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The Parliamentary Ombudsman Norway

**National Preventive Mechanism against
Torture and Ill-Treatment**

VISIT REPORT

**Kongsvinger Prison
25-27 August 2015**



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1 The Parliamentary Ombudsman's prevention mandate

Based on Norway's ratification of the Optional Protocol to the UN Convention against Torture, the Parliamentary Ombudsman has been issued with a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.¹ The Parliamentary Ombudsman has established its own National Preventive Mechanism (NPM) in order to fulfil this mandate.

The NPM makes regular visits to locations where people are deprived of their liberty, such as prisons, police custody facilities, mental health care institutions and child welfare institutions. The visits may be announced or unannounced.

Based on these visits, the NPM issues recommendations with the aim of preventing torture and other cruel, inhuman or degrading treatment or punishment.

The Parliamentary Ombudsman, represented by the NPM, has right of access to all places of detention and the right to speak privately with people deprived of their liberty. The NPM also has right of access to all essential information relating to detention conditions. During its visits, the NPM will endeavour to identify risks of violation by making its own observations and through interviews with the people involved. Interviews with detainees are given special priority.

In its endeavours to fulfil the prevention mandate, the Parliamentary Ombudsman also engages in extensive dialogue with national authorities, civil society and international human rights bodies.

2 Summary

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited Kongsvinger Prison in the period 25–27 August 2015. The visit was announced in advance. At the time of the NPM's visit, Kongsvinger Prison's ordinary capacity was 120 places, divided between 72 high security places and 48 lower security places. Since December 2012, Kongsvinger Prison has been established as a special prison unit for foreign inmates. The prison is exclusively for male inmates who are to be expelled and deported from Norway on their release or who are to be transferred to serve their sentence in their home country.

In general, the prison seems to attend to its role as a unit for foreign inmates in a satisfactory manner. The prison staff received good feedback from the inmates, and there were relatively few undesirable incidents in the prison. Inmates felt protected against violence and harassment. None of them accused the staff of abuse, physical force or of speaking to inmates in a degrading, discriminating or offensive manner.

However, one of the main findings was that the prison should improve its information work, particularly during the arrival phase. The inmates did not always receive verbal and written information about the prison's rules and procedures in a language they understood. The prison was equipped for video interpreting, but the equipment was not used for admission interviews. Assisted by an interpreter, the NPM interviewed several inmates who neither spoke Norwegian nor English, and who had a great unmet need for information. It is important to have good reception procedures

¹ The Act relating to the Parliamentary Ombudsman for Public Administration Section 3(a).

in place, including for providing information, so as to identify any special needs and any risk of self-harm, suicide, violence, threats and other factors that have a bearing on safety.

Administrative decisions concerning the use of security cells and exclusion from company were not of satisfactory quality. Several of the decisions that the NPM reviewed did not include any specific description of the grounds for the decision or of alternative measures that had been considered or tried. In some cases, the administrative decision itself was also lacking. These deficiencies constitute serious breaches of the inmates' due process protection.

A review showed that one inmate had spent more than six days in the security cell in 2015. Such a long period of isolation gives cause for concern. Isolation can have a serious impact on the mental health of inmates and lead to increased aggression, and security cells should only be used as a last resort and for as short a period as possible.

The information obtained indicates that inmates were routinely stripped and placed in the security cell naked, with only a suicide prevention blanket to cover themselves. It was unclear whether the inmates were always allowed to put their clothes back on or were given suitable alternative clothing. According to a supervision log, one inmate had spent more than 24 hours naked in the security cell.

The prison health service is affiliated to the Department of Health and Rehabilitation Services in Kongsvinger municipality. The available information indicated that not all inmates underwent a health examination on arrival. The NPM also found that it was difficult for inmates to get psychological/psychiatric follow-up in prison. Moreover, it was found that the design of the forms used to contact medical personnel was not appropriate to protecting the inmates' confidential health information. There were also concerns about one inmate having been handcuffed while undergoing a dental examination. The use of handcuffs during health examinations is potentially problematic and entails a risk of ill-treatment.

The NPM noted, among other things, that some inmates spent much of the day locked in their cells and were let out for less than eight hours, that people with mobility impairments had inadequate access to premises for communal activities, and that there were building-related mobility challenges in the oldest part of the prison.

The following recommendations are made on the basis of the NPM's visit:

INVASIVE COERCIVE MEASURES

Use of the security cell and restraint bed

- A clock should be installed in the security cell.
- Body searches that entail a full removal of clothing should only be carried out following an individual risk assessment, which should be recorded in the supervision log. In cases where a full removal of clothing is considered necessary, the measure should be carried out in stages, so that the inmate is given an opportunity to cover his upper body before removing the clothes covering his lower body.
- All administrative decisions on the use of the security cell should contain a specific description of the incident that formed the basis for the decision, of alternative measures considered, and, if applicable, of why these failed.

Exclusion from company as a preventive measure

- In the event that an inmate is excluded from the company of others for a prolonged period, a plan should be drawn up to ensure that the inmate is reunited with his fellow inmates as soon as possible.
- In cases where inmates serve their sentence under conditions that entail complete or partial exclusion from the company of others during periods when communal activities are organised, an administrative decision is required pursuant to Section 37 of the Execution of Sentences Act. A discontinuation decision should always be made when complete or partial exclusion is discontinued.
- All administrative decisions on the use of exclusion should contain a specific description of the incident that formed the basis for the decision, of alternative measures considered, and, if applicable, of why they failed.
- If necessary in order to ensure that the inmate understands the content of the decision, a written translation of the decision should be provided or an interpreter used. It must be ensured that the inmate in question understands the legal and factual grounds for the decision and the right of appeal.

ACTIVITY PROGRAMME AND COMMUNAL ACTIVITIES

- The prison should implement measures to ensure that all inmates have an opportunity to spend at least eight hours a day on meaningful activity outside their cells.

PROTECTIVE MEASURES

Admission procedures

- The prison should ensure that all inmates, when they arrive, receive verbal and written information about their rights and the prison's procedures in a language they understand.
- The prison should ensure that all inmates are offered video remote interpreting assistance during the admission interview.

Contact officers

- The prison should, in consultation with the relevant authorities, consider additional measures to address language problems, for example technical translation aids and competence-raising measures for the staff.

HEALTH SERVICES

Access to health services

- New inmates should undergo a health examination, conducted by a doctor, or a nurse reporting to a doctor, within one day of arrival.
- Inmates should receive better psychological/psychiatric follow-up in the prison.

Confidentiality

- The prison should, in consultation with the health department, make sure that all enquiries to the health department are treated confidentially. The staff should ensure that requests for medical consultations are placed in a closed envelope and that such envelopes are readily available to all inmates.

- The prison should, in consultation with the health department, prepare requests for medical consultations in the most frequently used languages, and a version with symbols for those who are unable to read and write and for inmates who speak other languages.
- It should not be possible for police officers to overhear what is being said in the patient room. Nor should it be possible for the police officers to observe what is going on in the patient room, except when requested to do so by medical personnel in special cases.

Use of interpreters

- The health department should always ensure that interpreters are used when needed, preferably face-to-face interpreters. The possibility of using video interpreting should be looked into in more detail.
- Prison staff should not be used as interpreters during medical consultations, even if the inmate agrees to it.

PHYSICAL CONDITIONS

Cells adapted for inmates with disabilities

- Inmates with disabilities should be ensured equal conditions with other inmates.

Capacity extension / new buildings

- When building new places of detention, it should be ensured that all inmates are offered satisfactory employment and activity programmes, which includes ensuring that the requirements for accessibility for inmates with disabilities are met.

CONTACT WITH THE OUTSIDE WORLD

- The prison should take steps to ensure that inmates who are unable to receive visits from family and friends because of the travel distance are given an opportunity to communicate with them via Skype or a similar online solution.

3 General information about Kongsvinger Prison

At the time of the NPM's visit, Kongsvinger Prison had an overall capacity of 120 places, of which 72 high security places and 48 lower security places. The 120 places included 117 ordinary places, and three cells in the high security section were also double cells. There are only male inmates in Kongsvinger Prison. The inmates are mostly transferred from other prisons, especially Oslo Prison.

The prison places are divided between the following sections:

- High security level, the Vardåsen section: Section A (ten cells divided between two floors, three of them double cells), Section B (24 cells divided between four modules of six places each) and Section F (15 cells).
- High security level, Section G: (20 cells)
- Lower security level, the Vardåsen section: Sections C, D and E (48 places). The NPM did not visit the lower security sections during its visit.

At the time of the NPM's visit, the occupancy rate in Kongsvinger Prison was 93.3%. Figures for the first four months of 2015 showed an average occupancy rate of 97%. The average length of sentence

was 363 days.² The proportion of inmates on remand was stable at approximately 35%. At the time of the visit, the number of permanent staff was 100, a decrease of approximately 14 positions since 2014.

