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The Parliamentary Ombudsman Norway

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

VISIT REPORT

**Telemark prison,
Skien branch
2-4 June 2015**



Table of contents

1	The Parliamentary Ombudsman's prevention mandate	2
2	Summary.....	2
3	General information about the Skien branch of Telemark prison	6
4	How the visit was conducted	7
5	Findings and recommendations	8
5.1	The prison's handling of coercive measures	8
5.1.1	Use of security cells and restraint bed	8
5.1.2	Exclusion from company	13
5.2	Highest security level.....	15
5.2.1	Physical control measures.....	16
5.2.2	Compensatory measures to counteract the harmful effects of isolation	18
5.2.3	Access to health services.....	22
5.2.4	Staffing and competence.....	23
5.3	Activities	24
5.3.1	Level of activity in the communal sections	24
5.3.2	Activities in section A.....	24
5.4	Protection measures	25
5.4.1	The presence of prison officers	25
5.4.2	Admission procedures.....	26
5.5	Health services	27
5.5.1	Access to health services.....	28
5.5.2	Confidentiality	30
5.5.3	Preventive health services.....	31
5.5.4	Professional standard.....	32
5.5.5	Professional ethics and independence.....	32
5.6	Conditions for vulnerable groups.....	33
5.6.1	Conditions for foreign inmates.....	33
5.6.2	Conditions for inmates with disabilities	33
5.7	Capacity extension/new buildings.....	33

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 Skien branch of Telemark Prison on 2-4 June 2015. The prison's regular capacity consists of 82 places at the high-security level. The prison held no female inmates at the time of the NPM's visit. When the prison holds inmates at the highest security level,² the capacity is 76 places. The NPM's visit included registration and admission section A (including the highest-security section) and communal sections H, B and C. The prison was notified of the visit four weeks in advance and was asked to submit specified information. The prison complied with this request in a timely manner.

The visit started with a meeting with the prison administration. The prison administration and the other staff were helpful throughout the visit, and all requested information was made available to the NPM. An inspection was carried out of the prison, including of section A, the two security cells and the prison's security bed (restraint bed), the outdoor exercise areas, the highest-security section, communal sections H, B and C, the workshops, the classrooms, the activity building, the visiting rooms and the guardrooms in each section. The NPM also examined the inmates' communal areas.

In addition, separate meetings were held with the prison health department, which also included inspection of the health department's premises. Interviews were conducted with inmates every day during the three-day visit. The interviews were held in the inmates' cells or in meeting rooms belonging to the different sections.

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

² The highest of the three security levels under which inmates serve their sentences in Norway: the low, high and especially high level of security.

The NPM also reviewed relevant records and administrative decisions. This included all use-of-force decisions and use-of-force records (related to the use of security cells and restraint bed) for 2014 and up until the time of the visit in 2015, and of a selection of administrative decisions regarding exclusion from company for the same period. The NPM had informal conversations with prison officers and other prison staff as well as a separate meeting with the prison's trade union representatives.

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

During its visit, the NPM examined the prison's handling of serious incidents and use of coercive measures. The security cells had been used a total of seven times in 2014 and, up until the time of the visit, four times in 2015. The review of documents related to stays in the security cells indicated that the prison had a high threshold for placing inmates in a security cell, in accordance with what is prescribed by law. However, administrative decisions, records and the supervision logs were kept as loose sheets in ring binders. The sheets containing the supervision logs were generally not numbered. The NPM pointed out that the ring binder system is vulnerable because it can subsequently be changed and its value as evidence is therefore weak. The system did not appear to be secure. Furthermore, no grounds were stated in the supervision log for changing the frequency of supervision and there was no description of measures implemented to bring the stay in the security cell to an end as soon as possible. An administrative decision related to one stay in a security cell in 2014 was missing. Moreover, there was no supervision log for one stay in a security bed and for one period of such a stay. The absence of an administrative decision and the failure to keep a log constitute serious breaches of the inmates' legal protection. This gave cause for concern.

As a result of the prison's high occupancy level (97.4% at the time of the visit), newly admitted inmates and inmates who are transferred from the communal sections to the restricted section (section A) on the basis of administrative decisions regarding exclusion from company, remain in the restricted section considerably longer than they should. It is clearly unfortunate that inmates lose the right to communal interaction and time out of the cell as a result of a high occupancy level.

In the highest-security section, the NPM focused in particular on the prison's implementation of control measures (use of handcuffs and body searches) and on measures implemented to compensate for the lack of human contact and to reduce any harmful effects of isolation. Access to health services and the staffing situation were also investigated.

The regime in the highest-security section puts very strict limits on the inmates' freedom of movement and possibility of human contact. Together with the fact that, in reality, a very low number of inmates, sometimes only one, will be subject to such strict security conditions at any one time, this means that the regime entails a heightened risk of inhuman treatment. From the point of view of prevention, the risk of isolation having harmful effects as a result of limited human contact is very much in focus.

The NPM investigated the inmates' access to health services. The health department endeavoured to offer new inmates a medical consultation within two days of admission, but findings during the NPM's visit indicated that this was not always possible. The health department kept records of any

physical injuries that inmates were found to have sustained, but did not take photographs of such injuries. It also emerged that more could be done to maintain the confidentiality of inmates.

In general, the prison's health department seemed to observe professional ethics and meet the requirements for independence. However, while reviewing the use of the restraint bed, the NPM found that one inmate had been checked on by a doctor from the accident and emergency unit while strapped to the bed and that the doctor had recommended continued use of the straps. Medical personnel shall neither approve nor recommend use of coercive measures to the Correctional Services. This is perceived as problematic.

The first period as an inmate is a particularly vulnerable phase. The prison admission procedures and how inmates are attended to in this phase were therefore given particular focus. The prison had prepared a procedure for admission of new inmates, and an information brochure as well as an information film were available to the inmates in several languages. However, the information gathered by the NPM during the visit indicated that adequate procedures were not in place to ensure that all inmates were attended to and given sufficient information during their first period as inmates.

At the same time, it was found that there was a high presence of prison officers in the living units and most inmates stated that they felt secure in the communal areas. Small living units and the presence of the officers were highlighted as important factors that made them feel secure.

During its visit, the NPM was concerned with whether the inmates are sufficiently activated. It was seen as positive that almost all the inmates in communal sections B and C were offered education or employment opportunities. On the other hand, interviews with inmates in section A and a review of documented activities for inmates in section A indicated that inmates in that section were not offered satisfactory employment or activity programmes. A clear majority of the inmates in section A did not participate in any, or only very few, activities in the course of a week. This gives cause for concern considering that isolation can have serious effects on the mental health of inmates. The importance of a good and sufficiently large exercise yard and outdoor areas was also stressed.

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

THE PRISON'S HANDLING OF COERCIVE MEASURES

Use of security cells and restraint bed

- When security cells and restraint beds are used, an administrative decision must always be made pursuant to Section 38 of the Execution of Sentences Act. The decision should always state why the measure is absolutely necessary and which less intrusive measures have been attempted previously or found to be clearly inadequate.
- Any change in the frequency of supervision should be clearly indicated in the supervision log. The supervision log should also include documentation of measures, including of motivational talks, implemented to bring the stay in the security cell to an end as soon as possible.
- Suicide-prevention clothing should only be used as a last resort following an assessment of the suicide risk in each specific case.

- A full body search when placing an inmate in a security cell should be based on an individual risk assessment, which should be described in the supervision log.
- Logging of supervision during stays in a security cell or restraint bed should be conducted so as to ensure correct and complete documentation and prevent any subsequent corrections.
- The prison's restraint bed should be inspected to ensure that it is of an adequate standard.

Exclusion from company

- The prison should take particular care before deciding to exclude an inmate from the company of others if there is a risk that the inmate, as a result of the situation in the prison, will remain isolated longer than warranted by the original grounds for the exclusion. The prison should ensure that all newly admitted inmates who are deemed to be suitable for the communal sections are transferred to such sections as soon as possible.

HIGHEST SECURITY LEVEL

Physical control measures

- A concrete assessment should be conducted on a regular basis of whether an especially high security level can be maintained through other and less invasive security measures than the use of handcuffs.

