or the constitutional powers or resistance to their orders, or has advanced false and defamatory accusations against any other person Everyone shall be free to speak his mind frankly on the administration of the State or on any other subject whatsoever "

The core of the provision is a ban on censorship A system which requires prior permission for the publication of printed texts would therefore be contrary to the Constitution Such censorship only exists in one field In Act no 5 of 20 June 1964 relating to Medicinal Goods, §29 (see below) requires that advertising for medicinal goods shall be factual and correct and shall be approved in advance by the authority decided on by the King Violation of the Act is punishable But the question concerns only a limited area where special considerations apply §29 runs

"Advertising of medicines must be factual and correct and must be approved in advance by the authority decided on by the King The King may issue general regulations concerning the advertising of medicines, including the distribution of samples for advertising purposes The regulations may prohibit certain forms of advertising "

The Constitution's ban on censorship does not apply to forms of publication other than the issue of printed texts However, according to the principle of legality (cf page 2 in the Norwegian report), authorization in statutory law is

necessary to establish advance censorship According to Act no 4 of 25 July 1913 relating to the Public Showing of Cinematographic Pictures, special permission is necessary to show films in public, see in particular §§ 1, 2, 7 and 8 (Annex B no 5)

From §100 in fine in the Constitution concerning the right to "frank utterances", it follows that the Constitution sets a limit as to how advance censorship may be exercised For example, it would be contrary to the Constitution if a film were refused a showing because of its political leanings The system of censorship pursuant to the law is limited, since the film censorship authorities can only refuse to approve pictures which will "be in conflict with the law or violate feelings of decency or have a brutalizing or a morally degrading effect if shown in public", cf §8, first paragraph There are special rules aimed at protecting children, see §8, second - fourth paragraphs

As far as the theatre is concerned, it may be mentioned that pursuant to §1 in the Act of 22 May 1875, regulations may be issued regarding the right to give concerts and dramatic performances, such as plays, operas, ballets, pantomimes and the like, but only if they maintain public order and prevent offences against public decency, cf also §2 (see Annex B no 2) According to the police regulations, permission is normally necessary for operating theatres etc Refusal of an application to do so is unlikely in practice Theoretically speaking, such refusal could be envisaged on the grounds of considerations of public decency or public order, not for example as a censorship of opinion

Pursuant to Act no 13 of 24 June 1933 relating to Broadcasting, the Norwegian Broadcasting Corporation (NRK) has the sole right to establish and operate stations and equipment for broadcasting of speech, music, pictures etc by means of radio waves or cable, suited to direct reception by

the general public. The Norwegian Broadcasting Corporation is under the direction of a board, appointed by the government (cf §2), while the majority of the Broadcasting Council (see §3) are appointed by the Storting (Annex B no 14). In practice the NRK enjoys a large measure of autonomy, partly because it is self-financing and partly because it is generally agreed that the institution shall be independent and politically neutral. A prime principle in practice is that differing views on topics at issue shall be aired in public.

Recently there have been proposals for a new Broadcasting Act. It is proposed to retain the main features in the present system. In the draft it is explicitly stated that the broadcasting service shall be varied, impartial and objective. It is proposed that a Complaints Board be instituted which could deal with complaints from private individuals, enterprises and organizations. This Board, on behalf of those concerned, will investigate whether a particular programme is an invasion of privacy, whether a transmitted programme conforms to the essential requirements in respect of objectivity and impartiality and whether the decisions made by the Norwegian Broadcasting Corporation in a case concerning the rectification of incorrect information are in conformity with good broadcasting conduct.

The Constitution's §100 does not only imply a ban on censorship, but in addition limits the right of the law to impose criminal liability. Freedom from responsibility is not absolute. The General Civil Penal Code prescribes sanctions against defamation of character (see §§247-250), pornography (§211) and blasphemy (§142). Also the rules prohibiting racial discrimination must be mentioned here, see the General Civil Penal Code §§135a and 349a, given on page 9 et seq of Norway's report. Certain other forms of influencing public opinion to the detriment of the interests of the community are prohibited. §135 in the General Civil Penal Code punishes anyone who endangers the general peace by publicly insulting or provoking

hatred of the Constitution or any public authority or by publicly inciting one part of the population against another Act no 14 of 9 March 1973 concerning Restrictive Measures for the Marketing of Tobacco Products etc and §55b in the Act of 5 April 1927 relating to Alcohol prohibit advertising for respectively tobacco and alcoholic beverages The background here is the desire to restrict the consumption of products which can represent a health hazard (the provisions referred to here will be found in Annex B nos 1, 4, 27 and 9)

Registration of political background is not permitted, of regulations for the Police Security Service (Instructions on Security Measures), issued by the Royal Decree of 25 November 1977, in which the last paragraph of §4 runs

"Neither membership in a lawful political organization nor lawful political activities can in themselves constitute grounds for the collection and registration of information"

In 1972 the Government appointed a Watch Committee for the Police Security Services A Supreme Court justice is chairman of the committee It checks that the secret services confine themselves to their mandate in conformity with the instructions in force The committee also deals with complaints against these services It issues an annual report to the Government which in turn submits it to the Storting

Article 21 - The right of peaceful assembly

A general account of freedom of assembly is given on page 8 of the Norwegian report The limitations which exist (cf doc 78 page 4 item 15) are to be found primarily in §350 of the General Civil Penal Code which lays down punishment for anyone who by fighting, shouting, offensive behaviour or other improper conduct disturbs public peace and order or lawful traffic The provision, which applies on both public and private ground, runs as follows