Kongsvinger Prison has served as a special unit for foreign inmates since December 2012. This means that the prison is exclusively for male inmates who are to be expelled and deported from Norway on their release or who are to be transferred to serve their sentence in their home country. The following was stated in the Government's press release when the prison unit for foreign inmates was established:

'... strengthening cooperation in the justice sector in order to better facilitate the deportation of foreign prisoners. It is assumed that the unit will improve co-ordinated use of, among other things, interpreting services in the justice sector. Kongsvinger Prison shall cooperate closely with the immigration authorities and the police, to ensure more efficient deportation after release and in connection with prison transfers.'³

In the assignment letter for the establishment of a prison unit for foreign inmates, the Correctional Service's Central Administration (KSF – now KDI) assumed that what the inmates would be offered activities and services especially adapted to the target group.⁴ At the time of the NPM's visit, the prison had held inmates from 57 different nationalities in 2015.

4 How the visit was conducted

The visit to Kongsvinger Prison was announced in advance. The visit started with a meeting with the prison administration at which the NPM presented the Parliamentary Ombudsman's prevention mandate and the working methods used in connection with prison visits. The need for private interviews with inmates was emphasised in particular. The administration of Kongsvinger Prison presented the prison's organisation and operation, as well as professional and organisational challenges.

The meeting was followed by an inspection of the prison. The inspection covered the main building, including the registration room, security cell, holding cells, the room used to store means of restraint, the visiting department, the health department and the exercise yard. The procedures for admission and use of the security cell and holding cells were explained in connection with the inspection. The NPM also inspected the communal rooms, exercise yards, workshop, visiting rooms and exercise facilities in the ordinary prison departments in the Vardåsen section and in Section G. The inmates' cells were inspected in connection with the private interviews.

Interviews were conducted with inmates every day during the three-day visit. The NPM spoke with approximately 60% of the high security inmates. The NPM had special focus on inmates who experienced their time in prison as particularly difficult. The interviews were held in the inmates' cells or in interview rooms belonging to the different sections. The NPM was accompanied by interpreters for interviews in Polish and Urdu and also used the prison's systems for video and telephone interpreting. Other interviews were conducted in Norwegian, English and French.

² Figures from Kongsvinger Prison for the period 1 January to 13 July 2015.

³ The Ministry of Justice and Public Security, press release of 10 December 2012.

⁴ See the letter dated 15 November 2012 from the then KSF to the Correctional Service Region North-East.

Interviews were also conducted with the prison health department staff. The NPM also reviewed relevant records and administrative decisions. In addition, the NPM had informal conversations with prison officers and other prison staff at a separate meeting with the prison's trade union representatives.

The visit concluded with a meeting with the administration, at which preliminary findings and recommendations were presented. The visit was well prepared and organised by the prison administration and staff.

The following representatives of the Parliamentary Ombudsman participated in the visit:

- Helga Fastrup Ervik (head of the NPM, lawyer)
- Knut Evensen (senior adviser, social scientist, professional background from prison work)
- Johannes Flisnes Nilsen (adviser, lawyer)
- Caroline Klæth Eriksen (adviser, social scientist)
- Marit Lomundal Sæther (external expert, lawyer)

5 Findings and recommendations

5.1 Serious incidents

One inmate committed suicide by hanging himself in his cell in 2014. The prison reported four cases of self-harm to the regional authorities in 2014, while one case of serious self-harm was reported in 2015.

For a more detailed review of procedures to prevent suicide, violence and other serious incidents, see section 5.4.

5.2 Invasive coercive measures

5.2.1 Use of the security cell and restraint bed

Security cells

Legal basis

Pursuant to Section 38 of the Execution of Sentences Act, the Correctional Service may make use of security cells, among other things to prevent a serious attack on or injury to a person, and to prevent the implementation of serious threats or considerable damage to property. Placing an inmate in a security cell is a very invasive measure. It may therefore only be used when strictly necessary under the circumstances, and where less invasive measures have been tried to no avail or would obviously be inadequate. The need to uphold such a measure shall be continually assessed.

Physical conditions

During its inspection, the NPM examined the prison's security cell. The cell was situated in the registration department and measured approximately 15 square metres. Apart from a squat toilet in the floor and a plastic mattress, the cell had no furniture etc. It was painted in shades of grey with colour contrast between the floor and walls, and it had a window high up on the wall that provided some daylight, but no possibility of looking out. A fluorescent light was installed in the wall above the

window. The NPM was told that it was possible to dim the light, but the dimmer did not work during the inspection. A hatch at floor level was used to push through food. There was no source of drinking water in the cell. The way the procedure was explained to the NPM, the inmates were offered water when they were placed in the cell and refills in connection with supervision and at mealtimes. Physical supervision of inmates was possible through a hatch in the cell door or from an inspection window.

Like security cells in other prisons, the security cell had no clock on the wall. A loss of sense of time can increase the mental strain of being confined. The supervision logs contained many examples of inmates in the security cell having asked what time it was several times a day. Inmates may become disoriented after a short period of time in isolation, and it should be possible for them to know what time it is without asking.

Scope and duration

The security cell was used seven times in 2014. At the time of the NPM's visit, there had been three cases of confinement to the security cell in 2015, all concerning the same person. The first two confinements were of 37 and 59 hours' duration, respectively, while the third lasted for as long as six days and four hours and only ended when the inmate was transferred to another prison. The administrative decision was upheld by the Correctional Service at the regional level after three days, and reported to the Directorate of the Norwegian Correctional Service after six days, as prescribed by law.⁵ A review of administrative decisions and notifications to the superior level indicated that the prison gave careful consideration to less invasive measures on an ongoing basis, and that there was no reason to raise legal objections to the measure, given how the situation had developed.

It nonetheless gave cause for serious concern that the final stay in the security cell lasted for so long. From a preventive point of view, the prison is encouraged to evaluate the sequence of events to see whether such incidents could be prevented in other ways than by use of coercive measures.

In this context, reference is made to how confinement to a security cell constitutes a particularly invasive form of solitary confinement. Isolation can have a serious impact on the inmate's mental health and may incite more aggressive behaviour and weaken their impulse control.⁶ It also increases the risk of suicide among inmates.⁷ What is generally known about solitary confinement and the risk of suicide, self-harm and the development of serious mental disorders indicates that a security cell should only be used as a last resort and for the shortest possible time. In a survey conducted in 2002, 30 men who had been transferred to security cells in Oslo Prison were interviewed about how to

⁵ Section 38 fourth paragraph of the Execution of Sentences Act.

⁶ For a summary of research findings, see Sharon Shalev, *A Sourcebook on Solitary Confinement*, LSE/Mannheim Centre for Criminology 2008, pp. 15–17.

⁷ Andersen et al., *A Longitudinal Study of Prisoners on Remand: Repeated Measures of Psychopathology in the Initial Phase of Solitary versus Nonsolitary Confinement*, 2000; Grassian, *Psychiatric Effects of Solitary Confinement*, 2006; Kaba et al., *Solitary Confinement and Risk of Self-Harm Among Jail Inmates*, 2014; Daniel & Fleming, *Suicides in a State Correctional System*, 2006; Duthé, Hazard, Kensey, and Shon, *Suicide among male prisoners in France: a prospective population-based study*, 2013; Felthous, *Suicide Behind Bars: Trends, Inconsistencies, and Practical Implications*, 2011; Konrad et al., *Preventing suicide in prisons Part I: Recommendations from the International Association for Suicide Prevention Task Force on Suicide in Prisons*, 2007; Patterson & Hughes, *Review of Completed Suicides in the California Department of Corrections and Rehabilitation, 1999 to 2004*, 2008.

prevent the isolation of inmates in security cells.⁸ The inmates emphasised in particular closer follow-up by the contact officer and medical personnel, and more activities out of their cells.⁹

Supervision procedures

A review of supervision logs showed that inmates received regular visits from the prison officers and daily supervision by medical personnel, as stipulated in the guidelines to the Execution of Sentences Act.¹⁰ The supervision log showed that, in one case, an inmate had expressed a wish to be taken to hospital, without any indication of how this request had been followed up. The inmate did not receive a visit from a nurse until the next day. It is emphasised that the expressed medical needs of inmates should always be taken seriously, especially considering how confinement to a security cell is a highly invasive form of isolation.¹¹

Body searches and clothing in security cells

The information obtained indicates that inmates were routinely stripped and placed in the security cell naked, with only a suicide prevention blanket to cover themselves. According to a posted notice, the following internal procedures applied:

‘A fixed procedure shall be used when placing an inmate in the security cell. The inmate shall be placed on his stomach in the security cell and undressed, and his hair, armpits, genital area and mouth shall be inspected. We are talking about a visual inspection here. (...) The inmate shall be naked when we leave him in the security cell. Underwear and a t-shirt may be delivered to his cell. The inmate shall also have a black security blanket inside his cell; two if it is winter and the cell is cold.’

There may be grounds for a full body search when an inmate is placed in a security cell based on the risk of serious harm to the person or suicide. Inmates may be placed in a security cell for other reasons, however, for example to ‘prevent the implementation of serious threats or considerable damage to property’.¹² The review of the documentation confirmed that some stays in the security cell were not based on the risk of self-harm or suicide. Undressing inmates as a matter of routine violates the recommendations of the European Committee for the Prevention of Torture (CPT) on body searches of detainees:

‘A strip search is a very invasive – and potentially degrading – measure. Therefore, resort to strip searches should be based on an individual risk assessment and subject to rigorous criteria and supervision. Every reasonable effort should be made to minimize embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a

⁸ Jan Stang and Bjørn Østberg, *Innsattes forslag til å forebygge isolasjon i sikkerhetscelle* (‘Inmates’ suggestions for how to prevent isolation in security cells’), *Journal of the Norwegian Psychological Association* 2006 no 43, pp. 30–33.