Compensatory measures to counteract the harmful effects of isolation

- At the highest security level, the prison should extend planned periods of contact between inmates and staff and consider other measures to reduce the harmful effects of isolation
- At the highest security level, the prison should consider alternatives to the concrete exercise yard for spending time outdoors.

Access to health services

- At the highest security level, the prison should discontinue the visual monitoring of inmates' consultations with medical personnel where the inmate is separated from the medical personnel by a glass wall.

Staffing and competence

- It should be ensured that staff in the highest-security section receive regular training and guidance, including individual guidance, so that they are capable of dealing with professional and human challenges at the highest security level.

ACTIVITIES

Offer of activities in section A

- The prison should ensure that all inmates have an opportunity to spend at least eight hours of the day outside their cells, engaged in meaningful activities, unless they have been excluded from the company of other inmates (complete isolation) pursuant to Section 186a of the Criminal Procedure Act or Section 37 of the Execution of Sentences Act. Particular consideration should be given to offering activities to inmates who are partly or completely isolated.

PROTECTIVE MEASURES

Admission procedures

- The prison should ensure that detainees receive adequate information on admission. Questions about mental health and suicide risk should be included in templates for

admission interviews.

- Together with the health department, the prison should establish procedures for documentation of any injuries that the detainee may have on admission.

HEALTH SERVICES

Access to health services

- Newly admitted inmates should undergo a medical examination by a doctor, or a nurse under the supervision of a doctor, preferably in connection with the admission interview or within 24 hours of being admitted at the latest. Any injuries should be registered and assessed in connection with admission.
- The health department should have a camera available so that any injuries that the inmate may have can be documented by medical personnel in the patient records.

Confidentiality

- The prison should ensure that confidentiality is maintained about all consultations with the health department's medical staff, including with the dentist, physiotherapist, psychologist and psychiatrist. The staff should ensure that requests for medical consultations are placed in a closed envelope and that such envelopes are readily available to all the inmates.
- The prison and the health department should cooperate to find alternative procedures for administering medication so that confidentiality regarding health issues is maintained.

Preventive health services

- The health department can contribute medical expertise in order to improve the living conditions for prison inmates through public health work and other healthcare measures in the prison environment. Particular focus should be maintained on vulnerable groups that are especially exposed to injury/health problems, including inmates with disabilities.

Professional ethics and independence

- In order to maintain a relationship of trust with patients, doctors from the accident and emergency unit must ensure, in the same way as the prison health department staff, that they never recommend or approve any use of coercive measures by the prison.

CAPACITY EXTENSION/NEW BUILDINGS

- When building new detention facilities, it should be ensured that all inmates can be offered satisfactory employment opportunities and activity programmes.

3 General information about the Skien branch of Telemark prison

The Skien branch of Telemark prison is a high-security prison situated in Skien municipality. The prison's regular capacity consists of 82 places for men. By way of exception, female inmates may be held here for a short period. The prison held no female inmates at the time of the NPM's visit. When the prison holds inmates at the highest security level, the capacity is 76 places. The prison places are divided between the following sections:

- Section A – 10 places and up to 4 places at the highest security level
- Section B – 30 places (29 places when a specially adapted cell is needed)

- Section C – 30 places
- Section H – 6 places

At the time of the visit, the prison had an occupancy level of 97.4%. The NPM was told that, as of 30 April 2015, the prison held 55 inmates convicted of a crime, 19 inmates on remand and one inmate in preventive detention. The average length of sentence is 6.9 years.

Section A is a registration and admission section for remand prisoners and convicted prisoners with limited access to share the company of other inmates. In addition, inmates who are subject to an administrative decision on exclusion from company are also transferred to section A. The section has a total of ten places. Four of the ten high security cells are reinforced cells in an area that can be monitored directly from the section's guardroom. The reinforced cells are identical to the ordinary cells with the exception of the sink and toilet, which are made of metal. In addition, the section has up to four places at the highest security level. The section has one visiting room. The visiting room is mainly used for visits to or conversations with inmates at the highest security level. The room has a glass wall that separates the inmate from the visitor. Communication takes place via an intercom system with a microphone and loudspeaker on either side of the glass wall. Section A has two security cells and a room for taking urine samples and carrying out body searches, which also contains a special toilet (Pacto). The section has three small outdoor areas. Section A also has a gym with a glass wall that can be fully observed from the guardroom, a small library, a small communal room with, among other things, a Play Station, a communal room for talking and playing cards and a small workshop offering low-threshold work activities.

One part of section A has been rebuilt to accommodate inmates at the highest security level.

Section H is a living unit with six places. The inmates in section H have the same offer of employment as the inmates in communal sections B and C. The section also has one cell adapted for inmates with disabilities. The inmates in section H have their own exercise yard, which is considerably smaller than those of the other communal sections. According to the prison administration, inmates in section H were therefore sometimes allowed to use the larger exercise yards.

Communal sections B and C comprise a total of ten living units, each with room for six inmates. One of the living units had two cells, however, that could be converted to accommodate one inmate in need of an adapted cell. The living units include a communal room with a TV and sofa group, and a kitchen and long table for communal meals. The cells have separate bathrooms. Each living unit is attended to by three contact officers working shifts. Section C has five ordinary living units and section B has four ordinary living units. In addition, section B contains a substance abuse rehabilitation section. The rehabilitation section has its own substance abuse counsellor and social worker as well as four officers working shifts. A psychologist and a substance abuse counsellor/therapist from Telemark Hospital is also attached to the section. Sections B and C have large outdoor areas with sports grounds and running tracks.

4 How the visit was conducted

The prison administration and other staff were forthcoming throughout the visit. The NPM's information posters for inmates were posted in all the sections and the staff seemed to have been properly informed about the visit. The NPM's information brochure in different languages had been

distributed to the inmates in all the sections. The NPM received thorough reports containing the requested information in advance of the visit.

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

The meeting was followed by an inspection of the prison. The inspection included section A, the two security cells and the prison's security bed (restraint bed), the outdoor exercise areas, the highest-security section, communal sections H, B and C, the workshops, the classrooms, the activity building, the health department, the visiting rooms and the guardrooms in each section. The NPM also examined the inmates' communal areas.

Interviews were conducted with inmates every day during the three-day visit. The NPM had particular focus on groups that were especially vulnerable to breaches of their integrity or difficult prison conditions. This applied in particular to inmates in the restricted section (section A) who had limited access to communal activities. The interviews were held in the inmates' cells or in interview rooms belonging to the different sections.

Interviews were also conducted with the prison health department staff. The NPM also reviewed relevant records and administrative decisions. This included all use-of-force decisions and use-of-force records (related to the use of security cells and restraint bed) for 2014 and up until the time of the visit in 2015, and of a selection of administrative decisions regarding exclusion from company from the same period. The NPM had informal conversations with prison officers and other prison staff as well as a separate meeting with the prison's trade union representatives.

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

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

- 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)
- Lene Stivi (adviser, lawyer)
- Georg Høyer (prof. dr. med. from the University of Tromsø, external expert)
- Caroline Klæth Eriksen (adviser, communications officer)

5 Findings and recommendations

5.1 The prison's handling of coercive measures

5.1.1 Use of security cells and restraint bed

Security cells

During its visit, the NPM examined the prison's two security cells. These were located in section A. Each security cell had a floor space of about six square metres and was furnished with a plastic mattress on the floor, a cover for keeping warm and a squat toilet. There were hatches above the floor for pushing food through and a window above the cell door for supervision by staff. One part of the cell could not be observed from the window, however. The problem had been solved by installing a camera that provided an overview of that part of the cell. The camera was connected to a monitor outside the cell, which could be turned on when needed, but which was not connected to a recorder. The cells had windows that provided daylight and a limited view. Each cell had a call button for getting the staff's attention. The cells looked clean and in a good state of repair.

The cells were illuminated by a strong built-in ceiling light that could not be adjusted, and the NPM was told that this light was on 24 hours a day. The prison installed an adjustment mechanism for these lights during the NPM's visit.

Each cell door had a narrow slot without glazing through which it was possible to observe and speak with the inmate. At the same time, the door could be barred in a partially open position, so that it was possible to speak with the inmate with the door ajar rather than through the slot in the door. This solution allowed for better contact with the inmate.

