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The Committee on the Rights of the Child  
UN Center for Human Rights  
Palais de Nation  
CH 1211 Geneve  
Switzerland

03 JAN 1994

Deres ref.

Vår ref. (bes oppgitt ved svar)  
2058/93/ KH

Dato  
23.12.93

## THE CONVENTION ON THE RIGHTS OF THE CHILD

### NORWAY'S REPORT TO THE COMMITTEE ON THE RIGHTS OF THE CHILD- ADDITIONAL INFORMATION FROM THE COMMISSIONER FOR CHILDREN, NORWAY

We hereby refer to Norway's report to the Committee on the Convention on the Rights of the Child. The Commissioner for Children would like to call the Committee's attention to a situation that has not been described in Norway's report. This situation is in violation with Article 2.1 of the Convention.

This concerns the individual rights of children of asylum seekers who, after having been denied political asylum or other types of residence permit in Norway, take refuge in our churches together with their families.

During the year 1993, this situation involved up to 650 individuals, including 350 minors under the age of 18.

Norwegian authorities have declared the churches as "holy ground", and thus do not effectuate eviction orders for as long as these persons and their families stay within the church buildings.

The Norwegian authorities, however, suspended basic rights for the above mentioned individuals, due to their illegal stay in our country.

The children concerned were not guaranteed the same rights as other children living in our country, that is, they were not granted the right to education, medical care or social welfare

Furthermore, these children had no control over their own situation, were not able to influence their future, and were in short mere victims of adult decisions.

The acute situation has now been solved, at least temporarily. Through an agreement between the Government and the Church, the Government has decided to review all applications for political asylum, and most of the asylum seekers have now left the churches. The principal problem concerning the rights of children has nevertheless not been solved. A similar situation may occur in the near future.

We call your attention to Article 2.1:

*"States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parents' or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status."*

The Commissioner for Children is of the opinion that by denying basic rights to children by referring to the illegal basis for their parents' residence, as described above, Norwegian authorities are acting in violation with Article 2.1 of the Convention.

We question the Government's right to suspend the rights of these children

The Commissioner for Children would recommend that the Committee asks the Government whether basic rights are recognized as being granted to the child, as an individual, or whether these rights may be suspended due to the actions of the child's parents or guardians.

The Commissioner for Children would be honoured to meet with the Committee to elaborate the opinions put forth in this report. We would be pleased to give the Committee further information on the mandate and activities of the Commissioner.

For your information we enclose the Commissioner for Children Act and the Commissioner's Instructions, as well as the booklet "Facts about Children in Norway

Yours Sincerely

  
Trond-Viggo Torgersen  
Commissioner for Children

  
Knut Haanes  
Senior Executive Officer

Enclosures

CC:

Prime Minister Gro Harlem Brundtland, Norway

Laura Theytaz-Bergman, NGO-group for the Convention on the Rights of the Child

# **ACT NO. 5 OF MARCH 1981 RELATING TO THE COMMISSIONER FOR CHILDREN**

## **§1**

### **Purpose**

The purpose of this Act is to contribute to promoting the interests of children in society.

## **§2**

### **Commissioner for Children**

The King shall appoint a Commissioner for Children for a period of four years.

The King shall appoint a Panel which shall act as an advisory body to the Commissioner for Children.

## **§3**

### **Duties of the Commissioner**

The duties of the Commissioner are to promote the interests of children vis-a-vis public and private authorities and to follow up the development of conditions under which children grow up.

In particular the Commissioner shall:

- a) On own initiative or as a hearing instance protect the interests of children in connection with planning and study-reports in all fields,
- b) ensure that legislation relating to the protection of children's interests is observed,
- c) propose measures which can strengthen children's safety under the law,
- d) put forward proposals for measures which can solve or prevent conflicts between children and society,
- e) ensure that sufficient information is given to the public and private sectors concerning children's rights and measures required for children.

The Commissioner may act on own initiative or at the request of other people. The Commissioner for Children himself decides whether an application offers sufficient grounds for action.

## **§4**

### **Access to institutions and duty to provide information, etc.**

The Commissioner shall have free access to all public and private institutions for children

Government authorities and public and private institutions for children shall, notwithstanding the pledge of secrecy, give the Commissioner the information needed to carry out the duties of

the Commissioner pursuant to this Act. Information which is needed for the accomplishment of the Commissioner's tasks pursuant to §3, second paragraph, litra b, may also, notwithstanding the pledge of secrecy, be demanded from others. When information can be demanded pursuant to this item, it may also be required that records and other documents be produced.

The rules laid down in subsection 1, 204 and §§205-209 of the Civil Disputes Act are correspondingly applicable to the Commissioner's right to demand information. Disputes as to the application of these rules may be brought before the District and City Courts, which decide the question by a court ruling.

## **§5**

### Statements from the Commissioner

The Commissioner has the right to make statements concerning conditions included in his working sphere. The Commissioner himself decides to whom these statements shall be directed.

## **§6**

### Instructions for the Commissioner and the Panel

The King lays down general instructions for the organization and procedures of the Commissioner and the Panel. Beyond this the Commissioner and the Panel carry out their functions independently.

## **§7**

### Entry into force, etc

This Act is also applicable to Svalbard.

The Act shall enter into force from the date prescribed by the King.

# INSTRUCTIONS FOR THE COMMISSIONER FOR CHILDREN AND THE ADVISORY PANEL.

Laid down by Royal Decree of 11 September 1981 pursuant to §6 of Act no 5 of 6 March 1981 relating to the Commissioner for Children.