"§350 Anyone who, by fighting, shouting, offensive behaviour or other improper conduct, disturbs public peace and order, or lawful traffic, or is accessory thereto, shall be punished with fines or imprisonment up to 2 months

Anyone who, by shouting, noise or in some other way disturbs the night-rest of the surroundings without just cause, or in a place where he remains without authority and in spite of a request to leave, or who is accessory thereto, shall be punished in the same way

"The acts mentioned in the second paragraph shall be subject to public prosecution only on request of the victim "

Furthermore, it follows from the Police Regulations, issued pursuant to statute, that no one may participate in gatherings or throngs at or in the immediate vicinity of a public place, or create a noise or disturbance which disturbs public order or traffic. Anyone who wishes to arrange a public procession, open-air meeting or similar event at a public place shall notify the police accordingly beforehand. Such events may be prohibited if the Police deem this necessary for the maintenance of law and order and the safeguarding of traffic. In the Police Instructions it is further specified that the Police should only issue a prohibition when the purpose of the event or the manner in which it takes place are contrary to law or decency, or when there is a risk that it may give rise to violence or other disturbance of public law and order. §§58-62 of the Police Instructions are enclosed (Annex B no 13)

Article 22 - Freedom of association

As mentioned in the Norwegian report, there is no general rule regarding freedom of association, neither in the Constitution nor under statute. It follows nevertheless from the principle of legality that any encroachment on the principle of the freedom of association would require statutory authority. Limitations are to be found in §330 of the General Civil Penal

Code which lays down penalties for anyone who establishes or participates in an association which is prohibited by law, or whose aim is the commission or promotion of offences, or whose members bind themselves to unconditional obedience to someone (see pages 8 and 10 in the Norwegian report)

A special Provisional Act no 4 of 14 December 1951 relating to the right to form trade unions etc for foremen in private undertakings was recently repealed. The reason was that the law could only be regarded as superfluous, since the principle of freedom of association has been laid down as an established precept of Norwegian labour law. In this connection it may be mentioned that the Norwegian Federation of Trade Unions and the Norwegian Employers' Confederation (which are the largest organizations in Norway for labour and management respectively) in the Basic Agreement (which contains common provisions for all the individual wage settlement agreements concluded by these organizations and/or their members) mutually recognize the free right of employers and employees to enjoy freedom of association. Both the positive and negative form of freedom of association are covered, i.e. both the right to be and the right not to be organized in an association.

Freedom of association is also protected by the rules concerning protection against unwarranted notice in §60 subsection 1 of Act no 4 of 4 February 1977 relating to Worker Protection and the Working Environment. Notice of dismissal which is purely based on the fact that an employee has joined a wage-earner organization would be unwarranted according to this provision. It must be assumed beyond doubt that likewise in other employment relationships outside the scope of the Working Environment Act, notice of dismissal on such grounds could not be considered lawful.

In the same Act, §55 A has a bearing on the right to freedom of association. In engaging employees, the employer may not ask the applicants if they are members of labour organi-

zations §55 A also prohibits other possible measures for collecting information as to whether applicants are members of organizations. Exception is made for cases where obtaining such information is justified by the nature of the post §55 A runs

"Engagement The employer may not demand, when advertising vacant situations or in any other way, that applicants supply information concerning their political or cultural views or whether they are members of any labour organizations. Neither may the employer effect measures to obtain such information by other means. These provisions are not applicable when such information is required owing to the nature of the situation."

As concerns the right of negotiation (see doc 77 item 23), the applicable Norwegian law lays down that the right of negotiation is conditional upon agreement between the parties or special authorization in statute. Such statutory authority only exists in regard to the public sector. According to Act no 2 of 18 July 1958 relating to Public Service Disputes, the State and the civil servants' unions entitled to negotiate are mutually bound, each at the request of the other party, to enter into negotiations on wage settlement agreements. §3 contains specific rules on the size and other conditions attached to the civil servants' unions right to negotiate with the State. The background to these rules is the aim to centralize and concentrate the right of negotiation, in the interest of seeing that the organizations entitled to negotiate are representative as seen in relation to the issues with which the negotiations are concerned. §§1-4 of the Act are attached (Annex B no 20)

Regarding the right of negotiation in the private, municipal and county municipal sector, the following may be mentioned according to Act no 1 of 5 May 1927 relating to Labour Disputes, the National Conciliator must be informed if negotiations are not entered into or are broken off and in this connection notice of work stoppage has been given. If the National Con-

arbitrator believes that the work stoppage, either because of the type of enterprise concerned or because of its size, will be to the detriment of the public interest, he shall prohibit a work stoppage until arbitration has been carried out. In practice such compulsory arbitration will take place almost without exception before a work stoppage has been effected. This system means in practical terms that also labour organizations in the private or municipal sector will be able to enter into a negotiating situation under the administration of the official arbitrator.

III Optional Protocol

Norway has entered the following reservation to the Protocol

"Norway enters a reservation to Article 5, paragraph 2, to the effect that the Committee shall not have competence to consider a communication from an individual if the same matter has already been examined under other procedures of international investigation or settlement."

The reservation has been formulated as a result of the discussions in the Council of Europe with a view to a proper relationship being established between matters handled according to the rules of the Protocol and those handled according to the rules on individual appeals in the European Convention on Human Rights.

The reservation does not apply to matters being examined in accordance with other procedures, since this situation is covered by Article 5, paragraph 3, litra a in the Protocol.