One of the security cells contained a security bed that could be removed should the need arise for use of two security cells at the same time. It was possible to convert one of the security cells into a single room with a special toilet (Pacto).³

Pursuant to Section 38 of the Execution of Sentences Act, the Correctional Services may make use of security cells, among other things to prevent a serious attack on or injury to a person, and to prevent the implementation of serious threats or considerable damage to property. Placing an inmate in a security cell is a very invasive measure. It may therefore only be used when strictly necessary under the circumstances, and where less invasive measures have been tried unsuccessfully or would obviously be inadequate. The need to uphold such a measure shall be continually assessed.

It is a recognised fact that isolation can have serious consequences for the inmate's mental health and increases the risk of suicide.⁴ A stay in a security cell is a particularly invasive form of isolation. What is generally known about isolation and the risk of suicide, self-harm and the development of serious mental disorders indicates that a security cell should only be used as a last resort and for the shortest possible time. In the NPM's experience, the risk of serious self-harm and suicide is among the most commonly cited grounds for administrative decisions concerning the use of security cells. Based on what is known 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

³ See Section 29 second paragraph of the Execution of Sentences Act.

⁴ 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.

actually increases in both the short and long term. This highlights the importance of showing particular caution as regards use of security cells where there is a risk of suicide or self-harm.

At the time of the visit, the security cells had been used four times in 2015. Three of the stays were of less than 24 hours' duration, while one lasted 35 hours. In 2014, the security cells were used seven times in all. Six of the stays lasted 24 hours or less, while the seventh was of almost three days' duration. A review of the administrative decisions, incident reports and supervision logs indicated that the prison had a high threshold for placing inmates in a security cell, in accordance with what is prescribed by law.

The documentation in the form of administrative decisions, records and supervision logs consisted of loose sheets in ring binders. The sheets containing the supervision logs were generally not numbered. The ring binder system is vulnerable because it can subsequently be changed, and its value as evidence is therefore weak. The system did not appear to be secure.

For one case in 2014, only the records and supervision log were available, while the administrative decision was missing. An administrative decision shall provide the inmate with information about the legal grounds and reason for the intervention. It shall also inform the inmate of the right of appeal. The absence of an administrative decision therefore constitutes a serious breach of the inmate's legal protection. An administrative decision in which the grounds for the intervention are stated shall always be made and given to the inmate in connection with the use of a security cell.

The supervision log indicated that supervision was carried out in accordance with the requirement set out in the guidelines to the Execution of Sentences Act for supervision once every hour as a minimum.⁵ In most cases, the supervision frequency was every 30 minutes. In many cases, supervision was logged as frequently as every 15 minutes, with some periods of constant supervision (particularly during the initial phase of confinement). The reasons for changing the supervision frequency and the assessments that formed the basis for more or less intensive supervision were not always described in the supervision log, however.

Some inmates spent periods outdoors during their stay in the security cell. Confinement in a security cell is a very invasive measure and every effort should therefore be made to give the inmate a chance to spend time outdoors. This can also be expedient in order to establish a good dialogue with the inmate and speed up the inmate's return to a regular prison cell. This will not least be the case when the stay exceeds 24 hours. It will also be an advantage to include in the security log documentation of measures implemented to bring the stay in the security cell to an end as soon as possible, including conversations with the inmate.

The prison has introduced a procedure to reduce the level of conflict and calm down the situation when inmates resist and have to be carried to the security cell. Rather than taking the inmate straight to the security cell, he is carried to a separate room outside the security cell, where the chief

⁵ Point 3.41 of 'Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations' (in Norwegian only) adopted by the Correctional Services' Central Administration 16 May 2002 and amended on 27 October 2008.

duty officer attempts to engage in dialogue with the inmate and give him the option of entering the security cell of his own accord. This appears to be a risk-reducing practice.⁶

The NPM was informed that inmates who are placed in a security cell are usually given a clean pair of trousers and a clean shirt, which should be available in the cell. At the time of the NPM's visit, however, such clothes were neither present in the security cells nor on the shelves marked for this purpose outside the security cells. The NPM was told that these clothes would be removed should the inmate attempt to use them to harm himself or commit suicide. It was stated that, in such cases, the inmate is issued with a poncho-like garment that is designed to prevent suicide.⁷ The NPM was shown the garment during its visit. This is in line with the NPM's previous recommendations on preventing that inmates with a high suicide risk are left naked in the security cell.⁸ Such a garment should only be used as a last resort, however, following an assessment of the suicide risk in each specific case. The garment covers most of the body, but bears little resemblance to clothes. It is somewhat uncomfortable to wear and can be perceived as stigmatising and degrading for people who have no wish to harm themselves. Based on the information posted by the security cells about the procedure related to the use of 'ponchos' and the absence of other clothes in the security cells and on the shelves outside the security cells during the NPM's visit, the NPM emphasises that rip-resistant clothing/'ponchos' should not be used as a matter of routine.

As a matter of routine, inmates are undressed and a body search carried out before they are placed in a security cell. There may be grounds for this when the inmate is placed in a security cell based on the risk of serious harm to the person or suicide. An inmate may also be placed in a security cell pursuant to Section 38 of the Execution of Sentences Act, among other things 'to prevent considerable damage to property'. A full body search should therefore be based on an individual assessment that should be described in the supervision log.

Security bed

The use of security beds is regulated by Section 38 of the Execution of Sentences Act. This measure is one of the most invasive measures available to the Correctional Services and entails strapping a person to a bed by the arms and legs. In general, security beds are used very rarely. Even in large prisons, years may pass between each time a security bed is used.⁹

In the Skien branch of Telemark Prison, however, inmates had been restrained in the security bed twice in 2014 and twice in 2015 during the period up until the visit took place. In one of these four cases, no administrative decision was available related to the transfer of the inmate from the security cell to the security bed. The transfer was documented by records, a report and the supervision log. In this case, too, the absence of an administrative decision constitutes a serious breach of the inmate's legal protection.

⁶ See also the Parliamentary Ombudsman's reports from the visit to Tromsø Prison 10-12 September 2014 (section 5.1.3 on page 8) and the visit to Bergen Prison 4-6 November 2015 (section 5.1.1 on page 8).

⁷ Also referred to as suicide-prevention clothing, anti-suicide smock or suicide safety smock.

⁸ See *inter alia* the Parliamentary Ombudsman's report from the visit to Tromsø Prison 10-12 September 2014.

⁹ See also the Parliamentary Ombudsman's report from the visit to Tromsø Prison 10-12 September 2014, where it is reported that the security bed was used so infrequently that it had been stowed away in a storage room.

The main grounds for two administrative decisions on the use of restraints in a security bed were cited as being the inmate's own wish to be transferred to the security bed and that he had suicidal thoughts. An inmate's consent does not constitute an independent legal basis for the use of coercive measures in prison; see Section 38 of the Execution of Sentences Act. A 'wish' to be restrained can also be indicative of a wish for medical assistance, care or security, and entails a risk of misinterpreting or abusing the inmate's consent. Use of a restraint bed should therefore not be based on an inmate's wish to be restrained.

While reviewing the use of the restraint bed, it also emerged that, in one case, its use had been recommended by a doctor from the accident and emergency unit with reference to previous incidents, even though the patient was calm at the time; see section 5.5.5.

Use of a restraint bed requires continuous supervision. As in the case of the security cells, the system for keeping supervision logs (loose sheets in a ring binder without consecutive numbering) provided little protection against subsequent changes. It also emerged that, for one stay in the security bed, the supervision log was missing for a period of approximately 12 hours, while there was no supervision log whatsoever for another stay in the security bed, reported to have lasted for 9 hours and 20 minutes.

The security bed was an old model. It was not fixed to the floor, but attached to some wooden beams that were not fixed to the floor. A five-point restraint system was used. The straps showed signs of wear and the chest strap appeared to be placed so as to prevent movement of the upper body more than necessary (it would pass under the armpits and thus make it impossible for the inmate to lift his/her upper body). Neither a urine bottle nor a bedpan was available during the visit. It emerged from the supervision log, however, that both a urine bottle and the toilet in the security cell had previously been used during stays in the security bed.