## §1

### Duties

In accordance with these instructions the Commissioner for Children shall carry out the duties of the office according to the Act relating to the Commissioner for Children. The Commissioner in pursuing his duties shall work to ensure that the needs, rights and interests of children are given the necessary consideration in all areas of society. The Commissioner does not have the authority to decide cases or set aside decisions in the administration. The term children shall here be understood to mean persons up to the age of majority.

The Commissioner should ensure that the public is informed about his work.

## §2

### How cases are taken up

The Commissioner takes up cases on his own initiative or at the request of other people.

Anyone may apply to the Commissioner. The Commissioner shall ensure that verbal applications are put into writing.

A person applying to the Commissioner should, in so far as possible, explain the grounds for the application and submit whatever information and documents are available in this case.

If an application concerns a specific child and the application does not come from the child himself, the Commissioner shall not deal with the case without the permission of the relevant child. When the child's age so indicates, the permission of the guardian shall also be obtained. If general considerations so indicate, the Commissioner may deal with the case even though permission as mentioned above has not been obtained.

## §3

### Rejection

The Commissioner shall reject applications for concrete, individual conflicts between a child and its guardians, between the guardians mutually concerning the exercise of parental responsibility and similar matters. The Commissioner shall in such cases give the reason for the rejection and offer information about any existing instances established for the purpose of handling conflicts of this nature.

A rejection by the Commissioner cannot be appealed.

#### **§4** Referrals

Applications relating to conditions which in the main concern questions relating to the application of the law or the handling of the case are to be referred by the Commissioner to the Storting's Ombudsman for Public Administration when this is relevant.

If an application concerns a situation which may be brought before an administrative agency, the person applying to the Commissioner for Children may be advised to take the matter up with the relevant body. The Commissioner himself may also send the matter to this body.

If an application concerns a situation which can be referred to the Public Prosecution Authority or a special supervisory body, after a more detailed investigation of the circumstances of the case the Commissioner may send the case to the relevant authority if the conditions pursuant to subsection 6 of §13 b of the Public Administration Act obtain.

#### **§5** Shelving of cases.

If the Commissioner finds that application has been made for a situation which does not offer grounds for criticism or for any other follow-up procedure, the case may be shelved. The Commissioner may also shelve a case if the situation which the application concerns has been remedied or has ceased to exist.

At any stage in the proceedings, the commissioner may also shelve a case for reasons connected with work. However, the Commissioner should try to deal with a representative selection of cases.

Anyone who has applied to the Commissioner shall be informed of the shelving of the case and the reason for this.

The shelving of the case by the Commissioner cannot be appealed.

#### **§6** Rules for dealing with cases

Chapters I-III of the Public Administration Act and the Freedom of Information Act are applicable to the activity of the Commissioner.

Before making his statement the Commissioner shall ensure that the case is clarified as far as possible. The Commissioner determines what steps should be taken to clarify the circumstances in the case.

Also when this does not follow from other rules the Commissioner shall preserve secrecy about the source of information he has used when the source has expressly requested this.

## **§7**

### The Commissioner's statement on the case

The Commissioner shall personally adopt a standpoint on all cases which have been taken up for discussion and have not been shelved pursuant to §5 of the Instruction. As a basic rule the opinion of the Commissioner shall be formulated as a written statement, giving the grounds for this.

The Commissioner himself decides to whom the statement shall be directed. The statement can also be directed to the press and the broadcasting corporation or others to the extent which the Commissioner finds expedient.

The Commissioner shall not express an opinion on the position in regard to the law when the Storting's Ombudsman for Public Administration has made a statement or when the situation has either been decided by the courts or has been brought before the courts for a decision. Even so, the Commissioner may criticize the factual and legal situation which has been revealed by the Ombudsman for Public Administration's statement or by the decision of the courts.

## **§8**

### Annual Report

Each year by 1 April the Commissioner shall submit a report to the Ministry about his activities in the preceding calendar year.

The report shall be available to the public.

## **§9**

### Personnel and financial administration

The Commissioner is appointed by the Council of State for a period of four years. No one can be Commissioner for more than a total of eight years.

The Commissioner has a secretariat available to him to assist with his work. The staff of the secretariat are employed according to rules laid down by the Ministry.

The Commissioner's Head of Division is the permanent deputy for the Commissioner. The Commissioner and his Executive Officers should have varied professional backgrounds.

The rules for the administration of the finances in the Ministries and the rules for the organization and work procedures of the Ministries shall be applicable insofar as possible.

## **§10**

### **The Advisory Panel for the Commissioner for Children**

In connection with the office of the Commissioner a Panel has been established. The Panel is appointed by the council of State for a period of four years. It consists of eight members. The Panel has its own leaders, and the Commissioner for Children is a member of the Panel.

The Ministry is empowered to make additional appointments if a member or a proxy resigns during the period. The Panel shall function as an advisory, consultative body for the Commissioner for Children and shall assist the Commissioner in his work by discussing questions concerning the activity of the Commissioner. Both the Commissioner and the rest of the Panel members may take up questions they believe should be discussed. The Commissioner may submit questions on the solution of individual cases also to individual members of the Panel.

The Panel shall not have any externally-oriented function, nor any decision-making powers in relation to the Commissioner. The Panel should meet at regular intervals at least four times a year. If at least two members of the Panel so demand, the Panel shall be summoned to an extraordinary meeting. The summons to the panel meetings are given by the Commissioner with at least two weeks' notice. The agenda and the documents in the case shall be sent out at least one week before the meeting. The Ministry is entitled to take part in the meetings of the panel. The Commissioner may permit other people to participate in the meetings.

Minutes shall be kept of the meetings of the Panel