



NORWEGIAN MINISTRY  
OF JUSTICE AND THE POLICE

English Summary

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Report to the Storting on the Norwegian Correctional Services





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## **Part I                    The background to the proposals**

The background to the Report to the Storting is the Soria Moria Declaration, which is the political platform of the Stoltenberg II Government. The Declaration expresses the Government's position regarding important fields of social policy areas – inter alia the Norwegian Correctional Services.

The Soria Moria Declaration indicates several areas in which there is a need to reform the Norwegian Correctional Services. The purpose of the report is to amplify the Government's policy particularly with a view to development and improvement. The Report describes a balanced sentence-serving policy that makes a good preparation for a life without crime.

A principal message of the Report is that “punishment that works” is decisive for fighting crime and making society safe. The punishment must be of a nature that recidivism is reduced. Among other things, this means better rehabilitation. The high number of very short sentences is a challenge; more than half of them are less than two months. Good rehabilitation demands flexibility within the framework of the imposed penal sanction, with good instrumentalities both inside and outside prison. This also demands a more systematic implementation of the punishment, with continuity and coordination of measures in a “seamless” penal implementation, without watertight bulkheads between prison and probation, and with a close collaboration with other enterprises. The Government's return-to-society guarantee continues this concept out in the community with the necessary follow-up.

The activity of the Norwegian Correctional Services rests on five pillars: what the Legislator has said is the purpose of the punishment, a humanist approach to human nature, the principle of due process and equal treatment, the principle that convicted persons have paid their debt to society when the sentence has been served, and the normality principle. In both the design of the regulatory system and in practical work,

the Norwegian Correctional Services will endeavour to ensure that the objectives do not exist solely on paper, but fully characterise the penal implementation in practice.

The Norwegian legal system has been developed in interaction with the international community. To lesser and greater extents we are bound by international conventions, recommendations and standards. Norway wishes to be a world leader in protecting human rights. International organisations play a major role in designing the framework for penal implementation in Norway. On the other hand, Norway is an active participant in international cooperation, both in the big regional or global organisations and bilaterally with selected countries. We affect the norms that are developed, and we contribute on a practical level to developing penal implementation in other countries. The Report describes some international rules of which Norway must take account, and provides a list of Norwegian participation in international work in the field of the Norwegian Correctional Services.

The historical development of the Norwegian Correctional Services is described, and it is shown that there has always been a link between the perception of the causes of crime and the treatment of prisoners. The statutory foundation for penal implementation in Norway has developed from the first common legislation for the whole country, namely Magnus Lawmender's national law of 1274 and his town law of 1276, to the present penal implementation act.

The Government's objective is that punishment should be implemented in such a way that fewer lawbreakers commit new criminal acts after serving their sentences. If the quality of the penal implementation is to be enhanced, we need not only knowledge of the historical development, but also deep insight into how punishment is carried out today. The Report to the Storting raises the question of whether today's penal practice functions adequately; by this we mean whether the lawbreakers reduce or desist from their criminal acts in consequence of the penalty. Statistics on recidivism are therefore a necessary tool of the reform work.

The Government desires corrective services based on knowledge – policy must not be based on individual incidents. National and international research is therefore of great significance for the Government's choice of measures. Even if there is a need

for further research in many fields, we have enough knowledge to act, and the Report describes important measures to prevent recidivism.

## **Part II                      Public safety**

Public safety is a paramount objective of the Government's crime policy. This objective dictates the frameworks for the penal implementation and the return to society. The needs of public safety shall inform policy, the statutory and regulatory systems and the day-to-day exercise of discretion.

In its proposed new general civil penal code, the Ministry will inter alia endeavour to increase the penalties for homicide, rape, serious violence and child abuse. We shall crack down harshly on cynical, serious offences and organised crime. In the future, too, the Ministry will lay great weight on preventing inmates in these categories escaping or committing new crimes while they are under penal sanctions.

Alternatives to prison for most of these offenders are excluded, even if we shall facilitate a good content and progression in the penal implementation for these groups as well.

The Norwegian Correctional Services shall implement penalties in such a way that new offences do not occur during the penal implementation, at the same time as the objective for the rehabilitation work is reduced recidivism. Society shall be protected against those who are dangerous or who do not intend to change their criminal lifestyle.

Security work in the Norwegian Correctional Services shall not, however, mean an unnecessary high level of security for all inmates and convicted persons. It is only a minority that constitute a threat to public or individual safety. No convicted person shall undergo the penalty under tougher conditions or be subjected to restrictions above and beyond what is necessary.

The risk of new criminality during the penal implementation is low when the security level is high. On the other hand, a long prison sentence with a high security level and an abrupt transition to freedom means a high risk of recidivism following release.