Recommendations

- When security cells and restraint beds are used, an administrative decision must always be made pursuant to Section 38 of the Execution of Sentences Act. The administrative decision should always state why the measure is absolutely necessary and which less intrusive measures have been attempted previously or found to be clearly inadequate.
- Any change in the frequency of supervision should be clearly indicated in the supervision log. The supervision log should also include documentation of measures, including of motivational talks, to bring the stay in the security cell to an end as soon as possible.
- Suicide-prevention clothing should only be used as a last resort following an assessment of the suicide risk in each specific case.
- A full body search when placing an inmate in a security cell should be based on an individual risk assessment, which should be described in the supervision log.
- Logging of supervision during stays in a security cell or restraint bed should be conducted so as to ensure correct and complete documentation and prevent any subsequent corrections.

- The prison's restraint bed should be inspected to ensure that it is of an adequate standard.

5.1.2 Exclusion from company

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

A review of administrative decisions on exclusion from company pursuant to Section 37 of the Execution of Sentences Act indicated that the prison processes such cases in a satisfactory manner and that, in general, the grounds for such exclusion are thoroughly considered. The decisions showed that a specific assessment is made in each case of whether partial exclusion from the company of other inmates should be used as a less intrusive measure. The NPM was told that the question of full or partial exclusion is continually discussed at morning meetings for the officers in each section.

Inmates who are transferred from a communal section to section A following an administrative decision on exclusion, usually lose their place in the communal section. Because of the high occupancy level in the communal sections, inmates who have been excluded from company sometimes remain in section A for a longer period than warranted by the original decision. When exclusion pursuant to Section 37 first paragraph of the Execution of Sentences Act is discontinued, a new administrative decision is therefore made on partial exclusion from company pursuant to Section 37 eight paragraph of the Act, which authorises such exclusion if 'building or staff conditions necessitate this, or if the prisoner himself or herself so wishes'.

The fact that inmates risk having their stay in the restricted section (section A) extended due to a high occupancy level and lack of room in the communal sections gives cause for concern. It is clearly unfortunate that inmates lose the right to communal activities and time out of the cell as a result of a high occupancy level.

The NPM makes reference to the fact that the European Committee for the Prevention of Torture (CPT) has expressed concern on several occasions about the high occupancy level in prisons. This was recently pointed out in the CPT's report on the conditions in Danish prisons:

'Further, it should be recalled that even with an occupancy level of 95% of the total design capacity of a prison estate, it becomes nigh impossible for a prison service to deliver what is required of it, and more particularly, to ensure respect for inmates' human dignity.'¹⁰

The practice whereby a new administrative decision is made in such cases is positive in that it provides documentation of the real number of exclusions. The NPM is aware that several prisons

¹⁰ Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25, page 20, paragraph 25.

make no administrative decisions in such situations. It is unfortunate, however, that a decision on exclusion pursuant to Section 37 first paragraph in actual fact leads to the inmate being confined to section A for longer, sometimes considerably longer, than warranted by the original grounds for exclusion. Not only does an exclusion decision in practice lead to a longer period of exclusion than warranted by the decision; it can also have an impact on the inmate's personal progression.

The legal authority for full or partial exclusion because of 'building or staff conditions' also appears to be unclear. Use of the Norwegian word '*påkrevd*' ('necessitated' or 'absolutely necessary') in the eighth paragraph of Section 37 suggests that the need must be more pressing than indicated by the word '*nødvendig*' ('necessary') in the first paragraph of Section 37.¹¹ At the same time, the preparatory works to the Execution of Sentences Act seem to assume that there should be some authority for exclusion from company for parts of the day based on building conditions such as a lack of communal premises.¹² On that basis, the Correctional Services' Central Administration (now the Directorate of the Norwegian Correctional Service) has stated that exclusion must also be necessitated ('*påkrevd*') by acute conditions pursuant to the eighth paragraph.¹³

The capacity challenges also had consequences for newly admitted prison inmates. Most of them had to remain in section A (the registration and admission section) until a place became available in a communal section. The high average sentence length in the prison was another contributory factor to this. It was not uncommon for newly admitted inmates to have to wait two to four weeks before they were transferred from section A to a communal section.

The NPM was informed by the prison that administrative decisions on exclusion were also made pursuant to Section 37 eighth paragraph of the Execution of Sentences Act in the case of newly admitted inmates who were deemed to be suitable for transfer to a communal section, but who were waiting for a place to become available.

It is clearly unfortunate that even newly admitted inmates remain excluded from the company of other inmates for a long time due to a lack of capacity. According to the prison, inmates on whom restrictions have been imposed by the court and inmates who are especially vulnerable to isolation are first in line to get a place in a communal section.

Isolation and very limited social interaction are invasive measures that can affect the health of individuals, even after a relatively short period. This is why the CPT has recommended that 'solitary confinement should only be imposed in exceptional circumstances, as a last resort and for the shortest possible time'.¹⁴ Particular weight should be given to this recommendation in cases where a lack of communal premises is the only reason why an inmate is isolated¹⁵ or why the inmate's

¹¹ See Proposition No 5 to the Odelsting (2000–2001) concerning the Act on Execution of Sentences etc. (the Execution of Sentences Act), which seems to assume that it must be a question of acute building or staff conditions.

¹² Proposition No 5 to the Odelsting (2000–2001).

¹³ Letter of 3 November 2011 from the Correctional Services' Central Administration to the Correctional Service Region West: 'Use of Section 37 eighth paragraph of the Execution of Sentences Act in relation to prisoners on remand'.

¹⁴ 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.

¹⁵ Solitary confinement is used to describe situations in which the prisoner spends 22-24 hours of

possibilities for social interaction are very limited. The CPT recommends that inmates are offered to spend time in the company of other inmates for a minimum of eight hours a day.¹⁶

The NPM is concerned about the number of prisons in Norway that report challenges related to offering inmates meaningful social contact. Since the challenges are often ascribed to unsuitable premises and/or a high occupancy level, the NPM stresses the importance of including suitable premises for communal activities in all sections in connection with planned building projects (including admission and remand sections).

The inmates' possibilities of meaningful social contact is something that the NPM will follow up on in its dialogue with the Directorate of the Norwegian Correctional Service.

Recommendation

- The prison should take particular care before deciding to exclude an inmate from company if there is a risk that the inmate, as a result of the situation in the prison, will remain isolated longer than warranted by the original grounds for the exclusion. The prison should ensure that all newly admitted inmates who are deemed to be suitable for the communal sections are transferred to such sections as soon as possible.

5.2 Highest security level

If required on special security grounds, convicted and remand prisoners may be placed in a section with an especially high security level.¹⁷ As mentioned in the preparatory works to the Execution of Sentences Act, the establishment of such sections is based on the assumption that particularly stringent control measures may be imposed on some prisoners on the grounds that security cannot be maintained in a regular prison section.¹⁸ It is thus clear at the outset that more invasive measures must be accepted in relation to the inmate than at a lower security level.

At the same time, everyone who is deprived of their liberty is entitled to protection of their human rights, including persons who are deemed to represent a particular danger to society. This is clearly stated *inter alia* in the Council of Europe's recommendations related to dangerous offenders:

'Dangerous offenders, like all offenders, should be treated with respect for their human rights and fundamental freedoms, and with due regard for their particular and individual needs while at the same time protecting society effectively from them.'¹⁹

the day alone in his/her cell, without contact with other prisoners, with 1-2 hours of outdoor exercise or sporadic human interaction; see *inter alia* the United Nations Special Rapporteur on Torture Juan Mendez, Interim Report A/66/268 of 5 August 2011, page 8. See also Rule 44 of the UN Revised Standard Minimum Rules for the Treatment of Prisoners (the 'Mandela Rules').

¹⁶ The CPT Standards page 17 paragraph 47.

¹⁷ Pursuant to Section 6-2 of the Regulations to the Execution of Sentences Act, inmates may be committed to a section with an especially high security level if it can be assumed that 'their detention involves a special risk of escape, a risk of external attempts to assist their escape, a risk of hostage-taking or a risk of specially serious new criminality'. When other security measures have proved to be or appear to be clearly inadequate, prisoners who have been guilty of repeated violence or specially threatening conduct may also be included. The target group and the assessment criteria mentioned in the Regulations are not exclusive.