⁹ Jan Stang and Bjørn Østberg. See Table 2, p. 32.

¹⁰ Point 3.41 of ‘Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations’ (in Norwegian only) adopted by the Correctional Service’s Central Administration on 16 May 2002 and amended on 27 October 2008.

¹¹ Cf. the CPT Standards, page 101, paragraph 83; the Directorate of Health, *Helse- og omsorgstjenester til innsatte i fengsel* (‘Health and care services for prison inmates’), IS-1971, January 2013, updated November 2013, page 20, section 3.3.1.

¹² Section 38 first paragraph (b) of the Execution of Sentences Act.

person should be allowed to remove clothing above the waist and to get dressed before removing further clothing.¹³

The same follows from the UN's newly revised Standard Minimum Rules for the Treatment of Prisoners, known as the 'Mandela Rules':

'Intrusive searches, including strip and body cavity searches, should be undertaken only if absolutely necessary. Prison administrations shall be encouraged to develop and use appropriate alternatives to intrusive searches.'¹⁴

Based on this, a full body search should only take place based on an individual assessment that is recorded in the supervision log.

It is also unclear whether the inmates are always allowed to put their clothes back on or are given suitable alternative clothing. The prison stated that, as a rule, all inmates get their clothes back or are issued with clothes (t-shirt and underwear). One of the inmates confirmed that he was allowed to keep his own underwear in the security cell. According to the prison administration, alternative clothing (underwear and t-shirt) was supposed to be placed in a cupboard outside the security cell, but no such items were available during the NPM's inspection. One security log contained information indicating that an inmate was confined to the security cell for more than a day without having anything other than a security blanket with which to cover himself. This warrants criticism.

Several prison visits have resulted in the NPM criticising the practice of routine body searches involving full removal of clothing when inmates are placed in security cells and that inmates are left naked in the cell.¹⁵ The grounds given for this practice is the need for preventing suicide attempts and self-harm. A practice whereby everyone is undressed and left naked in order to prevent undesirable incidents is nonetheless not an acceptable risk-reducing measure. The practice is invasive and may increase the humiliation of being confined to a security cell. The CPT criticised a similar practice involving the use of security cells after a visit to Denmark in February 2014:

'In the CPT's view, only where there is an evident suicide risk or case of self-harm should an inmate have to remove his or her clothes and, in such cases, the inmate should be provided with rip-proof clothing and footwear.' (...) '...the prisoner's clothing should not be removed unless this is found to be justified following an individual risk assessment.'¹⁶

It emerged during the visit that the prison was considering the possibility of procuring suicide prevention clothing. Such garments should only be used as a last resort, however, following an assessment of the suicide risk in each specific case. The garments cover most of the body, but bear little resemblance to clothes. They are somewhat uncomfortable to wear and can be perceived as stigmatising for people who have not attempted to harm themselves. If such clothing is procured, it is underlined that they must never be used instead of ordinary clothing as a matter of routine.

¹³ The CPT's visit to the Netherlands in 2011, [CPT/Inf (2012) 21] page 23, paragraph 32.

¹⁴ The UN Standard Minimum Rules for the Treatment of Prisoners, 'the Nelson Mandela Rules', adopted by the UN General Assembly on 17 December 2015, Rule 52 (1).

¹⁵ The Parliamentary Ombudsman's reports from the visit to Tromsø Prison on 10–12 September 2014 (section 5.1.3 on page 9) and the report from the visit to Bergen Prison on 4–6 November 2015 (section 5.1.1 on page 10).

¹⁶ The CPT's report after a visit to Denmark on 4–13 February 2014, CPT/Inf (2014) 25, pages 40–42, paragraphs 64–66.

Legal protection in the case processing

A document review showed that, in two cases during the period 2014–2015, no administrative decision was available on use of the security cell. Confinement to a security cell is one of the most invasive measures that the Correctional Service can use on prison inmates. The decision shall inform the inmate about the legal basis for the measure and the grounds on which it was implemented.¹⁷ It shall also inform the inmate of the right of appeal. Failure to provide an inmate with a decision in such cases is a serious breach of the inmate’s legal protection. An administrative decision in which the grounds are stated shall always be made and given to the inmate in connection with use of a security cell.

The decisions that the NPM reviewed were not satisfactory. They lacked a specific description of the grounds for each individual decision (general descriptions such as ‘disruptive behaviour’ or ‘threatening behaviour’ were used). The decisions also lacked a specific description of what alternative measures had been considered and, if applicable, why they had not been implemented.

The prison also kept an electronic supervision log based on a local system of keeping records that were converted to PDF files when the measure was discontinued. A review showed that the log provided a good chronological description of measures and incidents during stays in the security cell. The system appeared to provide little protection against subsequent changes.¹⁸ The NPM is aware that practice varies considerably between prisons when it comes to keeping logs of incidents and measures in security cells, and it plans to raise the matter with the Directorate of the Norwegian Correctional Service.

Recommendations

- A clock should be installed in the security cell.
- Body searches that entail a full removal of clothing should only be carried out following an individual risk assessment, which should be recorded in the supervision log. In cases where a full removal of clothing is considered necessary, the measure should be carried out in stages, so that the inmate is given an opportunity to cover his upper body before removing the clothes covering his lower body.
- All administrative decisions on the use of security cells should contain a specific description of the incident that formed the basis for the decision, of alternative measures considered, and, if applicable, of why these failed.

Security bed

Kongsvinger Prison did not have a security bed.

¹⁷ Section 24 of the Act of 10 February 1967 relating to procedure in cases concerning the public administration (the Public Administration Act).

¹⁸ In this context, reference can be made to the fact that information entered in the police’s electronic custody log cannot be changed in arrears.

5.2.2 Exclusion from company as a preventive measure

Legal basis

Pursuant to Section 37 of the Execution of Sentences Act, the prison may decide that a prisoner shall be wholly or partly excluded from the company of other prisoners if this is necessary in order to prevent the prisoner from continuing to influence the prison environment in a particularly negative manner, to prevent prisoners from injuring themselves or acting violently or threatening others, to prevent considerable material damage, to prevent criminal acts, or maintain peace, order and security, or if the prisoner himself or herself so wishes. Complete or partial exclusion pursuant to the first paragraph shall not be maintained longer than necessary, and the prison shall continually assess whether grounds for the exclusion continue to exist. An administrative decision shall always be made if an inmate is excluded from company.

Limitations of or exclusion from ordinary daily contact must meet the conditions set out in Section 17 second paragraph, Section 29 second paragraph, Sections 37, 38, 39 or Section 40 second paragraph (d). This follows from an interpretation of Section 17 first paragraph of the Execution of Sentences Act and is confirmed in section 3.15.17 of the Directorate's guidelines. In cases where inmates serve their sentence under conditions that in reality entail complete or partial exclusion from the company of others during periods when communal activities are organised, an administrative decision on complete or partial exclusion shall be made.

Holding cells

Inmates were normally excluded from the company of others by confining them to their own cells. The registration department, located on the same corridor as the security cell, also contained three holding cells. According to the information provided, the holding cells were used as a less invasive alternative to the security cell, or for shorter periods in connection with admission or internal transfers within the prison.

The holding cells were furnished with a plank bed with a mattress and bedlinen, and a small table. There was also a steel toilet that was not partitioned off from the rest of the cell. There was no other furnishing and nowhere to keep personal effects (these were placed outside the cells). The rooms admitted a satisfactory amount of direct daylight and had an adjustable ceiling light. There was colour contrast between the floor and walls and the cells appeared to be satisfactory maintained. It was possible to call the staff using a calling system. The cells were furnished in a similar way as the ordinary cells, but appeared more robust and had less furnishing. Inmates confined to holding cells were allowed to spend time outdoors in a small exercise yard connected to the registration department. Even though the cells were not furnished as security cells,¹⁹ the furnishing warrants use of the cells for as short a period as possible. It was unfortunate that there was nowhere to sit apart from on the bed, and that the inmate had no access to any personal belongings.

¹⁹ Cf. the Parliamentary Ombudsman's report from Bergen Prison on 4–6 November 2014, section 5.1.3, pages 11–13.

Scope and duration

According to the prison, a total of 27 administrative decisions on exclusion from company pursuant to Section 37 of the Execution of Sentences Act were made during the first eight months of 2015. A total of 27 such decisions were made in 2014. The average duration of exclusion from company at the time of the NPM's visit in 2015 was approximately three and a half days (83.2 hours). One inmate had been completely excluded from the company of others (isolated) for 15 days and 19 hours. Even though this is permitted under Section 37 fifth paragraph of the Execution of Sentences Act, it is underlined that long-term isolation is a highly invasive measure that can cause harm to health (see section 5.2.1). In line with the CPT's recommendations, in cases of long-term isolation, a plan should be prepared for the purpose of changing the situation that caused the inmate to be excluded from company.²⁰

Developing stronger human rights standards for isolation

According to the UN Minimum Rules for the Treatment of Prisoners (the Mandela Rules), which were adopted by the UN General Assembly in December 2015, solitary confinement is defined as follows:

'Rule 44: For the purpose of these rules, solitary confinement shall refer to the confinement of prisoners for 22 hours or more a day without meaningful human contact. Prolonged solitary confinement shall refer to solitary confinement for a time period in excess of 15 consecutive days.'