Penal implementation out in the community is more effective for rehabilitation than prison and is therefore the best long-term public protection. The Government believes that sentences served in freedom act to prevent new crime and to build a better society for us all.

The Norwegian Correctional Services are working methodically to reduce risk and in many cases are more restrictive than necessary. Figures for absconding during prison leave are very low. The Ministry will work to improve access to relevant information on inmates and strengthen the qualitative processing of this information. This will provide better background material for decisions under the Penal Implementation Act.

Inmates are placed in prisons with different security levels following an individual evaluation of risk and needs. It is important to maintain this practice so as to counteract “demonising” of individuals or groups. It is also important to prevent individual criminal milieus thinking that it confers status to have been in a particular prison with unusually high security. At the same time it can be a problem that low-risk inmates serve their sentences in the same unit as high-risk, as this can cause undesirable influence, training and recruitment to new criminality. No one shall serve under stricter conditions than necessary – the documented risk of the harmful effects of loss of liberty shall be reduced as far as possible. Choice of the correct security level is therefore important for the rehabilitation work to be discussed below.

The objective is to secure an even more expedient placement of inmates on the basis of individual risk assessments. Work is in progress on a review of the system for categorising prisons. The Norwegian Correctional Services shall prevent inmates being exposed to pressure, threats, violence and social control by their fellow-inmates. A better classification on the basis of specific functional requirements will ensure that different units have the expertise and resources to handle the expectations made of them.

Security measures are also important for penal implementation outside prison. The static security measures are limited to alarm systems. Probation offices must have

the instrumentalities necessary to address public safety during penal implementation in the local community. This applies to both those who are doing community service or participating in a detox programme and those who have been released on parole on particular terms. Today the instrumentalities are mainly the obligation to report, controls to detect drug use and visits to schools, workplaces and homes with and without advance warning. The electronic control pilot scheme requires that the convicted person remain at home at particular times. This penal sanction will to a greater degree than previously mean surprise visits to the homes of convicted persons.

### **Part III      Rehabilitation**

The Ministry illuminates various aspects of the rehabilitation work for convicted persons: custodial sentences and rehabilitation, penal implementation in the community, groups needing special facilitation, the interests and needs of the victims, and inmates' family and friends.

The objective of the Norwegian Correctional Services' professional activity is a convict who has served his sentence; is drug-free or has control of his drug use; has a suitable place to live; can read, write and do arithmetic; has a chance on the labour market; can relate to family, friends and the rest of society; is able to seek help for any problems that may arise after his release; and can live an independent life. The Government considers that a good point of departure on release increases the probability of inmates succeeding in living a life without crime.

Implementation of custodial sentences shall be based on the five pillars described above: what the Legislator has said is the object of the penalty, a humanist approach to human nature, the principles of due process and equal treatment, the principle that one has paid one's debt to society when the sentence has been served, and the normality principle. Serving of sentences must have a suitable content, and all measures must be based on documented knowledge. New measures that are tried out shall be subjected to evaluation. Penal implementation policy shall take proper account of all affected parties: the victims of the individual offence, the public and society in general, and the offenders and their family and friends.



Work training, school, cultural facilities, leisure activities and motivation work are the Norwegian Correctional Services' traditional instrumentalities in addition to those consequent on the penal implementation itself. These are important instrumentalities in the rehabilitation of convicted persons and are thoroughly discussed in the Report. The Government's objective is to develop and enhance the quality of this important work. It is crucial to get convicted persons into a rehabilitation track even if the sentence is short, not least because it is precisely in the category "short sentences for less serious offences" that we find many of the repeat offenders.

It is a demanding job to facilitate rehabilitation during deprivation of liberty. The smaller the difference between life inside and outside prison, the easier the transition from prison to freedom. The normality principle is therefore a lodestar for penal implementation policy. It is also in accordance with the principle that deprivation of liberty is the actual penalty and that the stay in prison shall not be more onerous than security considerations demand. As far as possible the inmates shall have opportunities for social contact, including visits, leave and telephonic communication, and shall have access to the radio, television and newspapers and in other ways be able to follow what goes on in the wider society. Departures from this principle require special justification. Strengthening the normality principle means organising a daily routine in prison that as far as possible reflects the society outside the walls. The Ministry will over time introduce self-management into Norwegian prisons. In this connection we shall take a closer look at how this is organised in the Danish and Swedish correctional services.

