S|OM

The Parliamentary Ombudsman Norway

National Preventive Mechanism against Torture and Ill-Treatment

VISIT REPORT

The police immigration detention centre at Trandum 19-21 May 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 given a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.[1] To fulfil this mandate, a special unit known as the National Preventive Mechanism (NPM) was established in the Parliamentary Ombudsman's office.

The NPM makes regular visits to locations where people are deprived of their liberty, such as prisons, police custody facilities, psychiatric institutions and child welfare institutions. The visits can 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 seeks to identify risk factors for violations through independent observations and through conducting interviews with the people involved. Interviews with persons deprived of their liberty are given special priority.

The NPM also engages in extensive dialogue with national authorities, civil society and international human rights bodies.

2 Summary

The NPM visited the police immigration detention centre at Trandum in the period 19–21 May 2015. The visit was unannounced. The detention centre has the capacity to hold 140 detainees, and the plan is to extend the capacity to include another 90 places in 2016. The detainees do not have legal residence in Norway and have been detained on grounds of suspicion that they have given a false identity or to prevent them from evading the enforcement of a final decision requiring them to leave the country. Being detained at Trandum is not the consequence of a criminal offence and does not therefore constitute punishment.

During the visit, an inspection was carried out of the detention centre's premises, meetings were held with the administration, union representatives, lawyers and medical personnel, and necessary documentation was obtained. The most important part of the visit was to conduct private interviews with detainees. The NPM interviewed a total of 60 of the 100 detainees. The NPM was accompanied by two government authorised interpreters (Russian and Arabic/French). Telephone interpreting was also used.

The administration and staff at the detention centre provided good assistance during the visit, by obtaining the requested information and providing free access to all areas of the detention centre. The NPM's right to conduct private interviews with the detainees was adequately provided for.

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

In the early hours of 21 May, the NPM also observed an escorted deportation of eleven individuals from the time that they left the detention centre until they boarded a chartered flight from Gardermoen airport.

The NPM emphasises as a positive factor that the detainees mostly had positive things to say about the detention centre staff. Many of them stated that they were treated with respect and received the necessary assistance in their day-to-day pursuits. Another positive finding was that, according to the NPM's observations, the deportation on 21 May was performed in a dignified and professional manner.

One of the main findings during the visit was excessive attention to control and security at the expense of the individual detainee's integrity. This has also been pointed out by the Parliamentary Ombudsman after previous visits. Many of the detainees felt that they were treated as criminals, even though they had not been convicted of a crime. Several described the humiliation of undergoing a body search on arrival and after all visits. The body search entailed the removal of all clothing and that the detainee had to squat over a mirror on the floor so that the staff could check whether they had concealed items in their rectum or genital area. The detainees perceived it as especially upsetting that a full body search was conducted after all visits, even when staff members had been present in the room during the visit. Many were also frustrated that they were not given access to their mobile phone and that they were locked in their rooms during evenings, at night and for shorter periods during the day.

The detention centre uses largely the same security procedures as the correctional services, including procedures for locking detainees in and out of their rooms, the use of security cells and solitary confinement, and room searches. In some respects, as in the case of full body searches after visits, the procedures appear to be more intrusive than in many prisons. In addition to concerns about the overall control regime, it should be noted that all these control measures can result in more unrest and undesirable incidents rather than a sense of security.

The immigration detention centre does not appear to be a suitable place for children. In 2014, 330 children were detained, 10 of them without adult guardians. There were no children at the detention centre at the time of the NPM's visit. The atmosphere at the detention centre appears to be characterised by stress and unrest. Several incidents have taken place at the detention centre in 2014 and 2015, including major rebellions. The incidents have included breaking of furniture and fixtures, self-harm, suicide attempts and use of force. This is not deemed to be a satisfactory psychosocial environment for children. In two instances, children have also witnessed parental self-harm.

Several weaknesses were also found to exist in the delivery of health services. A clear majority of the detainees were critical of the health services offered by the detention centre. Among other things, the criticism concerned factors such as a lack of confidentiality, availability and follow-up.

The immigration detention centre purchases health services from a private health enterprise based on a contract between the enterprise and the National Police Immigration Service (NPIS). The contractual relationship between the health enterprise's doctors and the NPIS raises questions about the health service's professional independence. This may undermine the relationship of trust between patients and medical personnel and may weaken the health service's assessments. The

health service also includes two nurses. They are temporarily employed by the police. This arrangement may also give rise to doubt about the health service's professional independence.

Health interviews with newly arrived detainees were not conducted as a matter of routine, despite clear recommendations from the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). Detainees are often particularly at risk of poor somatic and mental health. A medical examination on arrival can provide an overview of the detainee's immediate medical needs, document any physical injuries and detect infectious diseases and suicide risk. The detainees also did not have access to mental health care over and above emergency assistance, among other things because of a lack of rights. In addition, the health department lacked procedures for systematic follow-up of persons who are particularly vulnerable as a result of long-term detention.

Other findings during the visit include shortcomings in administrative decisions on the use of isolation and security cells, few organised activities, unclear legal authority for locking detainees in their rooms, lack of information on arrival, whether the food that is served is sufficiently nutritious, routine visit control and lack of access to mobile phones.

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

INCIDENTS AND COERCIVE MEASURES

Restrictions in the security section

- As a rule, detainees placed in security cells should be given an opportunity to spend at least one hour outdoors every day.
- All administrative decisions on the use of restrictions should contain a concrete description of the incident forming the basis for the decision, and why less intrusive measures are not sufficient to maintain peace, order and security.
- Administrative decisions on continued exclusion from company should always contain a concrete justification for why the measure is still strictly necessary.

Body search procedures

- Body searches that entail a full removal of clothing should only be carried out following a specific, individual risk assessment. In cases where a full removal of clothing is considered necessary, the measure should be carried out in stages, so that the detainee is given an opportunity to cover up his/her upper body before removing the clothes on his/her lower body.

HEALTH SERVICES

Access to health services

- Newly arrived detainees should be offered a medical consultation with a doctor, or with a nurse reporting to a doctor, in the course of the first day.
- Written notes for requesting medical attention and sealable envelopes in which to put the notes should be made available to the detainees in the communal areas.
- Detainees who have requested medical attention should be informed about when an appointment has been scheduled, so that they have a chance to prepare for it. The health

department should establish a procedure for registering requests that are received and replied to.

- The health department should systematically follow up the special health challenges experienced by long-term detainees.

- The detainees should be ensured necessary psychological/psychiatric follow-up.

Professional independence

- The NPIS should establish an arrangement that ensures that health services are provided by professionally independent medical personnel.

Confidentiality

- The NPIS should ensure that detainees can contact medical personnel in a way that safeguards the detainees' language needs and confidentiality.

- The NPIS should ensure that qualified interpreters can be obtained for medical consultations as needed.

- Medical personnel, including municipal accident and emergency service staff, should review their procedures to safeguard patients' confidential health information.

Handling of situations of risk

- A review should be carried out of the medical personnel's assessment and accompaniment of detainees who are deported by plane.

- The health department should have a camera available so that any injuries to detainees can be documented in the patient records. Clear procedures should be established for reporting by medical personnel of injuries that give grounds for suspecting disproportionate use of force.

- All medical personnel who provide health services at the detention centre should undergo training in how to document and report signs of injuries and in the Istanbul Protocol's guidelines on documentation and reporting.

PHYSICAL CONDITIONS

Outdoor areas

- Outdoor areas should have facilities for seeking shelter from inclement weather.

ACTIVITIES

Activity programmes

- The NPIS should implement measures to strengthen organised activities, especially for detainees in Module 2 and long-term detainees.

INFORMATION ON ARRIVAL

- The NPIS should systemise and quality assure procedures for providing written and oral information to detainees on arrival, and for how vulnerability and special needs can be identified.

MEALS

- The NPIS should, in consultation with medical personnel, carry out an assessment of whether the nutritional content of the food that is offered is satisfactory, also for persons with special dietary needs.

CONTACT WITH THE OUTSIDE WORLD

Visits

- The NPIS should change its internal rules and practice to ensure that individual assessments are carried out of the need for visit control.

Telephone and internet

- The NPIS should find a solution that makes it possible for the detainees to have their own mobile phones.

COMBINED BURDEN OF CONTROL MEASURES

- The NPIS should ensure that the combined burden of control measures is in accordance with human rights requirements for necessity and proportionality.

3 General information about the police immigration detention centre at Trandum

3.1 Capacity

The police immigration detention centre at Trandum is situated approximately 13 km from Oslo Airport Gardermoen. The detainees[2] at Trandum are primarily there on grounds of suspicion that they have given a false identity or to prevent them from evading the enforcement of a final decision requiring them to leave Norway.[3] Deprivation of liberty pursuant to the Immigration Act is not the consequence of a criminal offence and does not therefore constitute punishment. In recent years, the detention centre has been upgraded and extended. The upgrades came about as a result of international and national criticism of the conditions and security at the detention centre, while the extension is a result of higher target figures for the number of forced returns. The static security surrounding the detention centre has been increased in recent years, with the installation of high fences, floodlights and video surveillance.

The Module 1 building was taken into use in April 2012 and comprises four sections (A, B, C and D) with a total of 72 beds. Sections A and D are primarily intended for long-term detention.[4] An additional building, Module 2, was opened in May 2013. Module 2 also consists of four sections (E, F, G and H). Section E has three rooms for unaccompanied minors, which can be converted to double rooms; section F has four rooms for single women, which can be converted to double rooms, in

[2] In this report, foreign nationals who are detained under Section 106 first paragraph of the Immigration Act are referred to as 'detainees'.
[3] See the Act of 15 May No 35 concerning the entry of foreign nationals into the Kingdom and their presence in the realm (the Immigration Act), Section 106 first paragraph (a) and (b).
[4] Persons detained for more than two weeks.

addition to three family rooms, each of which sleeps up to five family members. Sections G and H have 36 beds in total. Sections G and H are primarily intended for short-term detention.

The administration building contains registration rooms, visiting rooms and offices, and a videoconferencing room for court appearances. The security section (Section S) is also located in this building, comprising eight cells and two security cells. According to the administration at Trandum, there were a total of 140 beds at the detention centre at the time of the NPM's visit, not including the ten places in the security section.

Because a goal was set to increase the number of deportations in 2014, a need arose for increasing the capacity at Trandum, and what is known as Building 40 was taken into use in autumn 2014. The building is located approximately 600 metres to the north-east of the centre itself and is part of the old military facility. The building is surrounded by separate fences and is used in extraordinary situations to house families and single women.[5] According to the Supervisory Council for the Police Immigration Detention Centre, the building was in use for two–three months in 2014.

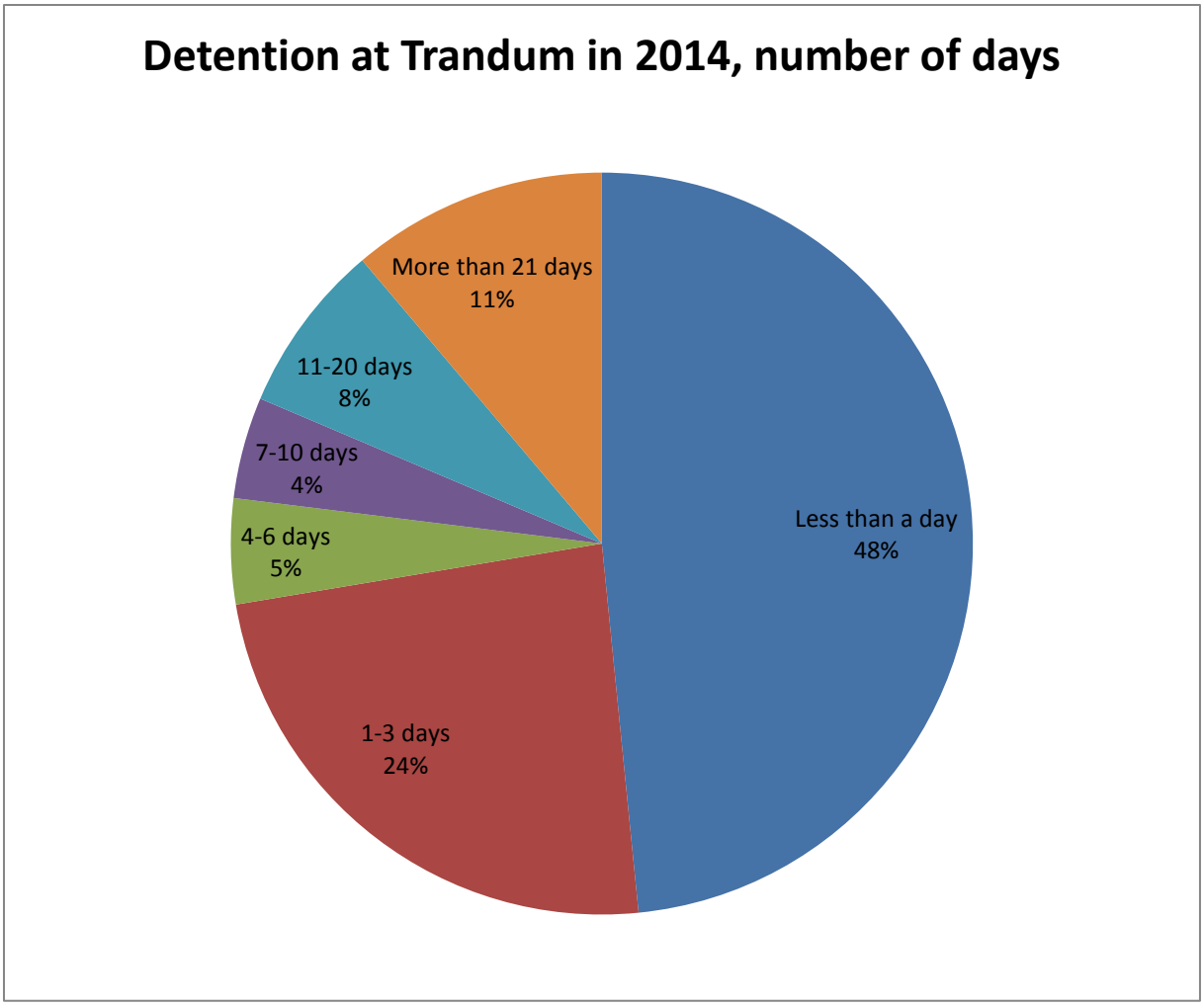
There are plans to build a third module at Trandum, with 90 new places, scheduled to be ready for use in the course of 2016.