It also follows from Rule 43(b) that solitary confinement in excess of 15 days is prohibited. The background for the time limit is research findings indicating that the harmful effects of isolation may become irreversible after such time.

However, Norwegian legislation currently allows complete exclusion from the company of others for up to one year at a time. To the extent that complete exclusion from company entails 'solitary confinement' as defined in the Mandela Rules, a new assessment should be made of the relationship between the Mandela Rules and Section 37 of the Execution of Sentences Act. The Parliamentary Ombudsman will follow this up with the Ministry of Justice and Public Security.

Legal protection in the case processing

A review of administrative decisions made in 2014 and 2015 concerning exclusion from company pursuant to Section 37 of the Execution of Sentences Act identified certain weaknesses in the safeguarding of inmates' legal protection.

Ahead of the NPM's visit, the prison stated that 27 decisions on exclusion from company pursuant to Section 37 had been made in the course of the first eight months of 2015. A document review showed that eight decisions were lacking, including a decision and notification to the Correctional Service Region East on complete exclusion of an inmate for 15 days and 19 hours (see the preceding section). If this means that inmates have not received written notification of decisions and the grounds for the measure, it constitutes a serious breach of their legal protection.

²⁰ The CPT Standards, pages 34–35.

Some of the decisions were not signed, and no decision was made when the measure was discontinued (discontinuation decision). In some cases, the date on which the measure was discontinued was noted on the original decision. On this point, reference is made to the Parliamentary Ombudsman's statement of 6 July 2012, in which the Correctional Service was asked to ensure that written information was provided about the discontinuation of exclusion.²¹

The prison seems to have had better procedures for signing administrative decisions and for providing evidence of the time of discontinuation in 2014 than in 2015. An additional weakness was that the decisions did not state whether less invasive measures, for example partial exclusion, had been considered.

It also emerged that, in some cases, inmates had been placed in a holding cell (see above) for a few hours without an administrative decision having been made, while awaiting an available place in the communal section. The real number of exclusions was therefore higher than indicated by the documentation.

For reasons of legal protection, it is important that the grounds for the exclusion are clearly stated in the administrative decision. Several of the decisions contained a specific and relatively thorough description of the factual grounds for the exclusion. In some cases, however, the grounds were vague. Some decisions on exclusion were simply based on the inmate having stayed in the security cell. Decisions on exclusion from company pursuant to Section 37 must be made on independent grounds that must be stated in the decision. It is not sufficient to refer to previous decisions or incident reports.

The prison administration stated that an English-language template had been prepared for administrative decisions on exclusion from company, but that the Norwegian template was used when inmates did not understand English. A review of decisions on exclusion from company during the period 2014–2015 showed that all the decisions were written in Norwegian, however.

It emerged that, in one case, a decision on exclusion from company had been communicated to the inmate in question with the help of Google Translate. It was stated in the decision that 'a decision on isolation on grounds of threats of suicide' had been communicated to the inmate in this way, without the inmate having been informed of his right of appeal. This gives cause for serious concern. In such cases, the information should be communicated in a language that the inmate understands, if necessary with the use of an interpreter.

From a preventive perspective, the most important thing is that the content of the decision is made known to the inmate. It should therefore be ensured that English-language templates are used and the grounds stated in English where this will give the inmate a good understanding of the content of the decision. In cases where a written decision in Norwegian or English will not give the inmate enough information, an interpreter should be used to ensure that he is fully informed.

²¹ The Parliamentary Ombudsman, 'Partial exclusion and transfer of a convicted person to the remand section – requirements for written information and notification', statement of 6 July 2012, Case 2011/494.

The prison said that it had not received any complaints against decisions on exclusion pursuant to Section 37 after it was established as a prison for foreign inmates. This left doubt about whether the inmates had understood the content of the decisions, their right of appeal and whether they had been given a real opportunity to send a written complaint in a language that the case officer understands, as required by law.

Recommendations

- In the event that an inmate is excluded from the company of others for a prolonged period, a plan should be drawn up to ensure that the inmate is reunited with his fellow inmates as soon as possible.
- In cases where inmates serve their sentence under conditions that entail complete or partial exclusion from the company of others during periods when communal activities are organised, an administrative decision is required pursuant to Section 37 of the Execution of Sentences Act. A discontinuation decision should always be made when complete or partial exclusion is discontinued.
- All administrative decisions on the use of exclusion should contain a specific description of the incident that formed the basis for the decision, of alternative measures considered, and, if applicable, of why they failed.
- If necessary in order to ensure that the inmate understands the content of the decision, a written translation of the decision should be provided or an interpreter used. It must be ensured that the inmate in question understands the legal and factual grounds for the decision and the right of appeal.

5.3 Activity programme and communal activities

Degree of activity/employment

Kongsvinger Prison stated that the activity programme had been reorganised when the prison was turned into a prison for foreign inmates in 2012. This was done on the grounds that the prison inmates would not resume life in Norway on being released and should therefore serve their sentences under specially adapted conditions. The prison stated that 85% of the inmates pursued an education or participated in organised work. However, it emerged that one inmate was registered as 'employed' even though he was only employed one morning or afternoon a week. The prison considered that inmates were employed, even if it was often the case that they only attended school in the morning or afternoon and spent the rest of the day locked in their cells. At the time of the NPM's visit, only two of 15 inmates in Section F were employed full-time. The remaining 13 participated in different types of part-time activities.

Inmates who did not attend school or work were locked in their cells during working hours.

Employment

At the workshop in the high security section at Vardåsen, inmates can work on ceramics, textiles and leather and make seed trays. Section G offers cabinetmaking as an activity. In addition to this, some of the inmates worked in the kitchen or laundry, carried out maintenance, worked in the outdoor

group, the library or were responsible for cleaning and food distribution ('hallboy work'). It emerged during the visit that several members of staff wanted added capacity in the workshop. The work there was vulnerable if any of the staff were absent. If a member of staff fell ill, the work was cancelled for one or more inmates that day.

Programme activities

At the time of the NPM's visit, there were no programme activities for inmates, such as anger management programmes, programmes for mastering drug/alcohol problems or one-to-one or group discussion programmes. The prison explained that there were no programme activities adapted to this group of inmates.

Schooling

The educational activities offered by the prison consisted mainly of training in basic skills and vocational courses. Skarnes Upper Secondary School was responsible for the courses offered. The school offered courses in basic English (two levels), basic use of computers (two levels), building trades, woodwork, cleaning and cooking, art and basic maths.²² The school also organised certified forklift training and Photoshop courses, and some of the inmates were offered online studies via foreign universities. The tuition took place in English, and the school therefore gave high priority to English-language instruction. According to the school, each course lasted about nine weeks, and the number of classes per course varied. The prison stated that approximately 50% of the inmates had an offer of full-time or part-time courses at all times.

The inmates could borrow books and films from the library in a number of different languages. The library service was emphasised as positive by several of the inmates.

Services for isolated inmates and inmates on remand

The prison administration stated that it gave priority to getting isolated inmates out of their cell. This required more resources and entailed attempts at one-to-one follow-up of inmates. The trade unions pointed to the need for employing activity coordinators with special responsibility for following up vulnerable inmates.

About one-third of the inmates in the high security section at any given time are remand inmates. The prison stated that inmates on remand are offered employment if there is available capacity. At the time of the NPM's visit, the proportion of inmates with no offer of employment was the same among remand inmates and convicted inmates.

Overall assessment of activities

During the NPM's visit, there was a high number of inmates who were only employed part-time. This meant that many of the inmates spent most of the day locked in their cells. A low full-time employment rate meant that both inmates without employment and inmates with part-time employment spent less time outside their cells per day than the CPT recommends (eight hours):

²² The prison school service said that very few of the inmates are entitled to education or training at lower or upper secondary school level, since that requires legal residence in Norway. Those who are entitled to it get the offer.

'The CPT considers that one should aim at ensuring that prisoners in remand establishments are able to spend a reasonable part of the day (8 hours or more) outside their cells, engaged in purposeful activity of a varied nature. Of course, regimes in establishments for sentenced prisoners should be even more favourable.'²³

This was the case in both the high security section at Vardåsen and in Section G, and it gave rise to particular challenges at weekends. The prison administration stated that it wanted to expand the offer of education to cover whole working days.

The prison stated that it did not record the number of prison days on which inmates spent less than eight hours outside their cells. However, it estimated that this amounted to 9,250 days up until 10 August in 2015. This shows that many inmates are not offered sufficient activities. Interviews with the administration, inmates and union representatives confirmed that more activities should be offered.