In line with the normality principle the Ministry wishes to try out the idea of the "village prison". This is a metaphor for a prison that has points of similarity with some of the prisons we have today, for example Bastøy and Hassel, and the prison units Leira and Osterøy. The village prison shall be a training arena for mastery of life skills. It shall provide a holistic perspective on the penal implementation and give the inmates influence over important decisions in their own lives. This shall be achieved by giving the convicted persons opportunities for:

- living as close as possible to reality during under training, guidance and supervision

- work training in a more socially realistic manner
- normal pay for normal work
- paying bills and buying food
- residential training
- participation in large-scale meetings and conflict mediation.

Even with good conditions during the penal implementation, inmates must gradually accustom themselves to having freedom under responsibility. Progression in the penal implementation shall secure this through use of prisons with a lower security level, and suitable rules on parole and leave. Better progression in the penal implementation makes for better rehabilitation. The Ministry will therefore evaluate extended use of leave, release on temporary outside programmes and transitional accommodation so as to improve the progression in the penal implementation.

The Penal Implementation Act governs how the penalties are to be implemented and thereby many of the convicted persons' rights and duties. The Ministry considers that there is good reason for maintaining legislation with a high degree of opportunity to practice qualified discretion. There is little reason to believe that the present "can" rules and scope for discretion mean that the inmates are given poorer service than they would have been under legislation granting fewer discretionary powers.

On the basis of our knowledge of how prison can impede convicted persons' social rehabilitation, the Ministry will to the greatest extent possible make use of alternative reaction and penal implementation forms. It is, however, a precondition that public safety is at all times addressed. The Ministry will inter alia consider extending the frameworks for use of community service and split sentences, extend the scheme for detox programmes under court control to the rest of the country, amend the provision on minimum prison sentences and replace prison with community service when the convicted person cannot pay the fine.

The Penal Implementation Act provides different opportunities for implementing unsuspended custodial sentences outside prison. For certain groups this type of penal implementation may have an excellent rehabilitating effect. A novelty is the pilot scheme for electronic control. In the autumn of 2008 the Ministry of Justice will

create a pilot scheme for electronic control as a new penal implementation form outside prison. A statutory amendment has been passed that allows convicted persons who are to serve up to four months unsuspended custodial sentences, or who have four months to go before expected release on parole, to apply for penal implementation with electronic control. The state budget for 2008 appropriates NOK 40 million for trials in six counties, and 160 “tethers” have been purchased, giving capacity for 130 persons at any given time.

Prison inmates are by no means a homogenous group, and many need special facilitation. The Report discusses rehabilitation measures for special groups of inmate: prisoners on remand, persons under preventive detention, children and young persons, Sami-speaking inmates and convicted persons, inmates with foreign citizenship including inmates convicted by the Yugoslavia court and the International Criminal Court, and inmates with mental problems causing serious behavioural disorders. Female inmates are also discussed separately because they account for such a small percentage of the total prison population.

Cooperation across agency boundaries, or administrative cooperation, has long traditions in Norwegian penal implementation and is enshrined in the Penal Implementation Act Sections 4 and 41. A number of cooperation agreements and joint instructions are intended to clarify the division of responsibility, strengthen the cooperation between the services and contribute to better solutions. The agreements and the instructions shall guarantee convicted persons good facilities before, during and after the penal implementation. In the Report the Government proposes several measures to strengthen the administrative cooperation during penal implementation.

The public sense of justice is also connected with how the victims are looked after following an offence. The Report discusses general measures to strengthen the victims’ interests and certain special measures related to the Norwegian Correctional Services’ field of responsibility. Inter alia the Government will contribute to restoring the balance for the victim by offering Restorative Justice at any point during the penal implementation.

The Norwegian Correctional Services must to a greater degree involve the family and friends as a resource. This will reduce the harmful effects of the prison stay for family and friends, for example for inmates' children. The task of facilitating contact with the family shall be given priority. Every prison shall appoint one or more staff with special responsibility for facilitation of visits, so that practice is more uniform and family and friends have a fixed instance to deal with irrespective of the staff rota.

#### **Part IV Integrated boost for the work of returning to society**

Punishment that works presupposes inter alia an integrated boost for the work of returning prisoners to society. If the penalty is to work, the work of returning to society must be satisfactorily planned and addressed. It matters less how good the Norwegian Correctional Services is in its rehabilitation work, if released prisoners are not followed up after the end of the penal implementation. The released prisoner must therefore be followed up better than today. If the follow-up is deficient, the probability is great that society will experience ever more crime, new victims, increased insecurity and higher costs. During the penal implementation the convicted persons are available and drug-free, and most of them are motivated to do something about their life situation. This is a good time to begin treatment and rehabilitation measures with a view to release.