3.2 Overview of detentions

A total of 4,182 persons were detained at the centre in 2014.[6] This represents a large increase in the number of detainees, from a total of 3,266 in 2013 and 2,164 in 2012. Available statistics show that over half of those who were detained in 2014 stayed at the detention centre for a relatively short period. Forty-eight per cent of those detained in 2014 stayed less than a day and 24 per cent stayed for between one and three days. Some were detained at Trandum for a longer period. Approximately 28 per cent of the detainees stayed for four days or longer, 20 per cent were detained for more than eleven days, while 11 per cent were detained for more than 21 days.

[5] Internal guidelines (IR) Building 40, 21 September 2014.

[6] The statistics in this section are taken from the 2014 annual report of the Supervisory Council for the Police Immigration Detention Centre. Note that the figures do not include persons detained in 2013 who were still at the centre in 2014.



A comparison with corresponding figures from 2013 shows a slight decline in the number of long-term detentions. Figures obtained show that 52 detainees were placed in Building 40 in November 2014 and 10 in December 2014.

In 2014, approximately 81 per cent of the detainees were male, while 11 per cent were female. A total of 330 children were detained in 2014, ten of whom were there without adult guardians. Approximately 32 per cent of the detainees were persons who had previously had a penal sanction imposed on them, and a corresponding percentage represented asylum seekers whose application was being or had previously been considered on its merits in Norway.

At the time of the NPM's visit, 61 of a total of 100 detainees had stayed more than two weeks at the detention centre. Seventeen of these had stayed at the centre for more than 100 days. The person who had stayed the longest had been there for 372 days.

4 How the visit was conducted

The NPM visited the police immigration detention centre at Trandum in the period 19–21 May 2015.

The visit was unannounced and started with an inspection of the centre's security section (Section S), where the NPM was given an account of the use of the two security cells. An inspection was then carried out of the room used to store means of restraint, rooms for reception and body searches,

lawyers' rooms, visiting rooms, medical consultation rooms and the activity building, common rooms and outdoor areas. The detainees' cells were inspected in connection with private interviews. The NPM also made a short visit to a smaller, fenced-in building located to the north-east of the detention centre, called Building 40.

A meeting was then held with the administration of the detention centre, at which the NPM presented the Parliamentary Ombudsman's prevention mandate and the working methods for the visits. The need for conducting private interviews with the detainees was emphasised in particular. The administration gave an account of the detention centre's organisation and operation, and selected issues were discussed. Necessary documentation was also obtained, including internal instructions for the detention centre, administrative decisions and supervision logs for use-of-force decisions in the security section, the crisis management plan, incident reports and inspection reports.

Interviews were conducted with detainees every day during the three-day visit. The NPM focused in particular on long-term detainees, women and detainees who had been placed in the security section. There were no minors at the detention centre at the time of the NPM's visit. The NPM conducted private interviews with a total of 60 of the 100 detainees. The interviews were primarily carried out in the detainees' rooms. For parts of the visit, the NPM was accompanied by two government authorised interpreters for the purpose of conducting interviews in French, Arabic and Russian, and the NPM also conducted interviews in English. Telephone interpreters were also used for interviews in other languages.

The NPM held separate meetings with medical personnel, both with the detention centre's nurses who were employed by the NPIS, and with a doctor from a private medical centre (Legetjenester AS). The NPM also conducted interviews with representatives of the trade unions and the local safety representative. An interview was also conducted with an NPIS lawyer with chief responsibility for questions to do with the running of the detention centre.

In the early hours of Thursday 21 May, three representatives of the NPM observed an escorted deportation of eleven foreign nationals from the time they left the detention centre until they boarded a chartered flight at Oslo airport Gardermoen.

The visit concluded with a meeting with the administration, at which preliminary findings were presented.

The NPM received good assistance from the detention centre's administration and staff during its visit. They gave the NPM access to all requested information and free access to all parts of the detention centre in accordance with Article 20 of the Optional Protocol to the UN Convention against Torture (OPCAT). The NPM's right to conduct private interviews with detainees, without witnesses present, was also adequately provided for.

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

- Aage Thor Falkanger, Parliamentary Ombudsman
- Helga Fastrup Ervik (head of the NPM, lawyer)
- Kristina Baker Sole (senior adviser, physician)
- Knut Evensen (senior adviser, social scientist, professional background from prison work)
- Johannes Flisnes Nilsen (adviser, lawyer)
- Caroline Klæth Eriksen (adviser, communications)

- Birgit Lie (external expert, dr. med.)

5 Findings and recommendations

5.1 Incidents and coercive measures

5.1.1 Serious incidents

On Sunday 15 March 2015, there was a major rebellion at Trandum involving 50–60 people. It resulted in gross vandalism and the mobilisation of a great number of police. A smaller rebellion occurred in February 2015. Both incidents seem to be related to frustration among long-term detainees. Although the background for these rebellions was not univocal, the incidents have been seen in conjunction with detainees being increasingly locked in their cells and dissatisfaction with the activities and food offered. During the NPM's visit, many of the detainees, especially the long-term detainees, stated that they experienced the overall strain of staying at the detention centre as unnecessarily heavy.

At the time of the visit, separate reports were available on 18 suicide attempts and cases of self-harm in 2014 and 2015. Several of the incidents concerned attempted hangings that had been prevented by staff.

5.1.2 Restrictions in the security section

In general
Under the Immigration Act, the police are authorised to partly or completely exclude a person from the company of others at the detention centre, and to place detainees in a high-security section or security cell.[7] The threshold for applying such measures shall be high; the measure must be strictly necessary in order to maintain peace, order or security, or to ensure the implementation of administrative decisions pursuant to Section 90 of the Immigration Act.[8] The Act also states that the intervention must not be disproportionate and that the police shall continuously assess whether there are grounds for upholding the measure.[9] The conditions under which such coercive measures may be permitted are specified in more detail in the Regulations relating to the Police Immigration Detention Centre (the Detention Centre Regulations – in Norwegian only).[10]

[7] Section 107 fifth paragraph (b) and (c) of the Immigration Act.
[8] Section 90 of the Immigration Act sets out rules on the implementation of administrative decisions concerning the rejection or expulsion of foreign nationals.
[9] Section 107 sixth paragraph of the Immigration Act.
[10] Section 10 first paragraph (a)–(e) and second paragraph of the Detention Centre Regulations. According to the Detention Centre Regulations, a foreign national may only be placed in a security section or be excluded from the company of others if one of the following conditions are met: a) the foreign national poses a risk to his/her own safety or the safety of others; b) there is a risk of the foreign national escaping from the detention centre; c) there is a risk of damage to property; d) the foreign national is assumed to suffer from a contagious disease or has been diagnosed with an infectious disease; or e) the foreign national has signed a written declaration expressing a wish to be detained for safety reasons that are deemed to be adequate. An administrative decision can also be made to exclude the foreign national from the company of others to prevent him/her from having a negative effect on the social environment at the detention centre.

The security section (Section S) is located in the administration building and consists of eight cells, two security cells, a common room and a communal bathroom with a toilet and shower.[11] Section S is in one of the older buildings and appeared worn down. According to the administration, there were plans to build a new security section connected to Module 3.

Placement in the security section (step 1)[12]

Detainees who were transferred to the security section without being excluded from the company of others could not move freely around the section but could be locked in in the section's common room, which was furnished with a sofa, a TV behind a Plexiglas window and a crate of books.

Exclusion from company (step 2)[13]

The eight cells in the section were approximately 10 square metres in size. They were painted white and had a window at head height. They did not have a toilet. The doors were fitted with inspection hatches. The only piece of furniture was a metal bed bolted to the floor. There were neither chairs nor a table. According to the information provided, the detainees were given a flame-retardant mattress and a blanket. When the detainees needed to use the bathroom, they had to alert the staff via the intercom and be escorted to a communal toilet and shower room. The toilets had swing doors that only covered the middle section so that the detainee's legs and head were visible to the staff. This was for security reasons. The cells were clearly of a poorer standard than ordinary prison cells used by the correctional services, where exclusion from company is enforced under the Execution of Sentences Act. Sparsely furnished cells may be necessary if the grounds for the exclusion are risk of self-harm or vandalism. In cases where this is not a specific risk, the cell design appears unjustified. The sparse furnishing of the cells in the security section was pointed out following the Parliamentary Ombudsman's visit to Trandum in 2008. In a follow-up letter to the Ombudsman dated 25 March 2009, the NPIS stated the following:

> 'However, the NPIS sees that, in cases where such considerations [risk of self-harm or vandalism] are not pertinent, it should be possible to differentiate in the allocation of cells. There are therefore plans to equip two of the cells in the security section with a bedside table, a cupboard and a table with chairs. The instructions have been changed, so that section 5.2 states that, when a decision has been made to place a foreign national in a security cell, the chief duty officer shall consider, based on the grounds for the decision, whether a furnished cell can be used.'[14]

None of the cells in Section S were found to be furnished in such a way during the visit, nor was such an option described in the internal guidelines in force. The staff pointed out that exclusion from company (step 2) could also be imposed in one of the ordinary sections, but it appeared unclear whether this alternative was actually used.

Placement in security cell (step 3)[15]

[11] According to internal guidelines, a cell in one of the ordinary sections may also be used for complete or partial exclusion.
[12] The Immigration Act Section 107 fifth paragraph (b) alternative 1, cf. sixth paragraph.
[13] The Immigration Act Section 107 fifth paragraph (c), cf. sixth paragraph.
[14] The NPIS's letter to the Parliamentary Ombudsman of 25 March 2009. Follow-up of the Parliamentary Ombudsman's visit to the police immigration detention centre at Trandum in October 2008.
[15] The Immigration Act Section 107 fifth paragraph (b) (alt. 2), cf. sixth paragraph.

Each of the two security cells was approximately six square metres in size and had a window high up on the wall that provided some daylight. The toilet was a metal squat toilet, and there was a water tap on the wall. Both the flushing of the toilet and the water supply were controlled via buttons outside the cell, but with an option for control of same by the detainee. An intercom system was installed in both cells. The floor was sufficiently heated. The air quality was satisfactory. The Parliamentary Ombudsman is concerned that the small cell size can increase the mental strain of being confined, however. When the new security section is built, all the cells should be of a size and design that at least corresponds to an ordinary police custody cell. In this context, reference is made to the preparatory works to the Immigration Act, where a condition is set out that security cells should have 'the same size and contents as police custody cells'.[16]

The security cells were monitored via a video camera in a corner of the ceiling that did not provide a view of the toilet area. Information about video surveillance was posted on the cell doors. Video surveillance is not regulated by law as in the case of police custody facilities. The Detention Centre Regulations state that the police shall prepare more detailed instructions on the 'design of security cells and the installation and use of recording, surveillance and security equipment'. No such instructions have been prepared, and the question can therefore be raised of whether legal authority exists for video surveillance of the security cells.

During the inspection, the NPM was informed that the detainees were normally allowed to wear their own clothes, but that the chief duty officer, following a specific risk assessment in each case, removed belts, shoelaces and similar items that the detainee could use to inflict self-harm. If there was a high risk of suicide, the detainee was issued with clothing that could not be used to inflict self-harm. All detainees were given a blanket and a flame-retardant mattress.

Procedures for supervision in the security section

Detainees in security cells were normally supervised through the inspection hatch. If no signs of life were observed, the procedure was that two staff members entered the cell to check the situation. Visual inspections could also be conducted through the window that was placed high up on the cell wall.