Lack of activities could have negative consequences for the health and welfare of inmates, and may have a negative effect on inmates' personal progression in the long term.

Recommendation

- The prison should implement measures to ensure that all inmates have an opportunity to spend at least eight hours a day on meaningful activity outside their cells.

5.4 Protection measures

5.4.1 Suicide prevention procedures

Information flow before admission

The prison stated that it is in contact with the Correctional Service's regional office before admitting new remand inmates. The prison asks the regional office's remand coordinator whether there is anything about the inmate the prison should be aware of, including health issues, and any related messages/communications are sent to the prison in writing. Where an incident has taken place in the police custody facility, the prison requests that the person in question be escorted to the accident and emergency unit before being admitted to the prison.

The prison seldom receives notifications of concern from the police about inmates, however. A good information flow between the police and the Correctional Service about suicide risk is an important element of suicide prevention. The prison should always be informed of specific cases of suicide risk in police custody facilities, so that it can make necessary arrangements as soon as the inmate is admitted.²⁴

²³ The CPT Standards, page 17, paragraph 47.

²⁴ One of several measures could be to prepare an information template, where the requested information includes information about mental health and suicide risk, which is then sent to the police for completion before the individual is transferred from the police custody facility. Reference is made to the practice in Bergen Prison. See the Parliamentary Ombudsman's report from the visit to Bergen Prison on 4–6 November 2014, page 15, paragraph 5.2.3.

More information was normally available when inmates were transferred from other prisons, as transfers often take place on application from inmates themselves and the staff can search the Correctional Service's internal system for information about the inmate in question.

Prison procedures for identifying and handling suicide risk

The prison stated that its general procedures for suicide prevention includes conversations in connection with registration/admission (see section 5.4.3), medical consultations at the request of inmates (see section 5.5.2), surveys in the individual sections, and continuous follow-up by contact officers (see section 5.4.4).

On suspicion or confirmation of suicide risk, the prison keeps the inmate under close supervision. Consideration is given to keeping the hatch in the cell door open or moving the inmate to a holding cell or the security cell. The prison stated that the purpose of transferring an inmate to a holding cell/security cell was to facilitate more frequent supervision.

Although there may be cases where there is a high risk of suicide and there is a need for scarcely furnished cells with full supervision, the prison stressed that conversations with inmates are probably the most important preventive measure.²⁵ In addition, placing an inmate in a holding cell/security cell is a highly invasive measure, and the stay can in itself contribute to an increased risk of suicide (see section 5.2.1). In the event of suspicion of suicide risk, it should be possible to carry out frequent supervision in an ordinary section or with the use of staff who are assigned special responsibility for following up and talking with the inmate in question.

5.4.2 Safeguarding the security of inmates

A clear majority of the inmates interviewed by the NPM stated that they felt safe and secure in the prison. Most of them were satisfied with the way the staff treated them. None of them accused the staff of abuse or of using physical force. Nor did anyone accuse the staff of having spoken to them in a degrading, discriminating or offensive manner.

Despite low staffing, most of the inmates stated that the staff were present in the communal areas on a regular basis. It appears expedient for maintaining the level of safety and security that most of the sections in the prison consist of small modules, which makes it easier to keep an overview.

A few inmates had experienced or observed threats or violence from other inmates. The prison's reports on violence and threats for 2014 and 2015 mentioned four and three cases, respectively, of violence and threats between inmates. The NPM's impression was that the prison made targeted efforts to prevent such incidents.

At the high security level in Section A, there were three double cells with two inmates in each ('double-celling'). In general, double-celling is an unfortunate measure that increases the risk of undesirable incidents and that should only be used in exceptional cases and subject to frequent supervision. With reference to the CPT's recommendations and the European Prison Rules, the

²⁵ See, *inter alia*, the Correctional Service of Norway Staff Academy (KRUS), *Selv mord og selvmordsnærhet i norske fengsler – Selvmordsforebyggende arbeid i fengsel* ('Suicide and suicidality in Norwegian prisons – Suicide prevention work in prison'), Yngve Hammerlin (2009), especially Chapter 10, page 110 ff.

Ombudsman has previously underlined that the practice of double-celling should be discontinued as soon as it is no longer necessary.²⁶

No information emerged during the visit that double-celling had led to violent incidents.

5.4.3 Admission procedures

Information during the arrival phase

The importance of providing inmates with information during the arrival phase is set out in the Mandela Rules (2015) and in the Recommendation of the Committee of Ministers concerning foreign prisoners (2012).²⁷ According to Rule 54 of the Mandela Rules, upon admission, every prisoner shall be promptly provided with written information about, *inter alia*, the prison law and regulations, his/her rights and obligations and '[a]ll other matters necessary to enable the prisoner to adapt himself or herself to the life of the prison'. Furthermore, it follows from Rule 55 (1) that such information '...shall be available in the most commonly used languages in accordance with the needs of the prison population. If a prisoner does not understand any of the languages, interpretation assistance should be provided.' Rule 8 of the Council of Europe's recommendations states that: 'Foreign prisoners who so require shall be given appropriate access to interpretation and translation...'.

Written and verbal information on admission

The prison administration stated that, in the admission phase, new inmates received information in two stages. The first is the admission interview at which basic information is provided about procedures, rules, tasks, meals, health services, the possibility of buying things, visiting procedures, laundry, telephony etc. The same information is also distributed in writing in several languages. In the course of the next few days, an assessment interview takes place, using an interpreter if necessary, during which more thorough information is provided about the prison and a more detailed mapping carried out of the inmate's needs and resources. The inmates also had access to a TV information channel about the prison.

However, the available information indicated that the inmates, to a varying degree, received verbal and written information about the rules and procedures at the prison in a language they understood. Some expressed dissatisfaction with the lack of information on arrival. It seemed that the dissatisfaction was largely to do with the fact that the inmates had not understood the information they were given. Some of them had received written information in English to take with them to the cell, and there were posters with written information in the registration room. Several of the inmates understood neither English nor Norwegian, however, and needed to have the information translated.

In some cases, the prison sent for inmates who spoke the same language, and in a few cases, interpreters were used. Some of the inmates stated that lack of information on admission meant that they received help from other inmates who spoke several languages. Other than that, Kongsvinger

²⁶ See, *inter alia*, the Parliamentary Ombudsman's case 2006/105, 'Placing of several inmates in the same cell – double-celling and use of multi-cells'.

²⁷ The UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), adopted by the UN General Assembly on 17 December 2015; Recommendation CM/Rec (2012) 12 of the Committee of Ministers to member States concerning foreign prisoners, adopted on 10 October 2012.

Prison had no available information in English or other languages on its website under kriminalomsorgen.no. The NPM was told that there had previously been two regular admission officers, but that, because of cutbacks, there was now only one staff member who regularly received new inmates.

Similar findings were made in a survey conducted in 2014 by the Correctional Service of Norway Staff Academy (KRUS) among inmates in Kongsvinger Prison.²⁸ In the survey, several inmates expressed dissatisfaction with the way they were welcomed and the information they received about the prison from the registration staff, even though most of them had been transferred from other prisons. In KRUS's evaluation report, this was ascribed to, among other things, a lack of written information in different languages and the lack of interpreting assistance during admission.

Interpreting assistance in connection with admission

The prison had acquired equipment for video remote interpreting as part of a pilot project under the auspices of the Directorate of the Norwegian Correctional Service, and had in that connection entered into a cooperation agreement with the municipal interpreting service in Oslo. At the time of the NPM's visit, the equipment was not used in connection with admission interviews. According to the administration, the equipment had been used since summer 2015 for individual assessment interviews and when there was a particular need. Via an interpreter, the NPM was in contact with several inmates who spoke neither Norwegian nor English, and who had been in the prison for several days without access to an interpreter. They had a great unmet need for information, including about rules and procedures in the prison.

Summary of information work in connection with admission

All in all, there was a need to strengthen the information work in connection with admission. Firstly, the information material on rules and internal prison procedures should be translated into the most commonly used languages in the prison. Another important measure would be to ensure access to an interpreter when necessary in connection with admission interviews, as notified by the prison administration. During the first phase of being deprived of their liberty, prison inmates often feel very insecure, and this period therefore entails particular risks. As a rule, inmates will have a great need for information, a need for human compassion and help to organise personal and practical affairs in connection with the imprisonment. It is important to have good admission procedures in place, including information, so as to identify any special needs and any risk of self-harm, suicide, violence, threats and other factors that have a bearing on safety.

Recommendations

- The prison should ensure that all inmates, when they arrive, receive verbal and written information about their rights and the prison's procedures in a language they understand.
- The prison should ensure that all inmates are offered video remote interpreting assistance during the admission interview.

²⁸ Part-evaluation by the Correctional Service of Norway Staff Academy, *Evaluering av utlendingsenheten ved Kongsvinger fengsel* ('Evaluation of the prison unit for foreign inmates at Kongsvinger Prison'), by Tore Rokkan and Per Kristian Granheim, 10 November 2014.