¹⁸ See Report No 27 to the Storting (1997–98) concerning the Correctional Services section 4.4.2 and Proposition No 5 to the Odelsting (2000–2001) page 73.

¹⁹ The Council of Europe, Recommendation CM/Rec(2014)3 of the Committee of Ministers to member States concerning dangerous offenders, 19 February 2014, paragraph 3.

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment is absolute and also applies to inmates who may pose very special security challenges.

The regime in the highest-security section puts very strict limits on the inmates' freedom of movement and possibility of human contact. Together with the fact that, in reality, a very low number of inmates, sometimes only one, will be subject to such strict security conditions at any one time, this means that the regime entails a heightened risk of inhuman treatment. From the point of view of prevention, the risk of isolation having harmful effects as a result of limited human contact is very much in focus.

This is why the NPM focused in particular on the prison's implementation of control measures and on measures implemented to compensate for the lack of human contact and to reduce any harmful effects of isolation.

5.2.1 Physical control measures

The legislation assumes that the threshold for implementing invasive control measures is lower in a section with an especially high security level than in a regular prison section.²⁰

At the same time, the Council of Europe's recommendations state that:

'Security measures should be set to the minimum necessary, and the level of security should be revised regularly.'²¹

Necessity and proportionality considerations are also used as the point of departure for the CPT.²²

During its visit, the NPM had particular focus on procedures for body searches and the use of handcuffs.

Body searches

Section 6-8 of the Regulations to the Execution of Sentences Act states the following concerning the inspection of inmates, rooms and possessions:

'In departments with an especially high security level, the prisoners themselves and the possessions they bring with them shall always be inspected on arrival, as well as before and after outings.'

Neither Section 28 of the Execution of Sentences Act nor the Regulations to the Act prescribe how body searches ('inspection of prisoners') are to be carried out. In the guidelines to the Act, however, it is stated that such inspection of prisoners may be carried out by use of technical equipment, sniffer dogs, external body searches or full body searches with removal of clothing and inspection of the naked body.²³ It is a requirement that the investigation is no more invasive than necessary. As a point of departure, all body searches in the highest-security section shall be carried out as full body

²⁰ Point 6.1 of 'Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations' (in Norwegian only) adopted by the Correctional Services' Central Administration on 16 May 2002 and amended on 27 October 2008.

²¹ The Council of Europe, Recommendation concerning dangerous offenders, paragraph 41.

²² See *inter alia* the CPT Standards page 30 paragraph 55.

²³ Point 3.31 of 'Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations' (in Norwegian only) adopted by the Correctional Services' Central Administration on 16 May 2002 and amended on 27 October 2008.

searches, however. A full body search entails the removal of all clothing and, as a rule, that the inmate has to squat down.

If the physical conditions are not adapted for the purpose, body searches may have to be carried out many times a day. A full body search is a very invasive measure and frequent body searches can be perceived as degrading for the inmate concerned. It can also make the inmate reluctant to participate in activities that entail body searches, and thus enhance the feeling of isolation. During the NPM's visit, it emerged that the procedures for use of control measures had been changed in March 2015. One consequence of this was a reduction in the number of body searches. This was possible as a consequence of several changes to the building stock.

In a number of cases, the European Court of Human Rights (ECtHR) has considered Article 3 of the Convention and the conditions of prisoners held at a high or especially high security level. The ECtHR has *inter alia* stated the following concerning the practice of routine body searches in a Dutch high security unit (EBI):

'(...) the Court observes that, pursuant to the EBI house rules, the applicant was strip-searched prior to and following an "open" visit as well as after visits to the clinic, the dentist's surgery or the hairdresser's. In addition to this, for a period of three and a half years he was also obliged to submit to a strip-search, including an anal inspection, at the time of the weekly cell inspection (see paragraph 31 above), even if in the week preceding that inspection he had had no contact with the outside world (see paragraph 65 of the CPT report) and despite the fact that he would already have been strip-searched had he received an "open" visit or visited the clinic, dentist or hairdresser's. Thus, this weekly strip-search was carried out as a matter of routine and was not based on any concrete security need or the applicant's behaviour.

The strip-search as practised in the EBI obliged the applicant to undress in the presence of prison staff and to have his rectum inspected, which required him to adopt embarrassing positions.¹²⁴

'62. The Court considers that in a situation where the applicant was already subjected to a great number of surveillance measures, and in the absence of convincing security needs, the practice of weekly strip-searches that was applied to the applicant for a period of approximately three and a half years diminished his human dignity and must have given rise to feelings of anguish and inferiority capable of humiliating and debasing him. The applicant himself confirmed that this was indeed the case in a meeting with a psychiatrist, during which he also stated that he would, for instance, forgo visiting the hairdresser's so as not to have to undergo a strip-search (see paragraph 25 above).¹²⁵

Among other things, the ECtHR referred to the risk associated with the breaches of integrity that a full body search represents, and that this can make the prisoner reluctant to participate in activities that entail an increased number of body searches. Under a security regime where the activity level and possibility of human contact are already very restricted, this will in turn increase the risk of harmful effects from isolation. Even if renovation of the buildings and the introduction of other static security measures in the highest-security section of Telemark Prison appear to have substantially reduced the need for body searches, the NPM would nevertheless stress the risk associated with frequent body searches.

²⁴ ECtHR judgment of 4 February 2003 *Van der Ven v. the Netherlands*, Application No 50901/99, paragraph 58.

²⁵ *Van der Ven v. the Netherlands*, paragraph 62. See also the ECtHR judgment of 6 July 2006 *Salah v. the Netherlands*, Application No 8196/02, and the ECtHR judgment of 4 February 2003 *Lorsé and Others v. the Netherlands*, Application No 52750/99.

Use of handcuffs

The use of handcuffs is regulated by Section 38 of the Execution of Sentences Act concerning use of coercive measures. The Correctional Services may use handcuffs among other things to prevent a serious attack on or injury to a person, to prevent escape from prison and during transportation to or from a destination.²⁶ There are no separate national rules for the use of coercive measures in sections with an especially high security level, but it is assumed that a high security level warrants a lower threshold for the use of such measures.²⁷ Handcuffs are an invasive measure that can be perceived as humiliating or degrading and also as strenuous in that it is physically uncomfortable and causes pain around the wrists.²⁸

The ECtHR takes as its point of departure that handcuffs should only be used when it is necessary due to the risk of a person escaping or inflicting bodily or material harm. Consideration must therefore be given to whether safety and security can be maintained by other means.

At the time of the visit, there was no information to indicate that handcuffs were used to punish or humiliate inmates. The use of handcuffs is nevertheless such an invasive measure that it can cause an inmate to refrain from activities that could reduce the harmful effects of isolation so as to avoid being handcuffed. The NPM stresses the importance of continually assessing the proportionality of using handcuffs in each individual case and whether security can be maintained by other, less invasive, means.

Recommendation

- A concrete assessment should be conducted on a regular basis of whether an especially high security level can be maintained through other and less invasive security measures than the use of handcuffs.

5.2.2 Compensatory measures to counteract the harmful effects of isolation

Section 6-3 of the Regulations to the Execution of Sentences Act states that prisoners 'in a department with an especially high security level shall not share the company of prisoners from other departments'.

At the time of the NPM's visit, there was only one inmate in the highest-security section. The inmate served his sentence alone without having any contact with other inmates, but was offered daily outdoor exercise and some degree of contact with the staff in addition to certain other individuals (see below).

Only a few people have served in sections with an especially high security level and, so far, there has been no more than one inmate at any one time. Consequently, it has so far not been an issue to

²⁶ See Section 38 first paragraph (a) to (f) of the Execution of Sentences Act.

²⁷ Point 6.1 of 'Guidelines to the Act on Execution of Sentences etc. (the Execution of Sentences Act) and to its Regulations' (in Norwegian only) adopted by the Correctional Services' Central Administration on 16 May 2002 and amended on 27 October 2008.