What happens on and after release is decisive for how it goes with the convicted persons. It is the first hours and days after release that are the most critical as regards the risk of recidivism. A minimum is that the person's most fundamental needs are covered so that he can survive in society. It is this "backsliding window" before supportive measures in freedom can be deployed that the Government's return guarantee is intended to abolish. The Government's return guarantee means that the Norwegian Correctional Services is to be responsible for convicted persons' needs for and right to services being charted as soon as the sentence is handed down, for information on those needs being communicated to the agency providing the service and for this happening at such an early date that the agency is enabled to facilitate the service in good time prior to release. After this the various agencies will provide services to convicted persons in the same way as to other citizens. The most important guarantor is the convicted person himself. The return guarantee will not

yield the desired results unless the convicted person commits himself to accepting society's services and using them as intended.

Also in the case of penal implementation in the community, we have experienced that the period right after completion of the sentence is extremely critical with regard to the risk of recidivism. Many of the considerations applicable to release from prison are also applicable when the penal implementation in the community is concluded.

The Soria Moria Declaration emphasises the nexus between crime policy and welfare policy. Report to the Storting No. 104 (1977–78), On Crime Policy, was the first to recommend that the responsibility for convicted persons' rehabilitation and return to society was not vested in the Ministry of Justice alone. The Report expressed what is nowadays generally accepted – that convicted persons should not be deprived of their civil rights, and that public bodies should be responsible for offering their services also to convicted persons and inmates. These services are linked to living conditions. As described in Chapter 7, poor living conditions are documented risk factors for recidivism.

A broad approach to the return to society is therefore solidly grounded in social science. Chapter 7 emphasises that reduced recidivism demands many different measures. It is necessary both to do something about the living conditions and to offer measures that help transform the convicted persons themselves. It is emphasised that the measures do not have to be either in prison or afterwards – there must be continuity and coordinated effort from all affected parties, often over the long haul. If this is done, success is possible.

With this Report the level of ambition in the penal implementation is raised. The objective is successful integration into the community. An important instrumentality for the practical facilitation is the Government's return guarantee, which is a joint criminal policy measure, inter alia to reduce the problem of repeat offending. Reduced levels of crime prevents loss of life and health and saves society a lot of money. A better follow-up of inmates after their release will also support the Government's drive against poverty. The guarantee is meant to ensure that inmates and convicted persons, who in many cases belong to the poorest and most alienated

sectors of our society, can enjoy the same rights as everyone else, but which due to their imprisonment they do not always have access. It therefore involves no special rights, and makes clear demands on convicted persons.

The return guarantee is a public responsibility. For many years, however, there has been political agreement that voluntary organisations are important partners when convicted persons are to recover their affiliations and roles in the local community. The Government will invite the voluntary organisations to increased effort and cooperation with the Norwegian Correctional Services regarding the return guarantee. The voluntary organisations represent services within the local community, such as culture, religious activity, sport and leisure, which neither the Norwegian Correctional Services nor other authorities can provide.

## **Part V Consequences and preconditions**

The development of the penal implementation sketched in this Report makes heavy demands on the Norwegian Correctional Services and will entail a number of consequences – both financial and administrative. Yet other consequences, such as for example for the working environment, must be evaluated and followed up. The consequences affect not only the Norwegian Correctional Services, but also a number of others.

The wall between the prison and probation services must be further lowered, and cooperation with other agencies regarding the individual convicted person must begin much earlier than is the case today. The probation offices will in future bear a greater share of the penal implementation. Throughout the Norwegian Correctional Services, we need expertise and organisational development.

The Ministry advocates a continuation of the present scheme with trainee appointment and paid service training. We have considered a restructuring, so that the prison schools are included in the ordinary college system, which would mean that wages would no longer be paid during training and the students would not be guaranteed employment with the Norwegian Correctional Services after completing their education. On the other hand, Norway has a very solid tradition of civil servant

training in an international perspective. Even if the basic training of corrections officers is very good, there is a need for both further and post-qualification education. The Ministry proposes that a professional evaluation of the tuition system be held, with a view to seeing how the instruction at the Norwegian Correctional Services' Training Centre (KRUS) can be further developed and adapted to the needs of a modern correctional service.

The Ministry is considering a move of the current Directorate, the Norwegian Correctional Services' central administration, from under the Ministry of Justice to become a free-standing organisational entity. The Norwegian Correctional Services must otherwise be organised so that there are good local arenas for cooperation with other agencies.

Even if the supervision system was evaluated only a few years ago, in connection with the Penal Implementation Act of 2001, the Ministry considers that the scheme should be reviewed again. This concerns particularly the requirement that the supervisory authority should be an active control body with expertise and resources that ensure sufficient insight into the operations of the Norwegian Correctional Services. Both practical and fundamental aspects of the supervision activity should be evaluated.