5.4.4 Contact officers

The contact officer scheme²⁹ appeared to function well. Most of the inmates stated that they had been in contact with their contact officer during the first week and several mentioned that they received good assistance from their contact officer. This is positive. Some stated that they did not need much contact with their contact officer because they could get help from all the staff. It was also a good thing that the prison had recruited officers with different language skills. This is an important element in safeguarding the work of the contact officers and in preventing unfortunate incidents involving persons who speak neither Norwegian nor English.

At the same time, the work of the contact officers seemed to involve less direct effort to establish relations with inmates compared with other prisons. According to the staff, this was a result of the prison having become a prison for foreign inmates only. A lot of the contact officers' work consisted of obtaining and coordinating information about the inmates from the immigration authorities. The traditional duties of the contact officers – preparing inmates for being released from prison in Norway – had changed because the inmates are to be deported or transferred to penal institutions in other countries. The changed role meant fewer arenas for interaction and building relations with the inmates.

Language problems led to additional challenges in the staff's efforts to improve the prison environment, especially when the inmates understood neither English nor Norwegian. It was stated that, when such situations arose, the prison attempted to place inmates who spoke the same language in the same section, to make everyday communication easier. The prison occasionally used other inmates who spoke the same language to convey simple messages and information about practical procedures.

This can give rise to challenges because it can lead to the development of informal relationships of power between inmates. If there is no one available to communicate in the inmate's language, sign language or symbols are used in combination with simplified English.

The possibility of communicating with the inmates is essential to the staff's efforts to improve the prison environment. An inability to understand what is being said can make it difficult to identify problems and disagreements between inmates, among other things. This can lead to undesirable incidents. It is important that the prison, together with the superior authority, facilitate practical solutions to address day-to-day language problems. In addition to measures such as increased use of video remote interpreting and providing more information in the most commonly used foreign languages in the prison (see section 5.4.3), technical aids such as tablets with translation software can be useful tools in this work. Another important measure could be to ensure that contact officers are offered competence-building courses to strengthen their work with the target group, for example courses in non-verbal communication techniques.

²⁹ A contact officer's primary duties are to ensure that the inmate receives information about the prison and about his/her rights and obligations, to ensure that the inmate's problems, needs and resources are identified as soon as possible after admission, to support and motivate the inmate, to liaise between the inmate and the prison, to contribute to the process of laying plans for the time when the inmate is released, and to assist in the communication with external parties, for example the social security services, labour and welfare office (NAV) or educational authorities.

The Mandela Rules (2015) introduced a range of new standards concerning the recommended expertise of prison staff in a modern correctional setting (see Rules 74–82). Rule 75 (3) states that:

‘The prison administration shall ensure the continuous provision of in-service training courses with a view to maintaining and improving the knowledge and professional capacity of its personnel, after entering on duty and during their career.’

Furthermore, it follows from Rule 76 (2) that:

‘Prison staff who are in charge of working with certain categories of prisoners, or who are assigned other specialized functions, shall receive training that has a corresponding focus.’

Recommendation

- The prison should, in consultation with the relevant authorities, consider additional measures to address language problems, for example technical translation aids and competence-raising measures for the staff.

5.5 Health services

5.5.1 In general

The prison health service is affiliated to the Department of Health and Rehabilitation Services in Kongsvinger municipality. At the time of the NPM’s visit, the health service consisted of two doctors who were present one day a week,³⁰ two nurses and a social educator in full-time positions, and two physiotherapists each working 25% of a full-time position.

The consultation hours were between 8.00 and 15.30 on weekdays. There was no medical personnel present in the evenings or at weekends, and any inmates requiring medical assistance during this period would have to be escorted to the accident and emergency unit.

The county dental service was available for consultations in the prison once a week. There is no longer a psychologist in Kongsvinger Prison, and inmates are referred to a local district psychiatric centre.

During its visit, the NPM had a meeting with the person responsible for the prison health service, and it visited the health department as part of the inspection. The health department was located in the main building of the prison. The health service was also an important topic in the private interviews with the inmates.

5.5.2 Access to health services

Medical examination on arrival

The available information indicated that health examinations on arrival were carried out to a varying degree. A small proportion of the inmates the NPM interviewed stated that they had been offered a conversation with a nurse or doctor within a few days of being admitted. Some stated that they had been in contact with the health department on the day of admission. Most stated that they had not

³⁰ According to the information received, there was a doctor working 8% of a full-time position in Section G and a doctor working 13.5% of a full-time position in the Vardåsen section. This corresponded to approximately six medical consultations a week.

been in contact with the health department in the course of the first few days, however. Some stated that they had never been in contact with the health department or received a visit from medical personnel at the section, even after a long period in prison.

A health examination on arrival is an important protection against torture and inhuman treatment. Reference is made to the CPT's recommendations to Denmark in 2014 concerning medical examination of prisoners in connection with arrival:

'The CPT recommends that the Danish authorities take steps to ensure that every newly-arrived prisoner be properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening. Such screening should always take place within 24 hours of a person's admission to prison, and preferably on the day of arrival at the establishment.'³¹

Key topics in a health examination

It was stated that it was normal procedure on admission of new inmates for the health department to be notified by the admission officer and conduct a short registration interview. The health department brought a brief form to the interview, which contained fields for entering information about the inmate's regular doctor (GP), any medication and a brief description of his medical history. No physical examination was carried out unless it was requested by the inmate, and no questions were asked for the purpose of identifying suicide risk unless the police or others had provided information that gave grounds for raising such questions.

There was also a more comprehensive form that the health department was to complete together with the inmate after he had been allocated a place in a prison section. This form contained questions about diseases like tuberculosis, HIV and diabetes and questions about psychiatric diagnoses, previous admissions, addiction to drugs/alcohol and use of medication. The available information indicates that it took at least a few days, often more, before this form was completed – and that health examinations were not always carried out.

On arrival, inmates should always undergo an examination to check for signs of physical injuries, regardless of how these have been sustained.³² Good documentation of injuries to detainees is an important guarantee of their legal protection and helps to reduce the risk of torture and inhuman treatment. The importance of this has been pointed out by both the CPT and the UN Subcommittee on the Prevention of Torture (SPT).³³ The health department should also identify contagious diseases and possible suicide risk, especially by specifically asking the inmate whether he has suicidal thoughts. The NPM also notes that individual inmates expressed concerns about what they perceived as inadequate screening for contagious diseases.

³¹ The Committee for the Prevention of Torture's (CPT) report after a visit to Denmark on 4–13 February 2014, CPT/Inf (2014) 25, page 34, paragraph 51. See also the CPT's report to the Norwegian authorities after a visit to Norway on 18–27 May 2011, CPT/Inf (2011) 33, page 29, paragraph 67.

³² Many injuries may be found to exist that have not been inflicted by a representative of the authorities. It is also important to document any negative findings in order to avoid subsequent allegations that the injuries were inflicted by, for example, prison staff.

³³ The CPT Standards Chapter VII, page 97, paragraph 71; the UN Subcommittee on the Prevention of Torture (SPT), report after a visit to the Maldives, (2009) CAT/OP/MDV/1, 26 February 2009, paragraph 112.

The Mandela Rules (2015) specify what medical personnel should pay particular attention to in connection with health examinations of inmates:

‘A physician or other qualified health-care professionals, whether or not they are required to report to the physician, shall see, talk with and examine every prisoner as soon as possible following his or her admission and thereafter as necessary. Particular attention shall be paid to:

- (a) Identifying health-care needs and taking all necessary measures for treatment;
- (b) Identifying any ill-treatment that arriving prisoners may have been subjected to prior to admission;
- (c) Identifying any signs of psychological or other stress brought on by the fact of imprisonment, including, but not limited to, the risk of suicide or self-harm and withdrawal symptoms resulting from the use of drugs, medication or alcohol; and undertaking all appropriate individualized measures or treatment;
- (d) In cases where prisoners are suspected of having contagious diseases, providing for the clinical isolation and adequate treatment of those prisoners during the infectious period;
- (e) Determining the fitness of prisoners to work, to exercise and to participate in other activities, as appropriate.³⁴

Feedback to request for appointment with the health department

The inmates used a form to request a consultation with the health department (see more details about the form in section 5.5.3). According to the health department, inmates in the high security section were normally not told whether or when they had been given an appointment, but were collected from their cells when the time came. There were few complaints about long waiting time, but some mentioned the lack of feedback concerning the time of their appointment. Telling inmates when they have been given an appointment with the health department, the way it is done in the lower security section, would seem to be expedient so that the inmate can prepare for the appointment.

Psychologist

Kongsvinger Prison no longer offered the services of a psychologist. Inmates who needed follow-up from a psychologist were escorted to the local district psychiatric centre (DPS). The prison health department often had to complain to the local DPS to ensure that such services were offered to inmates who needed it. According to the prison administration, the prison wished to have a psychologist employed in the prison. Some inmates also expressed frustration over insufficient access to a psychologist. The administration nonetheless emphasised that the health department had hired a psychiatric nurse, which raised the prison’s level of expertise in mental health.