During the inspection, it emerged that the lighting in the security cells was left on 24 hours a day. Round-the-clock lighting can cause or exacerbate sleep problems and have other negative health effects. Although the purpose is to facilitate supervision during the night and thus ensure the safety of the detainee, such considerations must be weighed against the potential impact of round-the-clock lighting on the detainee's health.[17] It emerged from the supervision logs that detainees have asked for the light to be switched off. Even when a risk of self-harm forms the grounds for confinement, it is difficult to see why the light should be left on all night. Consideration should be

[16] The above is clear from the preparatory works to the Immigration Act of 24 June 1988 No 64 Section 37 d (now replaced by the Immigration Act of 15 May 2008 No 35 Section 107), Proposition to the Odelsting No 28 (2006–2007) page 34.
[17] See Section 15 second paragraph of the Detention Centre Regulations.

given to whether necessary supervision during the night can be carried out with the use of a flashlight. This was said to have been used previously.[18]

Frequent supervision may be necessary where the grounds for confinement are a risk of self-harm or illness. The supervision frequency should be based on a specific assessment in each case, however, and supervision should be conducted as considerately as possible. If the supervision entails interruption of the detainee's nightly sleep, it must be considered whether the measure is necessary and proportionate, as such sleep interruption can have unfortunate consequences. The inspection and a document review left the impression that the security cells were consistently supervised every 15 minutes, also during the night.

The supervision frequency in the security section was also addressed following the Ombudsman's visits to Trandum in 2008 and 2012. After these visits, the detention centre has changed its internal guidelines to achieve a more individually adapted supervision regime. The detention centre's internal guidelines now state the following:

> 'The team leader for the security section, or the chief duty officer, decides the frequency in each individual case. Detainees who are ill or under the influence of alcohol or other intoxicants shall be checked every half hour, unless circumstances indicate more frequent supervision.'[19]

The NPM's findings during its visit give grounds for doubt about whether the staff are sufficiently familiar with the revised guidelines on this point.

A review of supervision logs kept during exclusion from company indicated that supervision of the ordinary cells was carried out on the basis of a specific assessment in each case, at frequencies varying from every 30 minutes to every few hours during the night. The quality of the supervision log entries was good.

Outdoor exercise in the security section

Outdoor exercise in the section takes place in a fenced-in exercise yard of approximately 45 square metres. The yard was tarmacked and had a canopy for weather protection.

It is clear from the detention centre's internal guidelines that, as a rule, detainees who are placed in the security section, including in a security cell, shall be offered to spend one hour outdoors every day. During the inspection, the NPM saw a posted notice dated 23 March 2015 with the heading 'Draft instructions for section Sierra'. Among other things, the notice stated that:

> 'They [the foreign nationals] have the possibility of/are entitled to 1 hour's daily outdoor exercise, unless otherwise warranted by security considerations. Normally not applicable to step 3 (security cells).'

This can be interpreted to mean that detainees in security cells are not entitled to spend time outdoors. Such a practice is inconsistent with the rules set out in the Detention Centre Regulations[20]

[18] Statement by the Parliamentary Ombudsman following the visit to Trandum immigration detention centre in autumn 2008, 26 March 2010, case number 2011/805, paragraph 7.1.
[19] Internal guidelines for the police immigration detention centre, IR 2.3, most recently amended 9 June 2015.
[20] Cf. the Detention Centre Regulations, Section 4 first paragraph (d), seen in conjunction with Section 7.

and the detention centre's internal guidelines.[21] Although outdoor exercise can be limited 'when it is necessary in order to maintain peace, order or security',[22] this may not be practised so that detainees in security cells are normally not allowed to spend one hour outdoors a day. Confinement in a security cell is the most intrusive measure that can be implemented. The staff should therefore make every effort to ensure that detainees spend time outdoors every day. It emerged from the incident log that one stay in the security cell was concluded after 40 hours without any information being logged about the stay or whether the detainee had been offered to spend time outdoors during this period. On the other hand, the review indicated that detainees who were excluded from company (step 2) were offered to spend time outdoors.

Scope and duration

According to the administration, use of the security section has been reduced by approximately 50 per cent after the new module buildings were completed in 2011 and 2012. Among other things, this has to do with the fact that the ordinary cells were upgraded and equipped with a TV and a bathroom with toilet and shower, which meant that the detainees were given more privacy. Since then, the use of restrictions seems to have remained relatively stable.

A total of 537 administrative decisions on the use of restrictions were made in 2012. No information is available about the breakdown between decisions on placement in the security section, exclusion from company and security cells in 2012. In 2013, 16 decisions were made on placement in the security section, 246 on exclusion from company, 35 on placement in a security cell and 8 decisions were recorded as being at the detainee's own request.[23] This must be described as a considerable decrease. Corresponding figures for 2014 show 4 decisions on placement in the security section, 319 on exclusion from company and 43 on placement in a security cell.[24] The number of new detentions increased by 1,000 from 2013 to 2014.

Reports on the use of restrictions for the first three months of 2015 show that a total of 22 adminisrative decisions were made on the use of restrictions in January, 26 in February and 70 in March.[25] For January, this represents a decrease compared with 2014, while the number of decisions in February is on a par with 2014. Most of the decisions made in the first three months of 2015 concerned exclusion from company (step 2), while 26 decisions were made on placement in a security cell. The figures from March are related to the rebellion on 15 March. As many as 21 of the decisions on placement in a security cell were made that month, and 13.2 per cent of the detainees were confined to the security section during the course of March.

With the exception of March, the use of restrictions seems to have remained at a relatively stable level. The fact that the detention centre has seen two incidents of a serious nature and involving a large number of detainees in the course of two months, both of which appear to have been related

[21] Internal guidelines for the police immigration detention centre, IR 2.3. The detention centre's internal guidelines were most recently revised on 9 June 2015. The most recent revision did not entail any changes in relation to the guidelines that applied at the time of the visit, however.
[22] See Section 7 second paragraph of the Detention Centre Regulations.
[23] Annual report 2013, the Supervisory Council for the Police Immigration Detention Centre.
[24] Annual report 2014, the Supervisory Council for the Police Immigration Detention Centre.
[25] The number of administrative decisions does not necessarily correspond to the number of persons. Several administrative decisions on restrictions are often imposed on one and the same person.

to dissatisfaction with the detention centre's procedures, gives cause for concern, however. Reference is made to section 5.1.1.

No overview has been prepared of the average duration of the different restrictive measures. However, the Supervisory Council receives monthly reports on the total duration of restrictive measures per detainee pursuant to each of the applicable legal provisions.[26] A review of the first two months of 2015 shows that 21 persons were excluded from the company of others for less than 24 hours and 19 for between 24 and 72 hours.[27] Three persons spent a little more than five days in solitary confinement.[28] During the period, the duration of one stay in the security cell exceeded 24 hours.

The duration of exclusion from company and stays in security cells increased significantly in March as a result of the rebellion on 15 March.[29] As many as 24 decisions involved exclusion from company for more than four days. Among this group, five persons were excluded from company for more than 8 days, three for more than 12 days and one for more than 16 days. The longest stay in solitary confinement lasted 23.5 days. Of the 21 decisions on placement in a security cell in March 2015, 15 involved confinement of a person for 40–44 hours. Due to insufficient capacity and the need to regain control of the situation, these persons were transferred to the police custody facility in Lillestrøm, the custody facility at Gardermoen Police Station and the police custody facility in Oslo.

About the harmful effects of isolation

It is a recognised fact that isolation can have a serious impact on the mental health of detainees and that it increases the risk of suicide.[30] In practice, complete exclusion from company will entail solitary confinement (22–23 hours alone in a cell without contact with other detainees). Isolation at the immigration detention centre is normally imposed using the stripped-down cells in the security section. This means that, in addition to being denied human contact, the detainees will experience a lack of sensory input. Solitary confinement in a security cell is a particularly intrusive form of isolation, because the stimuli and furnishing are limited to an absolute minimum. According to human rights standards, solitary confinement shall only be used in extraordinary situations, as a last resort and for the shortest possible time.[31] It follows from the case law of the European Court of Human Rights (ECtHR) that the requirements for concrete grounds for a decision on the use of

[26] The total duration can be based on several decisions in the same month and not necessarily consist of one continuous period.
[27] The National Police Immigration Service, Report for the security section, January and February 2015.
[28] Between 122 and 133 hours.
[29] The National Police Immigration Service, Report for the security section, March 2015.
[30] 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.
[31] The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), CPT Standards, CPT/Inf/E (2002) 1 – Rev. 2015 page 37 paragraph 64.

solitary confinement become more stringent with the duration of the confinement.[32] What is generally known about isolation and the risk of suicide, self-harm and the development of serious mental disorders indicates that isolation and security cells in particular should only be used as a last resort and for the shortest possible time. In the NPM's experience, the risk of serious self-harm and suicide is among the most commonly cited grounds for administrative decisions concerning placement in a security cell. Based on what we know about the effects of isolation, it cannot be ruled out that the use of a security cell as a suicide prevention measure may have the opposite effect, in that the risk of suicide actually increases. This highlights the importance of showing particular caution as regards placement in a security cell where there is a risk of suicide or self-harm.

Legal protection in the case processing

The team leaders for the module and the chief duty officer have the authority to make administrative decisions.[33] Copies of the administrative decisions are sent to the team leader for the security section, the case officer, doctor and the police prosecutor on duty in the NPIS. A copy shall also be sent to the detainee's lawyer if the detainee so wishes. The review indicated that these procedures are complied with. The requirements that only the section manager at Trandum can decide to uphold a decision to exclude someone from the company of others for more than three days, and that only the police prosecutor in the NPIS can uphold decisions to place a detainee in a security cell, also seemed to be complied with.[34]

The NPIS has prepared administrative decision templates to be filled in electronically by the person responsible for the decision. This ensures uniform decisions. Some decisions lacked a description of the concrete grounds for the decision, however. For example, the grounds are stated as being the detainee's 'disruptive and threatening behaviour' or that he/she has been 'a disturbing factor', without any concrete description of the incident or behaviour.[35]

Furthermore, the decisions lacked a concrete description of why less intrusive measures could not be used in the specific case, and why restrictions were therefore absolutely necessary.

Concrete grounds for the decision and why less intrusive measures were insufficient are important, among other things for the detainee's legal protection, for example if the detainee wants to appeal the decision.

In a considerable number of cases, it was not specified whether the detainee had been informed about the decision and the grounds for it, even though the decision template included questions about this. It was also rarely stated whether the detainee had been informed about the right of appeal.

In several decisions on placement in a security cell, one of the grounds given was 'to prevent the foreign national from having a particularly negative influence on the environment at the detention

[32] ECtHR judgment of 10 April 2012 in *Babar Ahmad and Others v. the UK,* Application No 24027/07, 11949/08, 37742/08, 66911/09 and 67354/09, paragraph 212 ff.
[33] The NPM has reviewed all administrative decisions made between 1 January 2015 and 31 May 2015.
[34] General instructions for the police immigration detention centre (the General Instructions), section 13.2.
[35] Sufficient grounds for a decision can be briefly described: For example, one decision states that, on a specific date, a detainee 'threw a bucket of water in the face of one of the staff members shortly after being locked in'. This is a sufficiently precise description of the incident that led to the decision.

centre', although this is not a legally valid condition for placing someone in a security cell, only for excluding them from the company of others.[36]

The NPM has noted that several persons were excluded from company in the security section for a long time after the incident on 15 March. A review shows that many were subject to several decisions to uphold the measure, a matter that is required to be assessed after three days at the latest.[37] Many decisions to uphold restrictions were made without explaining why the detainee was still being excluded. A short explanation should be included in decisions to uphold measures, in order to safeguard the detainee's right to be heard.[38]

Recommendations

- As a rule, detainees placed in security cells should be given an opportunity to spend at least one hour outdoors every day.
- All administrative decisions on the use of restrictions should contain a concrete description of the incident forming the basis for the decision, and why less intrusive measures are not sufficient to maintain peace, order and security.
- Administrative decisions on continued exclusion from company should always contain a concrete justification for why the measure is still strictly necessary.

5.1.3 Deportation by plane

The unannounced visit to the immigration detention centre also included the NPM's unannounced presence during the escorted deportation of eleven individuals to Nigeria on a chartered plane under the cooperation arrangement with Frontex.[39] The NPM followed the deportation process in the early morning from the time of departure from the immigration detention centre until the detainees were placed on the plane.

The transport team was led by a transport officer with responsibility for preparing and executing the deportation. The team consisted of 24 escorts (two per deportee) with responsibility for accompanying the foreign nationals, and a back-up team of seven escorts. The personnel on duty in the detention centre's security section were responsible for preparing the detainees for the deportation.

The different phases of the deportation seemed well planned, and the transport team seemed well prepared. According to the NPM's observations, the actual deportation was carried out in a dignified and professional manner up until the time when the deportees were put on the plane.