²⁸ See *inter alia* Tor-Geir Myhrer, *Bastet og bundet – Rettslige rammer for bruk av håndjern*, ('Tied and bound – Legal framework for the use of handcuffs'), Universitetsforlaget 2012.

allow inmates in the highest-security section to share the company of other inmates (for which access is provided in the Regulations).²⁹

High-security regimes under which prisoners serve their sentence in isolation from other prisoners has increasingly become a subject of international attention, and a consensus seems to be emerging that, under given circumstances, isolation can constitute torture or other cruel, inhuman or degrading treatment or punishment. This is made clear in ECtHR case law and elsewhere.³⁰

The United Nations Special Rapporteur for torture and other cruel, inhuman or degrading treatment or punishment reached a similar conclusion in his report on solitary confinement.³¹ The Special Rapporteur stressed the well-documented harmful effects that isolation can have on the health of individuals.³² The CPT has also highlighted the risk of harmful health effects:

'...[solitary confinement] can have an extremely damaging effect on the mental, somatic and social health of those concerned. This damaging effect can be immediate and increases the longer the measures lasts and the more indeterminate it is.'³³

Based on what is known about the harmful effects, the CPT has recommended that 'solitary confinement should only be imposed in exceptional circumstances, as a last resort and for the shortest possible time'.³⁴ Support for the concern about the harmful effects of isolation is found in ECtHR case law, where isolation is considered to be among the most serious measures a prison can implement.³⁵ The ECtHR has emphasised that isolation, including in cases that involve particularly dangerous persons, may not be indefinitely prolonged.³⁶ It has also given weight to whether the state in question has done enough to alleviate the negative effects of a strict security regime.³⁷ At the same time, it has acknowledged that exclusion from the company of other prisoners for security or

²⁹ See Section 6-3 second paragraph of the Regulations.

³⁰ See the ECtHR judgment of 18 March 2014 in *Öcalan v. Turkey (No. 2)*, Application No 24069/03, 197/04, 6201/06 and 10464/07, the ECtHR judgment of 8 July 2004 in *Ilascu and Others v. Moldova and Russia*, Application No 48787/99 (both judgments also gave weight to other circumstances relating to the deprivation of liberty), and the ECtHR judgment of 4 July 2006 in *Ramirez Sanchez v. France*, Application No 59450/00. The ECtHR has also concluded that isolation can constitute a breach of the right to respect for private life laid down in Article 8; see *inter alia* the ECtHR judgment of 17 April 2012 in *Piechowicz v. Poland*, Application No 20071/07, the judgment of 31 March 2005 in *Schneiter c. Suisse* [in French], Application No 63062/00, and the judgment of 17 July 2012 in *Munjaz v. the United Kingdom*, Application No 2913/06 (the latter two cases concerned seclusion in a psychiatric institution).

³¹ See *inter alia* UN Special Rapporteur on Torture, Interim Report A/66/268 of 5 August 2011, page 8; the CPT Standards, Solitary confinement of prisoners, CPT/Inf/E (2002) 1 – Rev. 2015, page 29 paragraph 54; Rule 44 of the UN Revised Standard Minimum Rules for the Treatment of Prisoners (the 'Mandela Rules').

³² See the UN Special Rapporteur on Torture, Interim Report A/66/268 of 5 August 2011, paragraphs 54 and 55. See also the Istanbul Statement on the Use and Effects of Solitary Confinement: 'The central harmful feature of solitary confinement is that it reduces meaningful social contact to a level of social and psychological stimulus that many will experience as insufficient to sustain health and well-being.'

³³ The CPT Standards page 29 paragraph 53.

³⁴ The CPT Standards page 37 paragraph 64.

³⁵ See *inter alia* the ECtHR judgment of 10 April 2012 in *Babar Ahmad and Others v. the United Kingdom*, Application No 24027/07, 11949/08, 36742/08, 66911/09 and 67354/09.

³⁶ *Ramirez Sanchez v. France*, paragraph 145, and *Babar Ahmad and Others v. the United Kingdom*, paragraph 210.

³⁷ *Piechowicz v. Poland*, paragraph 172 ff.

protection reasons, even for a very long period, does not in itself constitute inhumane treatment, but that this depends on an overall assessment in each case.³⁸

The State's responsibility for protection of prisoners against disproportionate consequences in such situations is laid down in Section 6-4 of the Regulations to the Execution of Sentences Act, which states that restrictions on company 'shall be compensated for by extended contact with the staff and by provision of satisfying facilities for work, training, and other activities and leisure pursuits'.

At the time of the NPM's visit, the highest-security section at the Skien branch of Telemark Prison consisted of several cells per inmate, and it emerged that inmates were able to spend more than eight hours a day outside their accommodation cell and move freely between the accommodation cell, a fitness cell and another cell that, at the time of the visit, had been converted into a study cell. The cells had direct daylight. The area within which the inmate could move was strictly limited, however, compared with the regular communal sections. Unlike in the communal sections, access to a kitchen/living room was not provided on a daily basis. Nor did the inmates have the same opportunity as other inmates to experience physical, mental and sensory variations by attending work, exercising in a gym, visiting the library or participating in other activities outside the section. Outdoor exercise took place in a separate yard.

It was found that inmates in the highest-security section are not offered any employment, but that some degree of independent studying is facilitated within the section.

As inmates at the highest security level have no access to social interaction with other inmates at a lower security level, human contact was limited to conversations with staff, the inmate's legal counsel, the prison chaplain and medical staff, the visitor service and any other visitors. The inmates were also allowed to make telephone calls. At the same time, the security regime means that the prison may exercise strict control by screening visitors and telephone calls.

At the time of the NPM's visit, the applicable routines included a fixed period of approximately one hour of planned social interaction with staff members once a week. Officers conducted inspection rounds of the section many times a day. Electronic logs were kept of the frequency and duration of these inspection rounds. A review of the electronic log in conjunction with other information showed that the inspection rounds often provided a basis for conversations between staff and inmates lasting from a few minutes to almost half an hour. The NPM also learnt from several sources that the inmates were allowed to take the initiative for conversations in addition to what was said during the inspection rounds. The average frequency and duration of conversations with inmates, seen in conjunction with information obtained in a document review about the content of some of these conversations, indicated that this contact to some extent could contribute to limiting the risk of harmful effects from isolation. The inmates were notified when extraordinary circumstances made it necessary to change the daily routine, particularly when this involved a reduction in the number of staff of several hours' duration.

All in all, social contact was nevertheless very limited compared with inmates in the communal sections. It is also pointed out that the inmate has already spent several years under these security

³⁸ See *inter alia* the ECtHR judgment of 12 May 2005 in *Öcalan v. Turkey*, Application No 46221/99 and the ECtHR judgment of 18 March 2014 in *Öcalan v. Turkey (No. 2)*, Application No 24069/03, 197/04, 6201/06 and 10464/07.

conditions, and the law sets no upper limit on the period that a person can be subjected to an especially high security regime, provided that the conditions for being in the highest-security section are deemed to be met.³⁹

When prisoners, for security reasons, are denied participation in activities that are considered appropriate for prisoners at a lower security level, including when restrictions are introduced on receiving visitors, it is essential to establish measures to compensate for this; see Section 6-4 of the Regulations to the Execution of Sentences Act. This has also been stated by the ECtHR:

'It would also be desirable for alternative solutions to solitary confinement to be sought for persons considered dangerous and for whom detention in an ordinary prison under the ordinary regime was considered inappropriate.'⁴⁰

The same has been stressed by the CPT, including in a report to the Netherlands concerning prisoners in special high-risk security units:

'... The CPT considers that prisoners who present a particularly high-security risk should, within the confines of their detention units, enjoy a relatively relaxed regime by way of compensation for their severe custodial situation. In particular, they should [...] be granted a good deal of choice concerning their activities (thus fostering a sense of autonomy and personal responsibility).'⁴¹

The CPT's expectations of high security units are outlined in more detail in the general CPT Standards:

'The existence of a satisfactory programme of activities is just as important – if not more so – in a high security unit than on normal location. It can do much to counter the deleterious effect upon a prisoner's personality of living in a bubble-like atmosphere of such a unit. The activities provided should be as diverse as possible (education, sport, work of vocational value etc.) As regards, in particular, work activities, it is clear that security considerations may preclude many types of work which are found on normal prison location. Nevertheless, this should not mean that only work of a tedious nature is provided for prisoners.'⁴²

Based on the sources reviewed and the observations made during the NPM's visit, the Parliamentary Ombudsman points out that the prison should consider introducing further measures to compensate for the strict security measures, not least to prevent harmful effects of isolation.