A well-functioning offer of follow-up by a psychologist is important because imprisonment is very stressful. A comprehensive survey from November 2014 documents that the prevalence of mental disorders among inmates is considerably higher than in the general population; only 8% had never

³⁴ The UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), adopted by the UN General Assembly on 17 December 2015, Rule 30.

had any symptoms of mental illness.³⁵ One or more suicide risk factors were found to be present in 12% of the respondents. In this context, reference is made to the Mandela Rules, where Rule 25 sets out recommendations on the professional composition of health services in prison:

‘The health-care service shall consist of an interdisciplinary team with sufficient qualified personnel acting in full clinical independence and shall encompass sufficient expertise in psychology and psychiatry.’

Recommendations

- New inmates should undergo a health examination, conducted by a doctor, or a nurse reporting to a doctor, within one day of arrival.
- Inmates should receive better psychological/psychiatric follow-up in the prison.

5.5.3 Confidentiality

Inmates were able to request contact with the health department by filling in a request form. The request form was available in English and contained a field in which inmates could enter the reason for the request. In addition to a field for the inmate’s own signature, there was a field for the staff’s signature. Hardly any of the inmates reported having used a sealed envelope or that they knew that they could ask for one. The normal procedure was to fill in the form and deliver it to a prison officer. Because of language problems, some inmates asked the staff or another inmate to help them fill in the form.

It also emerged that a prison officer once asked an inmate to provide information about why he wanted a doctor’s appointment. This seems to be an unfortunate consequence of how the forms were designed.

The CPT Standards for health care services in prisons underline the importance of ensuring that inmates are able to communicate with medical personnel in a way that safeguards confidentiality, and that prison staff are not qualified to assess the need for medical assistance:

‘Prisoners should be able to approach the health care service on a confidential basis, for example, by means of message in a sealed envelope. Further, prison officers should not seek to screen requests to consult a doctor.’³⁶

The importance of protecting health information also follows from the Mandela Rules, Rule 32 (1)(c). See also Rule 27 (2), which states that:

‘Clinical decisions may only be taken by the responsible health-care professionals and may not be overruled or ignored by non-medical prison staff.’

The presence of prison officers during medical consultations

³⁵ The regional centre for research and education in forensic psychiatry and psychology in the South-Eastern health region, *Forekomst av psykiske lidelser hos domfelte i norske fengsler* (‘The prevalence of mental disorders among convicted persons in Norwegian prisons’), Victoria Cramer (2014).

³⁶ The CPT Standards, page 39, paragraph 34. Reference is also made to the CPT’s recommendation to Denmark in 2014, CPT/Inf (2014) 25, page 35, paragraph 53.

It also emerged that, in some cases, prison officers had been present in the room during medical consultations. This had sometimes been the case for safety reasons. The health department had discussed whether it would be possible for the prison officers to wear hearing protection in order to safeguard the inmates' right to a confidential conversation with medical personnel, if the presence of the officers was deemed to be necessary for safety reasons. In this context, reference is made to the following CPT recommendation:

'All medical examinations of prisoners (whether on arrival or at a later stage) should be conducted out of the hearing and – unless the doctor concerned requests otherwise – out of the sight of prison officers.'³⁷

Recommendations

- The prison should, in consultation with the health department, make sure that all enquiries to the health department are treated confidentially. The staff should ensure that requests for medical consultations are placed in a closed envelope and that such envelopes are readily available to all inmates.
- The prison should, in consultation with the health department, prepare requests for medical consultations in the most frequently used languages, and a version with symbols for those who are unable to read and write and for inmates who speak other languages.
- It should not be possible for police officers to overhear what is being said in the patient room. Nor should it be possible for the police officers to observe what is going on in the patient room, except when requested to do so by medical personnel in special cases.

5.5.4 Use of interpreters

The health department had an agreement with an interpreting service, and it emerged that telephone interpreting was the main form of interpreting used. The NPM was told that booking an interpreter normally did not take long, but that it was not always possible to get one on the same day as the need arose. Furthermore, there is particular reason to consider the use of face-to-face interpreters in connection with medical consultations, even though it can involve practical challenges.³⁸ Telephone interpreting has several weaknesses. Where use of face-to-face interpreters is not possible, it is better to use the prison's equipment for video remote interpreting during medical consultations.

Information was provided that indicated that some inmates were not provided with an interpreter in connection with medical consultations, even though they needed one. If this is the case, it warrants criticism.

There had been cases where prison officers with relevant language skills had helped out as an interpreter during medical consultations. Even if the inmate gives his consent, it is an unfortunate

³⁷ The CPT Standards, page 43, paragraph 51.

³⁸ The Directorate of Health, *Helse- og omsorgstjenester til innsatte i fengsel* ('Health and care services for prison inmates'), guide IS-1971, last revised in November 2013, page 49 ff.

situation if staff, who are not qualified interpreters and who hold a position of power in relation to the inmate, gain access to confidential health information. In such cases, the health department is responsible for booking an interpreter.³⁹

One inmate also said that he received communications from the health department in Norwegian, which he did not understand, despite the fact that he had asked the health department to contact him in English. He was therefore dependent on assistance from the contact officers to have the communications translated. This represents a breach of the inmates' right to have their health information treated confidentially.

Recommendations

- The health department should always ensure that interpreters are used when needed, preferably face-to-face interpreters. The possibility of using video interpreting should be looked into in more detail.
- Prison staff should not be used as interpreters during medical consultations, even if the inmate agrees to it.

5.5.5 Use of handcuffs during dental examinations

During the NPM's visit, it came to light that an inmate had been escorted to the dentist in handcuffs and that he was handcuffed throughout the examination, even though two prison officers were present in the room. The use of handcuffs during any type of medical examinations can undermine the important relationship of trust between patient and medical personnel and represents a risk of inhuman and degrading treatment. In two cases, the European Court of Human Rights (ECtHR) has found the use of handcuffs and other types of restraints in connection with medical examinations to be a disproportionate measure and confirmed violation of Article 3 of the European Convention on Human Rights (ECHR).⁴⁰ In a report following its visit to Ukraine, the CPT criticised the authorities for the fact that life prisoners '...remained in handcuffs during all medical consultations as well as while receiving dental care.'⁴¹ The CPT acknowledged that handcuffs could be used on grounds of safety in exceptional cases, but underlined that:

'...the practice of keeping lifers in handcuffs during medical consultations/when providing dental care infringes upon the dignity of the prisoners concerned, prohibits the development of a proper health-care staff-patient relationship and is possibly detrimental to the establishment of an objective medical finding.'

³⁹ Section 10 of the Health Personnel Act and Sections 3-5 and 3-2 of the Act on Patient and User Rights. See also the Directorate of Health, *Helse- og omsorgstjenester til innsatte i fengsel* ('Health and care services for prison inmates'), guide IS-1971, last revised in November 2013, page 49 ff.

⁴⁰ See, *inter alia*, *Moussel v. France*, Application No 67263/01, 14 November 2002, paragraphs 46–48 (case concerning the use of handcuffs in combination with other restraints during transportation to hospital), and *Henaf v. France*, Application No 65436/01, 27 November 2003, paragraphs 48–60 (case concerning a person being chained to a hospital bed, but involving principles that also apply to the use of handcuffs).

⁴¹ The CPT's report after a visit to Ukraine in 2012, CPT/Inf (2013) 23, paragraph 50.

5.6 Physical conditions

5.6.1 Outdoor areas and communal areas

Inmates the NPM spoke with during its visit reported that they were allowed to spend one hour outdoors every day. In summer, they were allowed to go outside twice a day as compensation for the lower level of activity.

The Vardåsen sections

The Vardåsen section of Kongsvinger Prison is situated in a rural setting with lawns, trees and planted areas inside the encircling wall. The outdoor area for inmates in the high security section at Vardåsen consists of a fenced-in concrete yard, however. Several inmates said that they missed green areas and outdoor areas that allowed for alternative pursuits, such as running.

Between Sections A and B in Vardåsen, there was a small walled-in exercise yard intended for inmates who were excluded from company or placed in solitary confinement under a court order.⁴² There was some lawned areas in the yard, and one of the walls was decorated.

Kongsvinger Prison has no activity building or gym. Both inmates and union representatives pointed out that there was a great need for such a facility. It was emphasised that Kongsvinger Prison was the biggest prison in Norway without an activity building. Inmates in the Vardåsen sections (A, B and F) worked out in the basement of Section B. The fitness room contained some strength and endurance training equipment. The room did not come across as particularly well suited for exercise, and was not suitable for games or group activities. According to the Mandela Rules, space, installations and equipment should be provided to facilitate physical training by inmates.⁴³

Section G

The exercise yard in Section G was tarmacked and equipped with a basketball hoop and a volleyball net. The yard had an outdoor barbecue. There was no suitable place to take shelter from the rain. The yard was fenced in by a low brick wall, which obstructed the view from both inside and outside. The yard was completely enclosed by a fine-mesh chain-link fence on top of the brick wall and a chain-link ceiling.

Many inmates expressed dissatisfaction with the exercise yard in Section G.

There was no space for running; the yard was small and very restricting in relation to outdoor activities. In line with the CPT Standards, it should be possible for inmates who are outdoors to take shelter in poor weather.⁴⁴

Section G is in a building that dates from 1864 and lacks suitable spaces for leisure activities. The common room is in the basement of the building. It contained a table-tennis table, a table and sofa, a TV and board games. The room had only two small windows high up on the wall. Next to the common room, there was a room containing fitness equipment. There were two showers in the basement, with direct access from the common room. Several inmates stated that the air quality in

⁴² See Section 37 of the Execution of Sentences Act and Section 186a of the Criminal Procedure Act.