During the preparations for the deportation, a BodyCuff restraint system was used on two individuals.[40] The first person was placed in restraints on the way from the section to the deportation area at Trandum, and the NPM was not present when the person was restrained. It was observed,

[36] Section 10 of the Detention Centre Regulations.
[37] The Immigration Act Section 107 sixth paragraph, cf. the General Instructions section 13.2.
[38] These considerations apply although such information shall also be included in internal reports on the need to uphold a measure; cf. the internal guidelines, IR 2.4.
[39] Frontex is an EU agency charged with coordinating the EU member states' control and monitoring of its borders with non-EU countries. Norway is an associated member of Frontex.
[40] A BodyCuff restraint system consists of hand and foot cuffs connected to a hip belt with straps enabling adjustment of the freedom of movement.

however, that the leg restraints had been placed in such a way that the person was able to walk unassisted. The other person was restrained at the airport before being escorted out to the plane. The restraints were placed on the subject without any commotion while the person was standing upright. The person then walked to the plane unassisted. The NPM followed the detainees onto the plane immediately before take-off and observed that the atmosphere was calm. After the deportation, Frontext confirmed in an evaluation report that both detainees' BodyCuff restraints had been removed shortly after the plane departed from Gardermoen airport.[41]

One person strongly resisted the return and harmed herself before or as she was being picked up at the section. Ambulance personnel who arrived shortly after attended to her injuries. It was decided that she would not be deported along with the others. She was taken to the municipal accident and emergency unit later the same morning. She had been arrested two days before the deportation after having been subject to a reporting obligation for some time. As far as the NPM could ascertain, she had not been followed up by medical personnel although she had stated that she was very depressed.

In general, the CPT recommends that such deportation shall be announced in advance so that the detainees are given an opportunity to prepare for the journey, and that they should also be offered psychological follow-up as needed:

> 'The CPT has observed that a constant threat of forcible deportation hanging over detainees who have received no prior information about the date of their deportation can bring about a condition of anxiety that comes to a head during deportation and may often turn into a violent agitated state. In this connection, the CPT has noted that, in some of the countries visited, there was a psycho-social service attached to the units responsible for deportation operations, staffed by psychologists and social workers who were responsible, in particular, for preparing immigration detainees for their deportation (through ongoing dialogue, contacts with the family in the country of destination, etc.). Needless to say, the CPT welcomes these initiatives and invites those States which have not already done so to set up such services.'[42]

In a report to the Dutch authorities following a Frontex-organised return flight to Lagos, the CPT concluded that all the deportees and their counsel had been informed about the exact date of the return at least 48 hours in advance, both verbally and in writing.[43] However, the authorities stated that, in exceptional cases, when there is a particularly high risk of self-harm, information about the exact time of deportation could be withheld. The CPT did not agree with this approach:

> 'The CPT would like to stress that leaving the person being removed unaware of his/her scheduled removal (and, in particular, his/her time of departure) can do more harm than good. Experience shows that instead of facilitating the process, it increases the risk of the person violently resisting the removal (and, in particular, resisting the application of means of restraint when being put under control in his/her cell). Preparing the person concerned well in advance for his/her removal has proved in the long-term to be the most humane and efficient approach.'[44]

[41] Frontex Evaluation Report, Joint Return Operation to Nigeria by Italy, 21 May 2015.
[42] CPT Standards, CPT/Inf/E (2002) 1 – Rev. 2015, paragraph 41.
[43] CPT/Inf (2015) 14, paragraph 15.
[44] CPT/Inf (2015) 14, paragraph 17.

5.1.4 Body search procedures

The main rule at the detention centre is that detainees shall undergo a body search on arrival, in connection with transfers to the security section, after visits and after any physical contact with the outside world, and when they are present in their cells during room searches. The body search entails a full removal of clothing and the detainee squatting over a mirror on the floor. A notice was posted on a wall in the room used for body searches, with information in different languages about the background and procedure for body searches. The same information is also provided verbally.

According to internal guidelines, body searches of children and young people under the age of 18 shall, as a rule, be limited to a pat-down search (a single officer running their hands over the individual's clothing and hair), and possibly use of a hand-held metal detector. When it is considered strictly necessary, body searches may also be carried out of children under the age of 18. This is a decision for the NPIS police prosecutor. After visits from the detainee's lawyer, body searches shall only take place in exceptional cases and on special grounds. Two staff members of the same sex as the detainee must always be present during the body search, which must be conducted in a separate room that cannot be observed from the outside. The body search room had video surveillance, but it did not cover the part of the room where the actual searches took place.

Most of the detainees perceived the procedure of routine body searches as uncomfortable, and many stated that they felt degraded. Several of them were particularly upset by the fact that a full body search was carried out even when staff had been present in the room throughout the visit. Some felt that the body search had not been carried out in a respectful manner. One person stated that he had to squat repeatedly over the floor mirror so that the staff could make sure that he had not concealed anything in his rectum.

The practice of routine body searches was addressed during the Parliamentary Ombudsman's visit to the immigration detention centre in 2012.[45] At that time, the Ombudsman expressed doubt about whether the detention centre's procedures were fully compliant with the regulations.[46] In conclusion, the Ombudsman stated the following:

> 'It seems that no specific assessment of the need for conducting body searches is carried out on arrival, after visits, after contact with the outside world or in connection with random inspections of the detainees' rooms etc.; cf. the statutory requirements for necessity and proportionality. When assessing whether a body search is necessary, account should be taken of the detainee's situation, the background for the detention, the duration of the stay, other security measures, what is known about any visitors, the number of concurrent visits in the visiting room etc. Account should also be taken of any circumstances (particularly vulnerability) related to the individual detainee's situation whereby a full body search must be deemed to be a disproportionate measure. The violation of an individual's integrity that a body search entails must be considered in relation to the severity of the undesirable incidents that the police are seeking to prevent. It must also be specifically assessed in each case whether a less intrusive search form can be considered adequate, for example an ordinary pat-down search without removal of clothing or by letting the individual keep their underwear on.'[47]

[45] Statement by the Parliamentary Ombudsman, visit to the police immigration detention centre at Trandum in autumn 2012, case 2012/2408.
[46] Section 107 fourth paragraph (a) of the Immigration Act; cf. Sections 6 and 8 of the Detention Centre Regulations.
[47] Statement by the Parliamentary Ombudsman, case 2012/2408.

At the time of the NPM's visit, body searches were still carried out as a matter of routine, to the detainees' great frustration.[48] Among the grounds given are the security situation at the detention centre and previous findings of dangerous objects. Furthermore, the NPIS has pointed out that the procedures in force allow for assessment in each specific case even though body searches are the general rule, and that the threshold for conducting body searches of minors and in connection with visits from lawyers has been raised.

In the Parliamentary Ombudsman's view, there is still doubt about whether the detention centre's body search procedures are in accordance with the law. Routine body searches with full removal of clothing are a serious intervention. That a practice of strip searches can contribute to human rights violations has both been confirmed by the European Court of Human Rights (ECtHR)[49] and pointed out by the European Committee for the Prevention of Torture (CPT).[50] The CPT has stated the following about 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 minimise embarrassment; detained persons who are searched should not normally be required to remove all their clothes at the same time, e.g. a person should be allowed to remove clothing above the waist and to get dressed before removing further clothing.'[51]

So far, the NPIS has assumed that the practice of body searches is in line with the statutory requirements for necessity and proportionality. The NPIS has nonetheless stated that a review will be conducted of search practice at the detention centre, and that it will obtain information about procedures in force in the correctional services and police custody facilities. It should be remembered, however, that detention under the Immigration Act does not constitute punishment, and that caution should be exercised in introducing security procedures intended for other groups of detainees. The police immigration detention centre at Trandum is the only institution of its kind in Norway. By comparison, Swedish immigration detention centres ('förvar') are not authorised to conduct body searches that entail an inspection of the detainee's naked body.[52] The staff are only allowed to search detainees based on concrete grounds for suspecting that they are storing drugs or

[48] Letters from the National Police Immigration Service to the Parliamentary Ombudsman of 22 March 2013 and 19 January 2015.

[49] See *inter alia* the ECtHR's judgments in *Valasinas v. Lithuania* 24. July 2001, Application No 44558/98; *Lorse and others v. the Netherlands*, 4 February 2003, Application No 52750/99; *Van der Ven v. the Netherlands*, 4 February 2003, Application No 50901/99.

[50] See *inter alia* the CPT's visit to the Netherlands in 1997, [CPT/Inf (98) 15] pages 32–33, paragraphs 67–69; to Slovakia in 2000 [CPT/Inf
(2001) 29] page 29, paragraph 51, and to the UK in 1994 [CPT/Inf (96) 11] page 41, paragraph 93.

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

[52] The Swedish Immigration Act of 29 September 2005, Chapter 11 Section 9, confers legal authority for 'body searches'. See more detailed information in the Swedish Migration Agency's immigration handbook ('Handbok i utlänningsärenden' – in Swedish only), page 1359 ff. Sweden draws a distinction between body searches ('*kroppsvisitasjon')* and body inspections ('*kroppsbesiktning')*, of which only the latter – the use of which there is no legal authority for at detention centre – may entail an inspection of a naked body. A body search may in exceptional cases entail that the detainee's clothes are removed for inspection, in which case the detainee is given other clothes while they are being inspected. A 'superficial body search' is the norm, however; see the next footnote.

dangerous objects, and, in practice, searches are in the form of pat-down searches combined with the use of a metal detector.[53]

Recommendation

- Body searches that entail a full removal of clothing should only be carried out following a specific, individual risk assessment. In cases where a full removal of clothing is considered necessary, the measure should be carried out in stages, so that the detainee is given an opportunity to cover up his/her upper body before removing the clothes on his/her lower body.

5.2 Health services

5.2.1 In general

Health services at the immigration detention centre are provided by external doctors and by nurses employed by the NPIS.

The private company Legetjenester AS has provided medical services to detainees at Trandum since 2004, based on an agreement with the NPIS. Under the agreement, two general physicians are available for consultations three nights a week from 19.00 to 21.00. The normal consultation time is six hours per week in total. The NPM was told that some additional time could be spent on preparations and follow-up. Outside office hours, emergency medical services were utilised an average of four times per month, and a doctor was otherwise available via a duty telephone. The NPM was told that the municipal accident and emergency unit was normally contacted if injuries were sustained during weekends.

Since 2014, the NPIS has had two nurses employed in full-time positions. The nurses work day/evening shifts, except at weekends. During the week, a nurse was present from 08.30 to 21.30, with overlapping shifts between 14.00 and 16.00.

During the NPM's visit, meetings were held with both nurses, and a separate meeting was held with one of the doctors. Health services were also an important topic in the private interviews with the detainees.

A clear majority of the detainees were critical of the health services offered by the detention centre. In some cases, the detainees' criticism concerned external conditions outside the control of the health services, such as the limited right to consult specialist health services (see the next section). However, much of the criticism concerned the performance of the health services' duties, such as lack of confidentiality, availability and follow-up (see more details in the individual sections below).

5.2.2 The right to health services for detainees without legal residence

Pursuant to Section 5 of the Detention Centre Regulations, the police shall ensure that the detainees 'can receive such healthcare that they are entitled to pursuant to Section 2-1a and Section 2-1b of the Act on Patient and User Rights and Section 6-1 of the Infection Control Act'. The limited medical

[53] The Swedish Parliamentary Ombudsmen (JO), Own-initiative case: Inspection of the Swedish Migration Agency's facilities, journal no 6090–2009, 19 May 2011, pages 26–29, 48–49 and 62–63; the Parliamentary Ombudsmen (JO), Inspection of the Swedish Migration Agency's detention centre in Märsta 15–16 May 2014, journal no 2188–2014, page 3.

rights of irregular migrants are set out in separate Regulations relating to the right to health and care services for persons without permanent residence in the realm.[54]

Pursuant to Section 5 of the Regulations, persons without legal residence are neither entitled to necessary healthcare from the municipal health service nor from the specialist health service.[55] Instead, they are entitled to

> 'health care that is absolutely necessary and cannot wait without risking imminent death, severe permanent disability, serious injury or intense pain. If the person is mentally unstable and poses an immediate and serious risk to his/her own or other people's life or health, he/she is entitled to mental health care, regardless of the circumstances.'

In the assessment of whether medical assistance 'cannot wait', the point of departure is that the foreign national will be leaving the country within three weeks, which means that preventive and alleviating health care is normally not included.[56] Over and above this, especially vulnerable groups have an extended right to health care, including minors, pregnant women, persons in need of infection control measures and persons deprived of their liberty.

Persons deprived of their liberty are 'entitled to health care that should not be postponed until after the period of detention, if the person is subject to such deprivation of liberty as mentioned in Section 2-17 of the National Insurance Act'. The latter provision lists most forms of legal deprivation of liberty, including where '…a person is remanded in custody, serving a sentence, is undergoing compulsory mental health care or compulsory care pursuant to the General Civil Penal Code or is placed in an institution as mentioned in Section 4-24 of the Child Welfare Act'. Deprivation of liberty pursuant to the Immigration Act is not mentioned. The result is that persons without legal residence in Norway have a stronger right to health services if they are serving a sentence in a high security prison than if they are staying at an immigration detention centre. Although it is assumed that persons detained in an immigration detention centre will leave the country shortly, statistics shows that a considerable proportion stay there for a longer period (see section 3.2 above).