One possible measure would be to extend the possibility of receiving visitors. The restrictions on receiving visitors that existed at the time of the visit appeared to be very strict.

Activities together with staff would be another important measure. As mentioned above, it was found that inmates have the possibility of having conversations with staff on several occasions in the course of a day. The system is vulnerable, however, and it is seen as important to extend the periods

³⁹ An administrative decision concerning 'committal to a department with an especially high security level may endure for up to six months at a time'; see Section 6-1 second paragraph of the Regulations to the Execution of Sentences Act.

⁴⁰ *Ramirez Sanchez v. France*, paragraph 146.

⁴¹ The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the authorities of the Kingdom of the Netherlands on the visits carried out to the Kingdom in Europe, Aruba, and the Netherlands Antilles by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) in June 2007, CPT/Inf (2008) 2, page 27 paragraph 45.

⁴² The CPT Standards page 27 paragraph 32.

of *planned* social contact between inmates and staff. At the time of the NPM's visit, the scope of planned and organised social contact between inmates and officers was very limited (approximately one hour once a week). Options whereby it can be ensured that such contact stimulates both social and physical activity together with staff should be explored. At the same time, it should be noted that an important aspect of this recommendation is the need to follow up staff who work in this section (see section 5.2.4).

The exercise area in extension of the highest-security section is a high-walled concrete yard of approximately 50 square metres, which, in the long term, does not give a satisfactory feeling of being out in the open. Nor does the limited area allow for the possibility of, for example, exercise in the form of running. The prison should consider the possibility of letting inmates in the highest-security section use one of the larger exercise yards.

Recommendations

- At the highest security level, the prison should extend the planned periods of contact between inmates and staff and consider other measures to reduce the harmful effects of isolation.
- At the highest security level, the prison should consider alternatives to the concrete exercise yard for spending time outdoors.

5.2.3 Access to health services

According to the prison health department, inmates in the highest-security section were closely followed up as needed. The inmates could consult with the health department twice a week, and they were offered consultations with a psychologist/psychiatrist.

Conversations with medical personnel were held in a room where the inmate and the medical personnel were separated by a glass wall. The conversations were monitored by an officer in an adjacent guardroom. The officer could not hear what was being said. Pursuant to the Act on Patient and User Rights, all patients shall, as a rule, be entitled to speak with medical personnel in private.⁴³ This is a fundamental principle in order to create a relationship of trust between patients and medical personnel. Such a relationship of trust is important in order to ensure that medical personnel receive good and relevant information about the patient's health and private situation, with a view to safeguarding the patient's health in the best possible manner. The Parliamentary Ombudsman, represented by the NPM, has previously pointed out that the police or prison officers should only be able to monitor medical consultations when medical personnel request such monitoring because they are concerned about their own safety.⁴⁴ Even if the officers could not hear what was being said, there was a risk that the patient would avoid sharing information about his/her physical or mental health as a result of the visual monitoring of the conversation. Whether monitoring of a conversation

⁴³ Section 21 of the Health Personnel Act; see also Section 3-6 first paragraph of the Act on Patient and User Rights. See Circular IS-6/2010 from the Directorate of Health, section 2.2: 'The duty of confidentiality means that health personnel shall prevent others from gaining access to or knowledge of people's physical or medical conditions that they get to know in their capacity as health personnel.' It is clear from the guidelines that this also applies to the protection of information exchanged between patients and medical personnel during consultations, doctor's visits etc.

⁴⁴ See *inter alia* The Parliamentary Ombudsman's report from a visit to Lillestrøm custody facility on 2 February 2015.

with medical personnel constitutes a necessary and proportionate measure must be specifically assessed in each case, in light of the risk that the patient may fail to share information that could be important with a view to offering medical assistance. In this context, note should be taken of the fact that the safety of medical personnel is already protected in that they are not in the same room as the patient.

Recommendation

- At the highest security level, the prison should discontinue the visual monitoring of the inmate's consultations with medical personnel where the inmate is separated from the medical personnel by a glass wall.

5.2.4 Staffing and competence

Work in the highest-security section is challenging and places great demands on the staff. The staff must seek to maintain the difficult balance between control measures and addressing the inmate's needs. Inmates shall be treated humanely and with respect, and the staff should have good communication skills. Training staff to do what is expected of them in a professional and good manner reduces the risk of inmates suffering abuse or being exposed to unacceptable conditions. This can only be done with the right staffing level and competence and in a healthy and sound working environment.

Reference is made to the Council of Europe's recommendations concerning the treatment of particularly dangerous offenders:

'All staff, including relevant authorities, agencies, professionals and associations involved in the assessment and treatment of dangerous offenders should be selected on the basis of defined skills and competences and professionally supervised. They should have sufficient resources and training in assessing and dealing with the specific needs, risk factors and conditions of this group.'⁴⁵

Staff in the highest-security section received training when the section was re-established, and they regularly received guidance in groups. There was no system, however, for raising the competence and skills of those who had already been trained. Some of the staff also stated that they had a need for individual guidance in light of the special professional and human challenges their work entails.

Based on the above, the NPM stresses that measures to develop the skills and competence of individual members of staff and to provide regular guidance on how to handle professional and ethical challenges are measures that will reduce the risk of inhuman or degrading treatment.

Recommendation

- It should be ensured that staff in the highest-security section receive regular training and guidance, including individual guidance, to enable them to deal with professional and human challenges at the highest security level.

⁴⁵ The Council of Europe, Recommendation concerning dangerous offenders, 19 February 2014, paragraph 49.

5.3 Activities

5.3.1 Level of activity in the communal sections

During its visit, the NPM was concerned with whether the inmates are offered a sufficient level of activity. The NPM had particular focus on the number of hours spent in the company of other inmates, employment opportunities and leisure activities.

On the positive side, the NPM noted that, with the exception of one inmate, all the inmates in communal sections B and C had an offer of education or employment. Outside working hours, the inmates in the communal sections were able to participate in exercise/activities in the activity building (the 'G' building) up to four days a week⁴⁶, borrow books or films from the library and attend religious services and Bible groups. In addition, authors were sometimes invited to speak in the library and the exercise yard and gym were used as venues for various activities.

The gym was relatively large, with a climbing wall at one end and equipment for strength and endurance training. The NPM was told that prison officers take part in ball games and other activities with the inmates.

At the time of the NPM's visit, some programme activities to counteract substance abuse were also taking place. The prison had previously run the programme *Pappa i fengsel* ('Dad in prison') and several inmates mentioned that they missed this and were frustrated that it was no longer offered. According to the prison administration, funds were no longer available for running this programme.

The inmates in section H were largely offered education and employment opportunities similar to those in sections B and C.

Outdoor areas

The outdoor areas for communal sections B and C offered opportunities for ball games and running and also had seating and eating areas. The outdoor area for section H was small, however, and did not appear to be large enough to safeguard the inmate's need for daily physical exercise and outdoor activities. The NPM was informed that inmates in this section were allowed to use the outdoor areas for sections B and C whenever possible, but it was not clear what this actually entailed.

5.3.2 Activities in section A

As described in section 3 above, section A is a closed admission and registration section with limited opportunities for social contact. The section also holds inmates who are excluded from company based on an administrative decision and inmates on whom restrictions have been imposed by the courts.

Interviews with inmates in section A and a review of documented activities for inmates in section A indicated that inmates in section A were not offered satisfactory employment opportunities or activity programmes. A clear majority of the inmates did not participate in any, or only very few, activities in the course of a week. Recently, the prison employment service had become more actively involved, so that, among other things, low-threshold employment is now offered in a workshop in the section. However, this did not change the impression that the level of activity in this

⁴⁶ The sections alternated between having access to the activity building three and four times a week.

section is so low as to give cause for concern. Inmates who spent much time in isolation were sometimes offered to spend time outdoors several times a day. In principle, the inmates in section A had an opportunity to exercise every day. The fitness room appeared to be small and poorly equipped, however.