In order to attain the objectives described in the Report, there are a number of work processes in the Norwegian Correctional Services, and between the Norwegian Correctional Services and their partners, that must be changed. There is therefore a great need for new ICT solutions, ones that also address privacy issues better than the current tools.

The proposals of the Report represent the future direction of penal implementation policy desired by the Government and the Ministry of Justice.

The restructuring of penal implementation policy must therefore be seen in a perspective of five to ten years. The Government will return to proposals for and implementation of possible measures in this Report in connection with the annual budget proposals.

## **How the Report came into being**

This Report is a result of a broad and unusual process in which a very great number of people have been heard. The first invited to give their views were former Justice ministers. They emphasised what has been reinforced throughout the process and that are now the Report's dual main themes: security and rehabilitation. Some convicted persons will require stricter regimes, others more open. The Government will deploy measures along both these tracks. Another main topic aired at the meeting of the Justice ministers was that "the key is in the municipalities". In the work of returning convicts to society, the Government has emphasised getting the municipalities on side with their service provision, both during and after the end of the penal implementation.

There was a think-tank of professors and artists. "If we are to find good penal methods", they claimed, "we must also look at the fundamental structural factors in society that lead to crime". One of their main messages was that prison was an unsuitable punishment for drug addicts, who need treatment instead. Another proposal was to increase the minimum prison sentence from 14 days to three months, that is, they advocated the use of alternative penal methods.

They claimed:

"Since there is today massive knowledge about custodial sentences' harmful effect and lack of utility, it should be a paramount goal to reduce the use of unsuspended prison sentences by 50%."

This should be achieved inter alia by custodial sentences less than six months being replaced by other penal sanctions.

Eight broadly constituted groups worked for many weeks on their assigned topic, which varied over a wide range, from values, crime trends, security and rehabilitation to organisation.



Two big professional conferences were held, one in June and another in November 2007. The one had ethics in the penal implementation as its main topic, the other the need for renewal of the Norwegian Correctional Services. In six prisons dialogue conferences were held in which both inmates and staff participated and discussed what a good day in prison would look like for them. The Norwegian Correctional Services' own staff were challenged. They stated unanimously that the probation offices must be materially strengthened in future. They also put forward proposals for improvements in the content of the penalty. There was also an opportunity for staff to express themselves through the Norwegian Correctional Services' intranet, an opportunity made use of by many.

Victims and the family and friends of inmates had also the opportunity to have their say, both orally and in writing.

At a "grand conference" in May 2007, the relevant partners were invited to discuss the work of returning prisoners to society. Both public agencies and voluntary organisations took part.

In a report on "the correctional services of tomorrow" it was also very natural to consult young people. Pupils from Hamar Cathedral School worked on the questions as part of their social science tuition throughout the autumn of 2007. Their report said inter alia that:

"The Group has noticed that in several contexts the public expresses dissatisfaction about the level and content of penalties. It seems that there is a desire for more punishment and tougher punishment. In this connection it may be necessary to note that knowledge of actual conditions regarding custodial sentences is apparently quite small. The Group's own experience is that prior to the work process, the members thought that lawbreakers encountered excessively weak sanctions, but having acquired insight into penal conditions they changed their mind entirely. Many people are probably of the opinion that prison is a 'softer' sanction than is actually the case. This supports the theory that there is a clear division between the informed and the uninformed opinion as regards punishment. It is probably important to show the public that prison actually represents a dramatic change in the inmates' lives. This

will contribute to deterrence, and it is also conceivable that greater social awareness of the effects of punishment will contribute to, for example, a high rate of charges being brought.

Giving knowledge about punishment a greater place in compulsory schooling could be expedient. It is also necessary to promote understanding in compulsory school that inmates can perfectly well be quite ordinary people, so that we can to some extent remove unintended elements of the penalty such as prejudice and stigmatisation.”

Individuals who in the future are to work on punishment and penal implementation have also taken part in the process. A joint meeting was arranged between students at the National Police College, trainees at the Prison College and masters students at the Department of Criminology and Forensic Sociology at the University of Oslo.

The Minister of Justice has had extensive contact with employees from all sectors of the Norwegian Correctional Services and has inter alia visited all 49 prisons in Norway in order to listen to and talk with inmates and staff so as to hear their views.

Finally, the Ministry has both met and received written input from various organisations.

Given that the Ministry cast its net so wide and invited innovative thinking on the subject of the Norwegian Correctional Services, this was an opportunity to bring really good ideas and new and different measures into the light of day.

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