The question of what health services persons without legal residence are entitled to in Norway also has to do with Norway's commitments under international law. Under Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), the members states are obliged to ensure medical service and attention in the event of sickness. Although the rights in ICESCR are subject to a gradual implementation obligation,[57] everyone staying in a country is entitled a minimum of health services on a non-discriminatory basis. The Committee on Economic, Social and Cultural Rights'

[54] Regulations of 16 December No 1255 on the right to health and care services for persons without permanent residence in the realm.

[55] Everyone staying in the realm is entitled to immediate medical attention, however; cf. Section 3 of the same Regulations.

[56] The following is nonetheless stated in Section 5 first paragraph second and third sentence of the Detention Centre Regulations: 'The police shall ensure that the foreign national receives health care over and above that to which he/she is entitled by law, if referred to such treatment by medical personnel who examine or treat the foreign national. A foreign national in immediate need of dental care shall receive such assistance.' This does not mean that foreign nationals are entitled to such treatment following a referral, however.

[57] ICESCR Article 2 (1).

General Comment No 14 states that all persons, including illegal immigrants and detainees, have an equal right to preventive, curative and palliative health services.[58]

After reviewing Norway's report on the implementation of the ICESCR in 2013, the Committee recommended that 'the State party take steps to ensure that irregular migrants have access to all the necessary health-care services, and reminds the State party that health facilities, goods and services should be accessible to everyone without discrimination, in line with Article 12 of the Covenant'. [59] When following up this recommendation, special consideration should be given to whether all irregular migrants who have been deprived of their liberty shall be given extended rights to necessary health care.

5.2.3 Access to health services

Medical examination on arrival

There are no medical personnel on duty during weekends, and any medical needs must be attended to by the municipal accident and emergency unit. The situation at the immigration detention centre is therefore still not in compliance with the CPT's recommendation to the Norwegian authorities in 2011 concerning the taking of 'urgent steps to (…) arrange for the daily presence in the Centre of a person with a recognised nursing qualification'.

It was clear from interviews with medical personnel and the detainees that medical examinations were not carried out on a routine basis when detainees arrived during the week. The lack of nurses during weekends also meant that no medical examinations were carried out if detainees arrived on a Saturday or Sunday. If the staff in the registration department received information about health problems or the use of medication on a detainee's arrival, notification was to be given to the health department represented by the nurse on duty. The communicated needs would then be followed up by a nurse. Most of those who had been in contact with the health service stated that they had taken the initiative for this themselves, however.

Irregular migrants are a group of patients at particular risk of poor somatic and mental health, particularly since uncertainty about the future gives rise to and exacerbates health problems.[60] Among irregular migrants, a considerable number of patients report conditions such as post-traumatic stress disorder, anxiety disorders, severe depression, psychosis and suicidal tendencies.[61] A medical examination on arrival could provide an overview of imminent medical needs and document

[58] General Comment No 14 (E/C.12/2000/4), paragraph 34.
[59] The UN Special Rapporteurs on the Human Rights of Migrants and on the Right to Health, and the UN Committee on the Elimination of Racial Discrimination have expressed similar views; see the report of the Special Rapporteur on the on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health after the mission to Sweden on 28 February 2007 (A/HRC/4/28/Add.2), paragraphs 72–75. The Special Rapporteur on the Human Rights of Migrants, Annual Report 21 March 2011 (A/HRC/17/33), paragraphs 34–40. See also the UN Committee on the Elimination of Racial Discrimination, General Recommendation of 1 October 2004 No 30, paragraph 36.
[60] See *inter alia* the Directorate of Health, *Migrasjon og helse – utfordringer og utviklingstrekk* ('Migration and health – challenges and development trends' – in Norwegian only), IS – 1663; the Norwegian Medical Association, *Likeverdig helsetjeneste? Om helsetjenester til ikke-vestlige innvandrere* ('Equal health services? About health services for non-Western immigrants' – in Norwegian only); and Cecilie Øien and Silje Sønsterudbråten, *No way in, no way out?*, Fafo report 2011:03.
[61] See the 2010 annual report from the Health Centre for Paperless Migrants.

any physical injuries. A medical examination is particularly important in order to detect serious infectious diseases (such as tuberculosis) and suicide risk.

The CPT's report after its visit to Norway in 2011 contained the following recommendation:

> '…the CPT recommends that the Norwegian authorities take urgent steps to ensure that all newly-arrived foreign nationals at the Trandum Holding Centre are promptly examined by a doctor or a fully-qualified nurse reporting to a doctor'.[62]

In the reply from the Norwegian authorities, reference was made to the fact that nurses had been employed by the police for the purpose of conducting medical consultations.[63] It warrants criticism that examinations by medical personnel on arrival have still not been introduced as a standard procedure, despite the CPT's recommendations. Nor are any examinations conducted as a matter of routine in the period after arrival. This increases the risk of serious infectious diseases and other potentially serious medical conditions not being detected.

Practical access and waiting times

In order to get a doctor's appointment, detainees must fill in a doctor's note. Since the notes are not available in the communal area or in the detainees' rooms, they must ask the staff for one. It emerged that it was not standard practice to hand out envelopes at the same time; it was most often the staff who put the notes in envelopes marked 'health service' after they received them. The same type of note is used for dental services.

The nurses review the notes first and consider whether the request should be followed up by a nurse or a doctor. It follows from local instructions that requests for contact with the health services shall be logged by other staff.

The detainees are not informed of scheduled appointments with the health service, but are fetched and brought directly to the appointment. This means that they are not given an opportunity to prepare for the medical examination. The health department lacked a system for registering requests that had been responded to. Many of the detainees stated that they had sent many requests, up to ten, before they succeeded in contacting the health department.

Follow-up of long-term detainees

The health department did not have procedures for following up long-term detainees.

Specialist health services

Specialist health services are provided to a limited extent. The referrals are not limited to immediate medical attention, however, and may include gastroenterology, x-ray, ear-nose-throat, orthopaedics and eye diseases as well as some types of dental treatment. The time of deportation places limitations on what treatment measures are implemented, however.

[62] The European Committee for the Prevention of Torture (CPT), Report to Norway after the visit 18–27 May 2011, CPT/Inf (20122) 33.
[63] Norwegian authorities' reply to the CPT after the visit 18–27 May 2011.

No psychological/psychiatric follow-up services are available at the detention centre. One of the nurses who were hired in 2014 is a psychiatric nurse, but does not perform duties especially related to this. Detainees are only referred to specialist health services in mental health care in the case of acute conditions such as psychosis. Sometimes detainees are admitted to the psychiatric emergency unit at Ahus hospital. According to the doctors, all referrals to the district psychiatric centre at Ullensaker were rejected as a matter of routine, and they had therefore stopped referring patients to that centre. In the event of suicide attempts or a significant increase in suicide risk, detainees were transferred to the security section and followed up more closely by the nurses there. It is problematic that detainees do not have access to necessary mental health care. Follow-up can contribute to preventing a deterioration in the detainees' mental health and improve the likelihood of a dignified return. As mentioned in section 5.2.2, Norway's commitments under international law are a factor in this. In 2011, the CPT recommended that Norwegian authorities take 'urgent steps to (…) ensure appropriate psychological/psychiatric assistance to foreign nationals'. A new, detailed investigation should be carried out of how detainees' access to necessary specialist health services can be better safeguarded in both the law and in practice.

Recommendations

- Newly arrived detainees should be offered a medical consultation with a doctor, or with a nurse reporting to a doctor, in the course of the first day.
- Written notes for requesting medical attention and sealable envelopes in which to put the notes should be made available to the detainees in the communal areas.
- Detainees who have requested medical attention should be informed about when an appointment has been scheduled, so that they have a chance to prepare for it. The health department should establish a procedure for registering requests that are received and replied to.
- The health department should systematically follow up the special health challenges experienced by long-term detainees.
- The detainees should be ensured necessary psychological/psychiatric follow-up.

5.2.4 Professional independence

Medical personnel have a duty to safeguard the patient's health. It follows from *inter alia* the UN Principle of Medical Ethics of 1982 that:

> 'It is a contravention of medical ethics for health personnel, particularly physicians, to be involved in any professional relationship with prisoners or detainees the purpose of which is not solely to evaluate, protect or improve their physical and mental health.'[64]

Medical services at the immigration detention centre are provided by the private company Legetjenester AS, which signed a contract with the NPIS following a public tender procedure in 2004. The doctors, who are the only shareholders in the company, provide medical services in the

[64] The UN Principles of Medical Ethics, adopted 18 December 1982 by the UN General Assembly, Res. 37/194, Principle 3. See also: Good governance for prison health in the 21st century – A policy brief on the organization of prison health, WHO 2013, pages 8–9.

detention centre's premises and receive payment from the police. The immigration detention centre is the company's sole client.

The police are not obliged by law to use the public health and care services.[65] The arrangement of procuring private medical services is questionable in principle, however. The contractual relationship that arises between the health service doctors and the NPIS gives rise to an unclear division of roles and responsibilities and raises questions about the medical service's professional independence. This may undermine the relationship of trust between patients and medical personnel and may weaken the health service's assessments. The challenges become even greater when it is entered into the equation that the doctors, in addition to being responsible for treatment, assume the role of experts by issuing what are known as 'Fit to fly' declarations (see more details in section 5.2.6).

The health service also includes two nurses. They are temporarily employed by the NPIS, however. This is also an arrangement that can give rise to doubt about the health service's professional independence. The nurses' main duty (safeguarding the detainees' health) is clearly of a different nature from the police's control duty. The employment relationship may, among other things, give rise to loyalty problems for the two nurses in their work.

It is also a challenge for the relationship between the doctors and the nurses that the nurses are employed by the NPIS at the same time as the doctors and nurses should be perceived by the detainees as one health service.

The independence of the health service was the reason why Norway transferred responsibility for prison health services from the Ministry of Justice to the Ministry of Health and why the prison health service is part of the municipal health service. After a joint visit to Trandum in 2014, the Norwegian Medical Association and the Norwegian Psychological Association recommended that the immigration detention centre sign an agreement with the municipality for the provision of necessary health services.[66]

Concerning prisons, the CPT has expressed that:

> 'The health-care staff in any prison is potentially a staff at risk. Their duty to care for their patients (sick prisoners) may often enter into conflict with considerations of prison management and security. This can give rise to difficult ethical questions and choices. In order to guarantee their independence in health-care matters, the CPT considers it important that such personnel should be aligned as closely as possible with the mainstream of health-care provision in the community at large.'[67]

These considerations are also relevant in connection with other forms of deprivation of liberty than imprisonment.

The visit found that the detainees had little confidence in the health services provided. The low level of confidence was probably partly a result of the detainees' limited rights to health care. Questions relating to the health service's professional independence can also help to weaken the level of confidence, however.

[65] See Section 5 second paragraph of the Detention Centre Regulations.
[66] The Norwegian Medical Association, letter of 22 September 2014, The police immigration detention centre's health service. See also the report from the Norwegian Psychological Association's Human Rights Committee after a visit to the police immigration detention centre at Trandum in November 2015.
[67] Cf. CPT Standards page 46, paragraph 71.

During the visit, the administration confirmed that they were aware of the medical personnel's challenging role, and the NPM was told that they were looking at the possibility of becoming affiliated to the municipal health service. Such a solution could safeguard the professional independence of the personnel who are to provide health services to detainees at Trandum.

Recommendation

- The NPIS should establish an arrangement that ensures that health services are provided by professionally independent medical personnel.

5.2.5 Confidentiality

Some of the detainees were concerned about the potential disclosure of private health information. Some of them experienced that non-medical staff had information they should not have, and that medical personnel had discussed the detainees' health in the communal areas in front of others.

Neither forms for requesting a doctor's appointment ('doctor's notes') nor envelopes were available to the detainees, who had to ask for them. The doctor's notes were in Norwegian, and the staff often had to help detainees to fill them out. Several items on the form also seemed to require completion by a member of staff. Moreover, doctor's notes were regularly placed in the mailbox without an envelope.

It also emerged that, in some cases, members of staff or other detainees were used as interpreters during consultations with medical personnel. The NPM has not received information that this has taken place without the patient's consent. It can nonetheless be seen as alarming that staff members or detainees are used as interpreters during consultations. The NPM was told that qualified interpreters were rarely used, despite the duty to use interpreters when needed.[68] The CPT has stated the following about the presence of non-medical staff during consultations and the use of interpreters:

> '…all medical examinations should be conducted out of hearing and – unless the doctor concerned request otherwise in a particular case – out of sight of custodial staff.
>
> Whenever members of the medical and/or nursing staff are unable to make a proper diagnostic evaluation because of language problems, they should be able to benefit without delay from the services of a qualified interpreter.'[69]

The medical personnel at the immigration detention centre use the electronic patient records system *Winmedasyl*. Only medical personnel have access to this system. However, a review of the detainees' case files (to which also non-medical staff have access) found that they contained information from the patient records. Medical personnel at the detention centre explained that it sometimes happened that the accident and emergency units sent faxes containing patient information directly to the NPIS. This should not happen.