⁴³ The Mandela Rules, Rule 23 (2).

⁴⁴ The CPT Standards, page 18, paragraph 48.

the common room was poor when inmates exercise and shower during communal periods. Some also reported that they found it stressful when inmates competed for the available places during the communal periods when many of them wanted to exercise and take a shower afterwards at the same time.

The building also lacked a communal kitchen where inmates could make their own food, and there was no common dining room. At mealtimes, inmates collected their food and ate it in their cells.

A satisfactory level of activity is decisive to the welfare of inmates, and it is important that both the premises and outdoor areas facilitate activities. Again, reference is made to the Mandela Rules, Rule 23 (2).

5.6.2 The inmates' cells

The cells were of a satisfactory size, especially in the Vardåsen section. They were furnished with a bed, cupboard, desk and fridge. The inmates were allowed to keep a reasonable number of personal items in the cell.

The cells in Section G lacked a bathroom/shower, however, and there was not partitioning wall between the toilet and the rest of the cell. Consideration should be given to changing this.⁴⁵

5.6.3 Cells adapted for inmates with disabilities

Section A had a cell adapted for the needs of inmates with disabilities. The adapted cell appeared to be satisfactory, with sufficient turn space for a wheelchair and wide enough path of travel in the bathroom and the rest of the cell. The cell was on the ground floor, however, while the common room for inmates in Section A is on the first floor. The only means of access to the first floor was the stairs, and there was no stair lift. A person with disabilities due to age or functional impairment would have difficulties getting to the common room on his own. This affects disabled inmates' possibility of taking part in communal activities with the other inmates in the section.

During the NPM's visit, there were no inmates who needed an adapted cell. The staff explained that, when they had inmates with disabilities who had difficulties getting to the first floor, flexibility was exercised in that the inmate was allowed to spend time with others in his own cell.

During the Parliamentary Ombudsman's visit to Kongsvinger Prison in 2009, the absence of a stair lift was raised with the prison.⁴⁶ The inmate living in the cell was reported to have received offers of being carried to the first floor to take part in communal activities, of participating in communal activities in another section where the common area was located on the ground floor, and of spending time with other inmates in his own cell. After the visit, the prison informed the Ombudsman in a letter that Statsbygg, which owns the buildings, had undertaken to pay for the installation of a stair lift.

The placement of the adapted cell and the lack of a stair lift mean that inmates with disabilities are not offered the same communal activities as other inmates. It can also be perceived as degrading to

⁴⁵ The CPT Standards, page 18, paragraph 49: 'Either a toilet facility should be located in cellular accommodation (preferably in a sanitary annex) or means should exist enabling prisoners who need to use a toilet facility to be released from their cells without undue delay at all times (including at night).'

⁴⁶ The Parliamentary Ombudsman, letter of 21 June 2010 to the Correctional Service Region North-East, Follow-up of the Ombudsman's visit to Kongsvinger Prison on 6 November 2009.

be carried to the first floor. During the NPM's visit, the prison stated that a lift would be installed shortly. It is expected that these plans will be realised soon.

Recommendation

- Inmates with disabilities should be ensured equal conditions with other inmates.

5.6.4 Capacity extension/new buildings

Kongsvinger Prison plans to increase its capacity by adding 20 new places. The building work is scheduled to start in autumn 2016. The plan is to add another floor to an existing building. The new floor will consist of cells and a room that the school can use. The school has plans to install a school kitchen here.

Even if the school gets a school kitchen, there are concerns about whether the extension will help to maintain the same level of employment and activity for the inmates. A lack of activity can have an impact on health and adverse effects on the inmates' personal progression. When building new detention facilities, it should therefore be ensured that all inmates are offered satisfactory activity programmes, which includes meeting the requirements for accessibility for inmates with disabilities. In this context, reference is made to the guidelines set out in the UN Convention on the Rights of Persons with Disabilities (CRPD), especially Article 9.

Recommendation

- When building new places of detention, it should be ensured that all inmates are offered satisfactory employment and activity programmes, which includes ensuring that the requirements for accessibility for inmates with disabilities are met.

5.7 Contact with the outside world

Visits

Inmates interviewed during the NPM's visit described the facilitation of visits as satisfactory. The prison had a large visiting section in Vardåsen and a small visiting room in Section G. The administration and staff explained that the visiting facilities were not much used, however, because many of the inmates had no family or friends in Norway who could visit them, and because it was a long way to travel from abroad. If inmates received visits from family and friends who had travelled far, the prison tried to make arrangements so that they could visit for a whole day and often several days in a row. This was confirmed in interviews with the inmates. This flexible arrangement was seen as positive.

The prison had recently procured new screens that were used for interpreting when there was a need to communicate with inmates who spoke neither Norwegian nor English. The prison should consider the possibility of letting inmates use these screens to communicate with friends and family who live far away, for example via Skype or similar solutions. This could help to make up for some of the inmates' lack of contact with friends and family who are unable to come and visit them. It is noted that the Mandela Rules include electronic and digital forms of communication for contact between inmates and their next of kin.⁴⁷ By comparison, the Polish national preventive mechanism

⁴⁷ Rule 58 (1)(a).

(Commissioner for Human Rights) made the following comments on facilitation in Polish prisons in its 2014 annual report:

‘The representatives of the National Preventive Mechanism highly appreciate possibilities of maintaining additional contacts by convicts with their family and friends via Skype – a peer-to-peer application. Since April 2014, a programme to introduce this additional form of contact with the outside world has been implemented on a pilot basis at more than a dozen penitentiary establishments and is now available at all establishments. Under the programme, preference regarding the use of Skype is given to foreigners staying at Polish penitentiary establishments and those whose families reside in Poland or abroad at a distance which prevents direct contact with inmates. As this form of communication is highly functional, the representatives of the NPM support its development so as to make it available for groups of convicts other than those specified.’⁴⁸

Telephone

Inmates in the high security sections were allowed up to 20 minutes’ phone time per week, and inmates with children were given an additional 10 minutes per week. Several inmates said they had been allowed more phone time, including several inmates who did not have children.

Inmates explained that they were allowed to speak their own language when they called someone abroad, and that they had to speak English if they called someone in Norway.

In the high security sections in Vardåsen, calls to friends and family were made from a phone box with windows. It was possible to use a portable phone to talk with lawyers and public agencies from the inmates’ cells.

In Section G, the phone was placed in the corridor between the cells on the ground floor, right next to the guardroom and the stairs to the first floor. The phone area was not partitioned off, and the person talking on the phone had to stand in the middle of a busy passage where the noise level was sometimes high.

As phone calls had to be made during communal periods, the location of the phone area did not facilitate respect for the inmates’ privacy. The staff explained that there were plans to partition off the phone area and place the phone in a separate phone box, in the same way as in the Vardåsen sections. In addition to the wall-mounted phone, the prison reported that inmates had access to a wireless phone that they could use in their own cell.

Recommendation

- The prison should take steps to ensure that inmates who are unable to receive visits from family and friends because of the travel distance are given an opportunity to communicate with them via Skype or a similar online solution.

5.8 About the prison’s assignment as a unit for foreign inmates

In general, the prison seems to have attended to its role as a unit for foreign inmates in a satisfactory manner. It is stressed that the staff receive good, and in part very good, feedback from the inmates

⁴⁸ Report of the of the Human Rights Defender on the activities of the National Preventive Mechanism in Poland in 2014, page 22, section 2.3.

(see section 5.4.4) and that there are relatively few undesirable incidents in the prison. Inmates generally felt protected against violence and harassment (see section 5.4.2).

However, one of the main findings was that the prison should improve its information work, particularly in the arrival phase. As mentioned above, it seems that much of the inmates' dissatisfaction on this point had to do with the fact that written and oral information was given in a language they did not understand (see section 5.4.3). In consultation with the superior authority, the prison should therefore ensure more use of video remote interpreting and more written information in foreign languages (see point 5.4.3). It is also important that invasive measures such as confinement to the security cell and exclusion from company are communicated to inmates in a way that ensures that they understand the grounds for the measure and their right of appeal (see section 5.2). Such administrative decisions should also be written in English if that is a language the inmate understands. Other important measures could include the introduction of technical translation aids for day-to-day work, and offers of competence-raising measures for work with the target group, for example courses in non-verbal communication techniques (see section 5.4.4). It is also very important that the prison health service starts using interpreters, preferably face-to-face interpreters, in connection with medical consultations (see section 5.5.4).



The Parliamentary Ombudsman Norway

**National Preventive Mechanism against
Torture and Ill-Treatment**

Contact Information:

Telephone: +47 22 82 85 00

Free of charge: 800 800 39 (only from landlines in Norway)

Email: postmottak@sivilombudsmannen.no

Office address: Akersgata 8, Oslo

Postal address: Postboks 3 Sentrum, N-0101 Oslo, Norway

www.sivilombudsmannen.no/npm