Recommendations

- The NPIS should ensure that detainees can contact medical personnel in a way that safeguards the detainees' language needs and confidentiality.

[68] Cf. the Detention Centre Regulations, Section 5 fifth paragraph last sentence; cf. the Act on Patient and User Rights Section 3-5.
[69] CPT Standards page 73 paragraph 92.

- The NPIS should ensure that qualified interpreters can be obtained for medical consultations as needed.
- Medical personnel, including municipal accident and emergency service staff, should review their procedures to safeguard patients' confidential health information.

5.2.6 Handling of situations involving risk

Medical assessment before deportation by plane

Before an escorted deportation is carried out, the police sometimes ask the doctors to issue a declaration that the person is 'fit to fly'. Based on available health information and a medical examination, the doctor considers whether the detainee is fit to fly and issues a declaration about this. The NPM was told that such declarations are drawn up based on a wish from the airline.[70] The detainee is not informed about the purpose of the examination that forms the basis for the 'Fit-to-fly' declaration. A review of a selection of declarations show that they contain very little information. Except for personal data, and the time and purpose of the examination, plus the doctor's signature, all the declarations consist exclusively of the following standard text:

> 'The patient has been consulted by the attending physician today. The intention of the consultation is to examine whether the patient is fit to fly. I have by personal examination found him fit to fly.'

Before being deported by plane, the detainee should be offered a medical examination to ensure that he/she can be transported without a risk to life and health. The CPT has recommended that 'every person being forcibly removed by air be given the opportunity to undergo a medical examination prior to (i.e. a few days before) his/her departure'.[71]

If there is doubt about whether the detainee is fit to fly, the police should request that a medical examination be carried out. It is important that any medical conditions indicating that the patient should not take a long flight are identified.[72]

The 'Fit-to-fly' declaration does not contain information about what medical examinations have been carried out. Although a doctor, following a medical examination, concludes that the patient is fit to fly, health-related factors may still indicate that medical personnel should pay particular attention to the person during the flight.[73] In one case, it appeared from the patient records that the examining doctor was very much in doubt about whether the person was fit to fly, without this being expressed in the declaration. It appears unclear whether relevant health information in such cases is communicated to medical personnel accompanying the flight. The importance of sufficient medical

[70] The aircraft commander is the highest authority on an aircraft and may refuse to take passengers on board when circumstances so require; cf. the Aviation Act Section 6-1, cf. Section 6-3 fourth paragraph.
[71] The CPT's report to the Netherlands in 2011, [CPT/Inf (2015) 14, page 13, paragraph 27.
[72] The Council for Medical Ethics has concluded that a doctor may assume the role of expert to assess whether someone is fit to fly, but it underlined that this requires a clarification of roles; see the Council for Medical Ethics' annual report for 2006, section 1.1.2.
[73] If a joint return operation is organised by Frontex, the organising member state shall provide medical staff; see Article 11 of the Code of Conduct for Joint Return Operations Coordinated by Frontex.

information in connection with forced returns is underlined, among other places, in the EU guidelines for joint return operations, which state that:

> 'Medical records shall be provided for returnees with a known medical disposition or where medical treatment is required. These medical records shall include the results of medical examinations, a diagnosis and the specification of possibly needed medication to allow for necessary medical measures. Multilingual versions of medical records shall be provided, if the accompanying medical staff is not able to understand properly the original language. Organising and participating Member States are encouraged to use common standardised forms for medical records or fit-for-fly declarations.' [74]

When drawing up declarations, the medical personnel's duty of confidentiality and the risk of disclosure of patient information must be taken into account. At the same time, it is important that medical personnel who participate on behalf of the organising state have access to information in order to protect the life and health of the individual during the flight.[75] On this point, the UN Subcommittee on the Prevention of Torture (SPT) has made it clear that:

> 'The information shared between the caring and the accompanying health professional should be 1: void of all irrelevant data not related to the care of the person during the deportation procedure, 2: handed over to the deportee when the responsibility of the deporting authorities ends, and kept confidential between the involved health professionals and the deportee.'[76]

On this basis, there seems to be reason to carry out an assessment of how 'Fit-to-fly' declarations should be worded, in light of the requirements set out in Section 15 of the Health Personnel Act and in the Regulations relating to requirements for declarations of 2008.[77]

Issuing a 'Fit-to-fly' declaration on assignment for the police must be regarded as an expert assessment. It follows from the Norwegian Medical Association's Code of Ethics for Doctors that:

> '[a] clear distinction must be made between their roles of treatment provider and expert. Doctors are responsible for providing necessary information and appropriate information about their role and the purpose of the contact.' [78]

The issuing of 'Fit-to-fly' declarations highlights challenges relating to the professional independence of medical personnel in relation to the police. It is in principle alarming that the declarations are issued by doctors with responsibility for providing treatment, whose sole client is the police. Furthermore, it warrants criticism that this takes place without the patient being informed that the doctor has been asked to issue a statement on whether the patient is fit to fly.

Escorted deportation by plane

[74] Common Guidelines on Security Provisions for Joint Removals by Air, point 1.1.2 in the Annex to Council Decision 2004/573/EC of 28 April 2004 on the organization of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subject to individual removal orders.
[75] Jari Pirjola, Flights of Shame or Dignified Return? Return Flights and Post-return Monitoring, European Journal of Migration and Law (2015), pages 320–321.
[76] European NPM Newsletter, Issue No. 46/47 (2013), p. 22–23.
[77] Regulations of 18 December No 1486 relating to requirements for medical personnel's certificates, declarations etc., issued by the Ministry of Health and Care Services.
[78] See also Section 27 second paragraph of the Health Personnel Act.

According to the information provided, nurses responsible for treatment have been instructed to accompany deportees if requested to do so by the police.[79] This could happen even if the nurse feels that deportation of the detainee in question is unsafe from a health perspective and considers him/herself not qualified to handle any medical needs that may arise during the flight. Participation in the actual deportation can reinforce the impression that medical personnel providing treatment are assisting the police in executing the expulsion.

By comparison, the Council for Medical Ethics stated the following in 2006 about doctors participating in deportations:

> 'As regards participation in the actual transport, the Council agrees with the Human Rights Committee that such participation confers a problematic, unclear role on the doctors that may easily come into conflict with the quoted sections of the Code of Ethics for Doctors. Most asylum seekers who have to leave the country involuntarily will probably understand such participation to mean that the doctor is helping the police to carry out the deportation. The Council is of the view that a doctor should only accompany the transport if the asylum seeker so wishes.'[80]

The situation described above for doctors is similar to the situation for nurses at Trandum, although not identical.

Participation by one of the two nurses as an escort during deportation will also weaken the health service at the immigration detention centre for the period in question.

Documentation and reporting of physical injuries

Neither the nurses nor the doctors have clear procedures for documenting any physical injuries. The NPM was informed that physical injuries were rarely found, but that the doctors sometimes took photos of injuries using their own mobile phone. The latter solution is unfortunate from a privacy perspective and illustrates the need for medical personnel to have access to a separate camera.

Good documentation of injuries to detainees is an important guarantee of their legal protection and helps to reduce the risk of torture and ill-treatment. The importance of this has been pointed out by both the CPT and the UN Subcommittee on the Prevention of Torture (SPT).[81] The CPT has stated that photographs should be taken of any injuries that are found to exist and be enclosed with the patient records.[82]

Procedures are still lacking for how to handle any documented injuries that give rise to suspicion of disproportionate use of force. In 2011, the CPT recommended that Norwegian authorities ensure that:

> 'Existing procedures to be reviewed at the Trandum Aliens' Holding Center in order to ensure that, whenever injuries are recorded by a doctor, which are consistent with allegations of ill-treatment made by a foreign national (or which, even in the absence of allegations, are indicative of ill-

[79] This is also assumed in the NPIS's instructions for deportation (the Deportation Instructions) of 16 January 2015, section 3.5.1 [approved by the National Police Directorate].
[80] The Council for Medical Ethics' annual report for 2006, section 1.1.2.
[81] CPT Standards, CPT/Inf/E (2002) 1 Rev. 2015, page 98, paragraph 74; the UN Subcommittee on the Prevention of Torture (SPT), Report on the Visit to the Maldives, (2009) CAT/OP/MDV/1, page 6, paragraph 112.
[82] CPT Standards [full reference above], page 98, paragraph 74: 'Further, it would be desirable for photographs to be taken of the injuries, and the photographs should also be placed in the medical file.'

> treatment), the report is systematically brought to the attention of the relevant prosecutor, regardless of the wishes of the person concerned.'

In its follow-up reply to the CPT in 2012, the Norwegian authorities stated that:

> 'The NPIS and the responsible Police District's prosecution unit will establish routines to ensure that reports of ill-treatment are brought to the attention of the responsible Police District's prosecutor or the Norwegian Bureau for the Investigation of Police Affairs.'[83]

If such procedures have been established, they are not known to the medical personnel at the immigration detention centre. Establishing reporting procedures is an important measure to reduce the risk of torture and ill-treatment. Medical personnel who provide health care at the immigration detention centre should also be given training in how to document and report any medical indications of disproportionate use of force. In this context, the Istanbul Protocol of 1999 serves as important guidance.[84] The Istanbul Protocol provides guidelines for the assessment and examination of torture injuries and requirements for documentation and reporting of torture.

Use of handcuffs during dental examinations

During the NPM's visit, information emerged that a detainee was escorted to the dentist in handcuffs and had to wear them for the duration of the appointment. The use of handcuffs during all forms of medical examinations can undermine the important relationship of trust between patient and medical personnel and represent a risk of inhuman and degrading treatment. In two cases, the 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 ECHR Article 3.[85]

Recommendations

- A review should be carried out of the medical personnel's assessment and accompaniment of detainees who are deported by plane.
- The health department should have a camera available so that any injuries to detainees can be documented in the patient records. Clear procedures should be established for reporting by medical personnel of injuries that give grounds for suspecting disproportionate use of force.
- All medical personnel who provide health services at the detention centre should undergo training in how to document and report signs of injuries and in the Istanbul Protocol's guidelines on documentation and reporting.

[83] CPT/Inf (2012) 20, page 11, point 34.
[84] The Istanbul Protocol: Manual of the effective investigation and documentation of torture and other cruel, inhuman and degrading treatment or punishment. Geneva: UNHCR, 1999. See also CPT Standards, Chapter VII, Documenting and reporting medical evidence of ill-treatment, pages 97–101.
[85] See *inter alia Mouisel v. France*, Application No 67263/01, 14 November 2002, paragraphs 46–48 (the case concerned 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 (the case concerned a person being chained to a hospital bed, but also sets out principles that apply to the use of handcuffs).

5.3 Detention of children

According to the Detention Centre Regulations, special consideration shall be given to special needs among children and families with children.[86] It is also stated that the best interest of the child shall be a fundamental consideration in all decisions and actions that affect children who are staying at the detention centre.[87]

Section F was an adapted part of the centre, with one unit for women and one unit for families with underage children. There was a door between the units. The family unit contains rooms with double beds, bunkbeds and a cot. The section also had its own playroom for children. Unaccompanied minors are placed in a separate section and shall, in principle, not have access to the family unit's outdoor area.[88] The detention centre has appointed a member of staff with professional responsibility for children. According to the information provided, the child welfare service in Ullensaker municipality has a cooperation agreement with the NPIS and visits children and young people who are detained at the centre. At the time of the NPM's visit, there were no minors staying at the detention centre, whether unaccompanied or accompanied by adults. In 2014, 330 children were detained at the centre, compared with 229 the year before.[89] It is largely accompanied children who are detained, not unaccompanied minors.

The immigration detention centre had established an outdoor area adapted for families with children. The whole area was covered by a lawn and had a sandpit and a swing set where children could play. The wire mesh fences had been replaced by painted wood fences with farm motifs. The detention centre has made considerable efforts to adapt the physical surroundings to try to create a dignified environment for children. The detention centre is nonetheless not seen as a suitable place for children and young people.

The atmosphere at the detention centre appears to be characterised by stress and unrest among many of the adult detainees. There have also been some incidents at the detention centre, including major rebellions, that resulted in the smashing of furniture and fixtures, self-harm, suicide attempts and the use of force. As mentioned above (see 5.1.1), there have been 18 reported cases of attempted suicide and self-harm in 2014 and so far in 2015. Such living conditions are not deemed to constitute a satisfactory psychosocial environment for children.

As described above (see 5.1.3), the deportation of detainees at night gives rise to incidents that can have a negative impact on children and, at worst, traumatise them. The co-location of the single women's unit and the family unit means that children risk overhearing serious incidents in the women's unit. A review of reports from 2014 up to and including the summer of 2015 showed that two minors, one of them a child only six years old, on different occasions witnessed self-harming by their mothers. The latter child was placed in an emergency foster home by the child welfare services after the incident.

[86] See Section 3 first paragraph second sentence of the Detention Centre Regulations.
[87] See Section 3 fourth paragraph of the Detention Centre Regulations.
[88] According to internal guidelines, unaccompanied minors may socialise with detainees in Section F following a specific assessment in each case. Unaccompanied underage girls may be placed in Section F following a specific assessment.
[89] The Norwegian Organisation for Asylum Seekers (NOAS), a report on alternatives to detention – *Frihet først* ('Freedom first' – in Norwegian only), (2015), pages 18–19 and pages 110–111.

In cases that involve children, it is essential to prevent detention and carefully consider alternatives to detention.[90] In a report from 2015, the UN Special Rapporteur on Torture expressed concerns about the harmful effects of depriving children of their liberty:

> 'Even very short periods of detention can undermine a child's psychological and physical well-being and compromise cognitive development. Children deprived of liberty are at a heightened risk of suffering depression and anxiety, and frequently exhibit symptoms consistent with post-traumatic stress disorder. Reports on the effects of depriving children of liberty have found higher rates of suicide and self-harm, mental disorder and developmental problems.'[91]

Concerning children placed in immigration detention facilities, the Special Rapporteur expressed that, under international law, it must be deemed to be clear that detention of children based on their parents' immigration status is never in the best interest of the child, that it is unnecessary and grossly disproportionate, and that it may constitute cruel, inhuman or degrading treatment of migrant children. The Special Rapporteur therefore recommended that:

> 'States should, expediously and completely, cease the detention of children, with or without their parents, on the basis of their immigration status.'[92]

Concerning the detention of children together with their parents, the Rapporteur emphasised that the need for keeping the family together was not sufficient grounds to justify the detention of a child. The Special Rapporteur referred to the harmful effects of detention on the child's emotional development and welfare. With reference to international case law, the Rapporteur stated that:

> '…when the child's best interests require keeping the family together, the imperative requirement not to deprive the child of liberty extends to the child's parents, and requires the authorities to choose alternative measures to detention for the entire family'.[93]

The detention of children and young people, both with and without a family, has been the subject of criticism by a number of Norwegian organisations, including the Ombudsman for Children, the Norwegian Organisation for Asylum Seekers and the Norwegian Bar Association. In a report following a visit to Trandum in 2014, the Norwegian Psychological Association's Human Rights Committee pointed out that children can be traumatised and suffer other mental illness from being at the detention centre, and that the place must be deemed to be unsuitable for children.[94] In addition to the fact that the deprivation of liberty can be harmful to children in itself, the Psychological Association's Human Rights Committee emphasised that children can feel unsafe if their family loses many of its daily routines, that physical control measures such as barbed wire and uniformed staff can be harmful to children, that the children see their parents in a helpless situation whereby their feeling of being protected is weakened, and that seeing mentally unstable adults can be harmful for children.

[90] For a detailed introduction to alternatives to imprisonment, see the Norwegian Organisation for Asylum Seekers, a report on alternatives to detention – *Frihet først* ('Freedom first') (2015).
[91] The UN Special Rapporteur on Torture, Juan Mendez, report to the UN General Assembly, 5 March 2015, Torture and ill-treatment of children deprived of their liberty, paragraph 16.
[92] The report of the Special Rapporteur, paragraph 80.
[93] The report of the Special Rapporteur, paragraph 80.
[94] Report from the Norwegian Psychological Association's Human Rights Committee after a visit to the police immigration detention centre at Trandum, published in November 2015.

5.4 Relations with the staff

The detainees mostly had positive things to say about the detention centre staff. Many of them stated that the staff treated them with respect and gave them the assistance they needed in their day-to-day pursuits.

An important measure to maintain order and security is regular presence and dialogue with the detainees. On the positive side, the NPM noted that the administration had made arrangements to ensure that the staff, to a greater extent than before, were regularly present in specific sections and that regular presence in communal areas was provided for in the internal instructions. It emerged that the staff did not use their own first names, however, nor did they refer to each other by name in front of detainees. This must be described as unusual, also compared with high security prisons.

An even stronger focus on dialogue can contribute to reducing some conflicts and preventing undesirable incidents. A meeting was held in Module 1 after a minor rebellion against the living conditions in February 2015. The detention centre should consider introducing a permanent arrangement whereby the detainees can communicate with the detention centre's administration, for example through an elected representative or by organising joint meetings in the living sections.

Stable, sufficient staffing is another precondition for dynamic safety work. The NPM is aware that the Norwegian Labour Inspection Authority is currently conducting an investigation on the grounds of concerns about the working conditions at the detention centre, including insufficient staffing. Concerns about insufficient staffing were also specially emphasised at a meeting with the union representatives.

5.5 Physical conditions

5.5.1 The cells

The cell doors were metal doors with an inspection hatch. The single cells were approximately eight square metres in size, and equipped with a bed, a table, a shelf for keeping personal items and a bathroom with a sink, toilet and shower. Many of the cells lacked chairs, which was stated to be for security reasons. Some of the cells did not have a door between the cell and the bathroom. All the single cells had a TV with channels in several languages. The temperature was controlled from the outside. The windows could not be opened, but there was an air vent on the wall near the window that could be opened.

The rooms largely appeared acceptable, but the lack of seating other than the storage shelf and bed seemed like an unnecessary restriction. Loud noise from passing airplanes could also be heard in several of the cells.

Two cells at the detention centre were supposed to be adapted for detainees with functional impairments. Both these cells had wheelchair-accessible door sills, sufficient turning space for a wheelchair and adjustable beds. The cells had no furniture such as a cupboard or shelf, however, and the intercom button was out of reach from one of the beds that was placed along the opposite wall.

5.5.2 Communal areas

Each section in the two module buildings had a common room with cupboards and benches. Each section had a small kitchenette. The common rooms were equipped with a big TV, a sofa and tables

and enough chairs for everyone. Bookshelves with books in different languages and some board games were available in each section.

The activity building was well equipped and could be accessed from the modules through a pedestrian tunnel. The building contained various rooms for playing video games, watching films, spinning, meditation/prayer, accessing the internet and reading books in several languages. There was also a large common room equipped with sofas, a table-tennis table and football table game and a drink dispenser. The building also contained a kitchen to which long-term detainees could gain access. The detainees were also able to engage in physical activities in a large gym in the activity building. Module 2 had its own gym.

5.5.3 Outdoor areas

The outdoor areas at the detention centre were of varying size. They were all big enough for physical activities such as ball games. All the outdoor areas except the family section were tarmacked. Several of the outdoor exercise areas lacked a shelter against inclement weather.

Recommendation

- Outdoor areas should have facilities for seeking shelter from inclement weather.

5.6 Activities

5.6.1 Activity programmes

On weekdays, the detainees were let out of their cells between 08.00 and 08.45, and locked in again in the evening at 21.00. They were also locked in for 45 minutes once before noon and once in the afternoon during the staff overlap meetings. Detainees in the family unit in section F and in section E for unaccompanied minors were not locked in during the day.[95] All the cells were locked during the night. During weekends, detainees in Module 1 were let out at 10.15 and locked in at 19.45, so that they had less time out of the cells.

This meant that, during weekends, time out of the cells was normally around 10 hours and 45 minutes. This time was used for communal activities with other detainees in the same section, spending time outdoors and some organised activities. The sections were equipped with a TV and sofa groups, and had access to books and board games. The detainees were offered at least one continuous hour outside in the middle of the day and two 15-minute periods outside in the morning/evening. Detainees in Module 1 had access to the activity centre (see description above) three times a week (of approx. two hours) per section. Detainees in Module 2 did not have access to the activity centre, but used an activity hall in the module building.

Many of the detainees, especially the long-term detainees, felt that the activities offered were too limited. Some pointed to a lack of activities as one of the main reasons for the rebellion in March, especially the detainees in Module 2, who did not have access to the same facilities as those detained in Module 1. The activity hall used by the detainees in Module 2 consisted of a small gym with two exercise bicycles and a small library. It was not possible to run or play football in the gym, however, because it was located directly above section F (the family unit). One of the two exercise bicycles were broken at the time of the NPM's visit. The detainees who had access to the activity centre (Module 1) were generally more satisfied with the available activities, but several stated that

[95] At the time of the NPM's visit, there were no families with children or unaccompanied minors at Trandum.

they wished they could spend more time there. Many missed having a room and equipment for strength training and said that they found it stressful to be locked in for so much of the time, especially at weekends. There were slightly more activities on offer for some of the long-term detainees, and they were offered to cook dinner for themselves once a week, among other things. This was a popular activity, but one that was only enjoyed by detainees who had spent at least three months at the detention centre.

The overall impression is that the activities offered in the individual sections are adequate, but that the offer of organised activities should be improved. It should be considered whether it is possible to make the activity centre and resources available so that the detainees in Module 2 can use the facilities there, at least to some extent. In addition, a practical solution should be found to make running possible in the gym in Module 2 without disturbing people on the floor below, for example by scheduling training sessions when the people in that section are outdoors. It is pointed out that a gym with some strength training equipment in each module can be a health-promoting measure for the detainees.

Recommendation

- The NPIS should implement measures to strengthen organised activities, especially for detainees in Module 2 and long-term detainees.

5.6.2 Legal authority for locking in detainees

Another question is whether there is sufficient legal authority for the practice of locking detainees in their rooms. It follows from the legislation that detainees are entitled to spend time together with other detainees in the same section during the day,[96] and that exceptions may only be made if this is 'strictly necessary' in order to maintain peace, order or security.[97] Locking of the cells at night is not regulated by law or regulations. In a letter to the Norwegian Bar Association's Human Rights Committee, the Ministry of Justice and Public Security has stated the following, among other things, about the legal authority for the practice of locking detainees in their rooms:

> 'The authority to imprison [someone] entails that there is legal authority for limiting and regulating the detainees' freedom of movement, among other things by locking them in a cell as long as it is considered necessary and proportionate.'[98]

The Ministry's argument seems to be that the imprisonment in itself confers the authority to further limit the detainees' freedom of movement without express legal authority.

The Execution of Sentences Act contains a clearer regulation of the issue of locking in inmates at night, although it is only indirectly addressed.[99] In the guidelines to the Act and the Regulations, it is

[96] Section 107 third paragraph of the Immigration Act, cf. Section 4 first paragraph (a) of the Detention Centre Regulations

[97] Section 107 fifth paragraph of the Immigration Act, cf. Section 10 of the Detention Centre Regulations

[98] The Royal Ministry of Justice and Public Security, letter of 2 July 2015 to the Norwegian Bar Association, *Innlåsing av innsatte ved Politiets utlendingsinternat* ('Locking in inmates at the police immigration detention centre').

[99] See Section 17 first paragraph third sentence of the Execution of Sentences Act, which states that 'Prisoners shall be placed in a single room at night unless health conditions or lack of room prevents this'.

also a requirement that any limitation of ordinary daily contact must be authorised by law.[100] In involuntary mental healthcare, a legislative amendment in 2013 introduced the authority to lock patients in their rooms in regional secure treatment facilities as a special security measure.[101] However, such an arrangement may only be practised by regional secure treatment facilities subject to permission from the Ministry of Health and Care Services, following an individual assessment, and subject to a very high threshold for deciding to use such a measure ('absolutely necessary').[102]

Locking in detainees at the police immigration detention centre, both at night and during the day, is currently regulated by section 7.2. of the General Instructions, which states that detainees shall normally be locked in their rooms every day in connection with shift changeovers and at night. The instructions were adopted by the head of the National Police Immigration Service and approved by the Norwegian Police Directorate. In comparable sectors, the Storting has, as previously mentioned, decided what type of locking in is permitted by adopting a legal authority for exceptions. This indicates that a new review should be carried out of the legal authority for locking in detainees at the immigration detention centre. The question will be followed up in the further dialogue with the Ministry of Justice and Public Security.

5.7 Information on arrival

There appeared to be good procedures for the registration of new arrivals and counting up their valuables and possessions. However, available information indicated that the detainees received little information during the arrival phase about rules and daily routines at the detention centre. It was stated that no questionnaires or checklists are used to identify vulnerability, but that such factors often emerge during conversations. As mentioned above (see section 5.2.3), the health service does not carry out a routine assessment of new arrivals either.

An information pamphlet about rights and duties during the stay had been prepared in a number of languages. However, most of the detainees stated that they had not received any written information on arrival, over and above information about the storage of luggage and possessions.

Recommendation

- The NPIS should systemise and quality assure procedures for providing written and oral information to detainees on arrival, and for how vulnerability and special needs can be identified.

5.8 Meals

The detainees are offered four meals a day, of which the dinner meal is a hot meal. Dry food products, fruit, vegetables and dinner dishes are supplied by an external provider. At the time of the NPM's visit, there were two weekly menus, one for even numbered and one for odd numbered weeks. The sections had a small kitchen area, but it was closed between meals. The detainees could help themselves to hot beverages from a drink dispenser as long as they were not locked in their cells.

[100] See Point 3.15 of 'Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations' (in Norwegian only).
[101] Added by Act of 14 June 2013 No 37 (in force from 14 June 2013 pursuant to Decree No 621 of 14 June 2013).
[102] See Section 4A-6a of the Mental Health Care Act.

The food at the detention centre caused great frustration among the detainees. Several referred to a lack of variation in the food, especially detainees who had stayed at the detention centre for more than two weeks. Many complained about too many bread-based meals, and that the dinner menu was too monotonous. Vegetarians and persons suffering from food allergies or diabetes were largely catered for, but their diet appeared even less varied because parts of the menu were replaced by menu options from other days. Since no halal food or other religiously appropriate food is available, more people choose vegetarian food. For many of the detainees, the diet consisted of a relatively large proportion of fast carbohydrates like rice and risotto. The detainees had an opportunity to buy some kiosk items, but the selection mainly consisted of low-protein snacks such as crisps, chocolate and soft drinks.

The nutritious value of the food they were served was also questioned by several detainees. The health department mentioned that many of the detainees had experienced stomach problems after arriving at the detention centre, and believed that it was linked to a low level of activity combined with stress and the quality of the food. The medical personnel had therefore recommended a more varied diet and more fibrous food. The contract for supplying food to the immigration detention centre did not appear to contain requirements for nutritional content. By comparison, food served in prisons is subject to clearly specified requirements for nutritional content and dietary composition.[103]

It is beyond the NPM's mandate to advocate any specific view on the food that should be offered. It is nonetheless important to emphasise that food is a key element in people's everyday lives that meets basic physiological and social needs. This is not least true in closed institutions, where each individual's freedom of choice is limited.

Recommendation

- The NPIS should, in consultation with medical personnel, carry out an assessment of whether the nutritional content of the food that is offered is satisfactory, also for persons with special dietary needs.

5.9 Contact with the outside world

5.9.1 Visits

The detainees could receive visits from friends and family at specified times of the day on Tuesdays and Thursdays (in the evening) and at weekends (in the morning and afternoon). The visiting hours for lawyers were 11.00–20.00 on all weekdays and 11.00–18.30 at weekends. As a rule, visits were of 30 minutes' duration, but they could be extended on special grounds and provided that this did not happen at the expense of other detainees' visiting time.[104]

The visits took place in a dedicated visiting room, arranged for up to three concurrent visits. It follows from the detention centre's internal procedures that visits shall be supervised by an attending member of staff at all times. The main purpose is to prevent detainees from smuggling in objects concealed in their body cavities.

Some of the detainees stated that they received visits from family and friends. Several also had contact with volunteer visitors from the Red Cross, who visit the detention centre about four times a

[103] Circular KSF 3/2004, Diet. Guidelines to Section 3-23 of the Regulations to the Execution of Sentences Act. .
[104] Internal Guidelines, IR 3.1 Visits.

month and meet the detainees in groups. No one mentioned challenges related to receiving visits, but some called for greater flexibility with regard to the duration of visits when visitors had travelled a long distance. Many of the detainees found it difficult to accept that a member of staff had to be present in the room during visits from family and friends.[105] Several of them found the supervision extra frustrating since they were in any case searched after the visit (see section 5.1.4). Family visits were also subject to the same degree of supervision with subsequent body searches. During the inspection, the NPM was told that it was possible for the police to supervise visits from an adjacent room through a glass window, from where they were not able to hear what was said. However, the detainees who had received visits stated that members of staff were present in the same room during the visit. The wording of the immigration detention centre's internal guidelines suggests that control in the form of constant presence is intended to be regular practice. If visit control has been become established practice without any specific assessment of the necessity in each case, this appears problematic in light of the regulations. Reference is made to how visit control pursuant to Section 107 fourth paragraph (c) of the Immigration Act must be 'necessary in order to maintain peace, order or security'.[106]

Recommendation

- The NPIS should change its internal rules and practice to ensure that individual assessments are carried out of the need for visit control.

5.9.2 Telephone and internet

The detainees are allowed to use the detention centre's telephone up to six minutes a day during communal periods.[107] All the detainees stated that they were given an opportunity to use the phone daily. Several pointed out that six minutes is a short time to speak with your close family. The detainees did not have access to their own mobile phones during the stay. At the activity centre, two internet kiosks had been set up that the detainees could use when they came there. Access to the activity centre was limited, however, and depended on which module the detainee was placed in (see section 5.6.1).

Access to own mobile phones was also a topic during the Parliamentary Ombudsman's previous visits to the immigration detention centre in 2008 and 2012.[108] In its statement of 26 March 2010, the Ombudsman expressed doubt about whether the practice of removing all detainees' phones as a matter of routine was in line with the regulations.[109] In a letter to the Ombudsman of 18 May 2011, the head of the NPIS stated that there was sufficient legal authority for the practice, although it could have been clearer. Furthermore, the NPIS stated that the procedures for removing the detainees' mobile phones were to be changed so that they could be given and use their own mobile phone in certain situations. At the time of the visit in 2012, no such arrangement had been introduced.

[105] Visits from lawyers are not subject to control.
[106] It also follows from the sixth paragraph that control measures must not be 'disproportionate' and that they must be 'applied with caution'.
[107] There are no time limitations on calls to case officers, lawyers, embassies, the home country's authorities, the Supervisory Council for Trandum, the Parliamentary Ombudsman and the International Organization for Migration (IOM).
[108] The Parliamentary Ombudsman's statements of 13 August 2014 (case 2012/2408) and 26 March 2010 (case 2011/805)
[109] Section 107 fourth paragraph of the Immigration Act, cf. Section 6, and Sections 6 and 8 of the Detention Centre Regulations.

According to the information provided, this was because it had taken time to make arrangements with regard to where the telephones could be used, charging points, watchkeeping and procedures for when use of the telephones could be permitted. The Ombudsman stated the following, among other things:

> 'The legal authority to "temporarily remove and keep the foreign national's money and other objects" follows from Section 107 fourth paragraph (b) of the Immigration Act. The requirements that the measure must be "necessary" in order to maintain peace, order or security, that it must not be "disproportionate" and that it must be applied "with caution" pursuant to the sixth paragraph of the same section also apply in this context.'[110]

In a letter to the Parliamentary Ombudsman of 19 January 2015, the NPIS repeated that arrangements would be made to give the detainees access to their mobile phones, but that it had proved challenging to find practical solutions that were appropriate from a security perspective. The NPIS stated that endeavours would be made to find a practical solution to the mobile phone problem in connection with a planned revision of the detention centre's general instructions in the course of 2015. At the time of the NPM's visit, the revision process had just started.

In the work on finding a practical solution, it should be taken into account that the detainees are already subject to strict security measures, and that the right to use one's own phone is an important element of privacy. The grounds given for the general need to confiscate all mobile phones as a matter of routine are not deemed to be specific enough. It is remarked that, for example in Sweden, detainees at immigration detention facilities are allowed to have their own mobile phones, as long as these do not have a camera function.[111] Detainees at an immigration detention centre ('utlänningsförvar') in Märsta outside Stockholm are able to borrow simple mobile phones without a camera function during their stay.[112] They use the SIM card from their own phones. In addition, the detainees at Märsta had round-the-clock internet access in communal computer rooms.

Recommendation

- The NPIS should find a solution that makes it possible for the detainees to have their own mobile phones.

5.10 The combined burden of control measures

After the visit in 2012, the Parliamentary Ombudsman expressed concern that, in some areas, there appeared to be excessive attention to control and security at the expense of the individual detainees' integrity and legal protection.[113] This concern still applies today.

A large proportion of the detainees stated that they felt that they were treated as criminals, although most of them had not been convicted of a crime (see section 3.2). The routines at the detention centre were perceived as unnecessarily strict. Many of the detainees felt degraded by the fact that they were strip-searched and had to squat over a mirror on the floor on arrival and after every time

[110] Statement by the Parliamentary Ombudsman, case 2012/2408.
[111] The Parliamentary Ombudsmen (JO), Inspection of the Swedish Migration Agency's detention centre in Märsta on 15–16 May
2014, page 3.
[112] The NPM had a meeting with and was given a tour of Märsta immigration detention centre on 2 December 2015, in cooperation with the Swedish Parliamentary Ombudsman's (JO) NPM unit.
[113] Statement by the Parliamentary Ombudsman of 13 August5 2014 (case 2012/2408).

of receiving an ordinary visit (except from lawyers); see section 5.1.4. They found it especially unsettling that a full body search was conducted after all visits, even when staff members had been physically present in the room during the visit (see section 5.9.1). Many also had questions of doubt concerning the regular searches of the cells that were conducted to detect any dangerous objects. The searches were carried out as spot checks, without any concrete grounds for suspicion. Several detainees also expressed frustration that they were not given access to their own mobile phone (see section 5.9.2) and that they were locked in in the evening, at night and for shorter periods during the day (see section 5.6.1).

The detainees are a heterogeneous group of people in a difficult life situation. Measures to maintain the safety of both staff and other detainees may therefore be necessary under the circumstances. The detainees' experiences and the NPM's observations during the visit nonetheless give grounds for raising the question of whether the combined burden of control measures is felt to be so extensive as to have the opposite of the desired effect. The NPM's concern is that the control measures in themselves can result in more unrest and undesirable incidents rather than a sense of security (see section 5.1.1).

The detention centre is mainly used to ensure the implementation of forced returns, and most of the detainees stay there for less than 24 hours. Despite a relatively high average turnover, the centre holds a considerable number of long-term detainees at all times. At the time of the NPM's visit, 61 (of a total of 100) detainees had stayed more than two weeks at the detention centre. Seventeen of these had stayed at the centre for more than 100 days. The person who had stayed the longest had been there for 372 days.

The detention centre does not have suitable facilities for such long stays. Although, as mentioned, special activities had been initiated for detainees who had stayed there for a particularly long time, there were considerable fewer activity options than, for example, in a high-security prison.

The physical design gave the immigration detention centre (see section 3.1) and the detainees' rooms (see section 5.5.1) a clear prison-like appearance. The staff are in uniform, carry alarms and lock the detainees into and out of rooms that both look like and are referred to as cells. The detention centre is also situated near Gardermoen airport and is regularly overflown at low altitude by passing aircraft that generate a high noise level. Both the continuous overflights and the high return frequency during the night represent extra burdens. Deportations can give rise to trouble and unrest at the centre. Serious incidents such as self-harm and suicide attempts occur during the deportation phase and can be traumatic for the remaining detainees, especially children and young people (see sections 5.1.3 and 5.3).

The detention centre's security procedures are clearly inspired by the correctional services, including the procedures for locking detainees in and out (see section 5.6.1), the use of security cells, exclusion from company (see section 5.1.2), and room checks. In certain areas, such as the practice of conducting full body searches after visits, the detention centre's procedures appear to be more invasive than in many high-security prisons (see section 5.1.4).

Based on this, it can be concluded that the detention centre is a prison-like institution. At the same time, there is a material difference in that the detainees at Trandum are not serving sentences, but

are subject to an administrative coercive measure. Those who have been expelled because they have been convicted of a criminal offence have already served their sentence in prison.

As regards the deprivation of liberty under immigration law, the CPT has stated that: '…care should be taken in the design and layout of the premises to avoid as far as possible any impression of a carceral environment.'[114] The committee has also stated that: 'Conditions of detention for irregular migrants should reflect the nature of their deprivation of liberty, with limited restrictions in place and a varied regime of activities'.[115]

The principle of protection of the dignity of individuals forms the basis for both the UN Declaration on Human Rights and subsequent human rights treaties. According to Article 10(1) of the International Covenant on Civil and Political Rights, public authorities are obliged to respect the dignity of individuals in connection with deprivation of liberty.[116] In a Grand Chamber judgment from 2015, the ECtHR established a particularly strong link between the protection of human dignity and the prohibition on inhuman and degrading treatment set out in Article 3 of the ECHR. Among other things, the Court stated that '…respect for human dignity forms part of the very essence of the Convention', and that '…there is a particularly strong link between the concepts of "degrading" treatment or punishment within the meaning of Article 3 of the Convention and respect for "dignity".'[117] There is also a link between considerations of security and dignity. Criminological research suggests that security is best maintained at institutions that also ensure a high degree of respect for the dignity of detainees.[118]

Recommendation

- The NPIS should ensure that the combined burden of control measures is in accordance with human rights requirements for necessity and proportionality.

[114] CPT Standards page 65, paragraph 29.
[115] CPT Standards page 71, paragraph 71.
[116] Article 10(1) of the official English version of the Convenant reads as follows: 'All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person.'
[117] ECtHR judgment of 28 September 2015, *Bouyid v. Belgium*, Application No 23380/09, paragraphs 89–90.
[118] See *inter alia* Alison Liebling, *Moral performance, inhuman and degrading treatment and prison pain*, Punishment and society 13, 2011, pages 533–534.

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