The health department participated in weekly meetings with staff in section A concerning inmates in isolation. The staff in section A would have liked more guidance from the health department on how to alleviate the problems that individual inmates experience as a result of isolation.

Based on the information that emerged during the NPM's visit, the activity programmes in section A should be strengthened to prevent inmates from being exposed to the harmful effects of isolation. Among other things, the NPM is aware that certain other prisons offer inmates in the restricted sections employment in other parts of the prison when this can be justified.⁴⁷

Recommendation

- The prison should ensure that all inmates have an opportunity to spend at least eight hours of the day outside their cells, engaged in meaningful activity, unless they have been excluded from the company of other inmates (complete isolation) pursuant to Section 186 a of the Criminal Procedure Act or Section 37 of the Execution of Sentences Act. Particular consideration should be given to activities for inmates who are partly or completely isolated.

5.4 Protection measures

Protection measures is a collective term used to describe all measures intended to protect prisoners' rights and needs. The NPM has focused in particular on whether the inmates feel safe and secure, on information and admission procedures and on the work of the contact officers.

5.4.1 The presence of prison officers

Communal sections B and C comprise a total of ten living units, each with room for six inmates. The living units include a communal room with a TV and sofa group, and a kitchen and long table for communal meals. Each cell has its own bathroom. The prison officers are required to be present in the living units and share meals with the inmates. It was confirmed during the NPM's visit that the officers were present in the communal sections and participated in games, preparing food and conversations.

When interviewed, no inmates accused the staff of use of force or physical abuse. Nor did anyone accuse the staff of having spoken to them in a degrading, discriminating or offensive manner.

A clear majority of the inmates stated that they felt safe and secure. Small living units and the presence of the officers were highlighted as important factors that create a sense of security. According to several inmates, the prison officers were quick to intervene when difficult situations arose between the inmates.

⁴⁷ During its visit to Tromsø Prison 10-12 September 2014, the NPM noted that several inmates from section A in Tromsø Prison were allowed to participate in organised work together with inmates from the communal sections.

5.4.2 Admission procedures

During the first phase of being deprived of liberty, prison inmates often feel very insecure, and this period therefore entails particular risks, including the risk of suicide. As a rule, inmates will have a great need for information, a need for human compassion and help to organise personal and practical complications that have arisen in connection with the imprisonment. It is particularly important to have good reception procedures so as to identify any special needs and any risk of self-harm, suicide, violence, threats and other circumstances that have a bearing on safety.

The prison has prepared its own templates for conducting admission interviews. A first interview and registration was carried out by an admission officer, or a prison officer in section A if the admission took place at night. The prison appeared to have established good communication lines with the police detention facilities in order to ensure that detainees were mostly transferred in the daytime. An admission interview was then carried out following admission to section A with the focus on providing information about routines and procedures and to learn more about the inmate. Both interviews are to be logged in the prison computer system (Kompis). Detailed information pamphlets had been prepared for the inmates, and these had been translated into different languages. In addition, the prison had an information film in different languages, which had been produced by the Correctional Services at the regional level.

Despite this, a considerable proportion of the inmates felt that they had received insufficient information on admission. Some of the inmates did not have any information material at hand when asked about this by the NPM.

It seems as though the prison had prepared a good basis for receiving inmates, including detailed information pamphlets, but that adequate procedures had not been established to ensure that the inmates received the information. Among other things, this meant that the clarification of medical needs and any need for other assistance could take some time. Given that many admissions take place outside normal working hours, it is particularly important to have procedures to ensure a clarification of the inmates' medical needs (see section 5.5.1). The registration forms with which the NPM was presented did not contain any questions concerning the inmate's mental health or the risk of suicide.

In the NPM's interviews with inmates, information was provided about incidents where inmates had sustained injuries while being detained by the police. Inmates who arrive in the daytime are asked whether they need to consult with the health department and whether any information should be provided orally or in writing (in a closed envelope). The prison does not have specific procedures for documenting any injuries on admission to the prison. However, the prison has a camera available should the need arise and it is possible to contact the health department in suspected cases. The prison should cooperate with the health department to ensure that procedures are established to document any injuries sustained before admission.

The contact officer scheme appeared to function well.⁴⁸ A clear majority of the inmates stated that they had good relations with a contact officer who helped them in various areas. Some inmates

⁴⁸ A contact officer's primary duties are to ensure that the inmate receives information about the prison and about his/her rights and obligations, to ensure that the inmate's problems, needs and resources are identified as soon as possible after admission, to support and motivate the inmate, to liaise between the inmate and the prison, to contribute to the process of laying plans for the time when the inmate is released, and to assist in the

stated it took time before they were assigned a contact officer, however, and that the contact officer was sometimes difficult to get hold of. Several prison officers from the communal sections also served in the highest-security section at times, and the staff thought that this made the contact officers less available during those periods.

Recommendations

- The prison should ensure that inmates receive adequate information on admission. Questions about mental health and suicide risk should be included in templates for admission interviews.
- Together with the health department, the prison should establish procedures for the documentation of any injuries that the inmate may have on admission.

5.5 Health services

At the time of the NPM's visit, the prison health service at the Skien branch of Telemark Prison consisted of a doctor in a 50% position who was present for consultations at the prison one day a week and who was available by telephone and for emergency medical assistance on other days of the week. The department also has a physiotherapist in a 40% position, and four specialist nurses who shared three and a half full-time equivalent positions. All the nurses had specialised in mental health care. One of the nurses had specialised in cognitive therapy and another in the treatment of substance abuse. The department manager worked in the prison's health department approximately 2.5 days a week. The NPM was informed, however, that the doctor and department manager were available by telephone during the health department's opening hours if they were not present in the department.

One psychologist and one psychiatrist were present and offered specialist services in the health department one day a week. They treated outpatients with psychological problems who were referred to them by the prison doctor. The doctor and nurses were also able to consult the psychologist/psychiatrist concerning individual inmates, and seminars/workshops with the specialist health service were organised approximately twice a year. All somatic treatment by the specialist health service is based on referrals from the prison doctor, and the inmates are granted escorted leave to receive such treatment outside the prison.

Dental services are provided by the county dental service one day a week in a modern, well-equipped dental clinic.

The health department was centrally placed in the prison, opposite the prison's registration and admission section. The department premises consisted of offices, a guardroom, dental clinic, laboratory room, waiting room and storeroom. The premises appeared suitable for the treatment of patients and contained an emergency medical case, ECG and other equipment for minor surgical operations (for example suturing). The health department's opening hours were from 8:00 to 15:45 on weekdays (8:00 to 15:00 in summer). Outside these opening hours, inmates in need of medical attention had to be escorted to the accident and emergency unit. No medical personnel were present in the prison at night and during weekends.

communication with external parties, for example the social security services, labour office (NAV) or educational authorities.

The prison health service offers medical examinations, health checks, treatment, laboratory tests, referral to external services and supportive counselling. The doctor has around 32 consultations a month, while the physiotherapist has around 30-50 consultations a month. On average, the nurses provide medical assistance approximately 300-400 times a month.

5.5.1 Access to health services

The NPM was told that the medical department usually had a conversation with newly admitted inmates within two days of admission and within seven days at the latest. The timing was to some extent dependent on whether the medical personnel were aware of the admission in advance and on whether the inmate had special medical needs. If the health department was aware of special needs, for example for medication, the measure was often implemented on the same day. If the inmate arrived just before the weekend, the initial health interview could be delayed. According to the prison staff and the health department, there were few admissions outside the health department's normal working hours.

On the arrival of new inmates, the admission department contacts the health department. During the health interview, the inmate is provided with information about the prison health service. In addition, the inmate's medical condition, previous illnesses, medication, history of drug and alcohol use, suicide risk and other special needs are registered. All inmates are asked whether they have any infectious diseases, and they are offered voluntary screening for HIV and hepatitis, among other things. They are also offered vaccination. No regular body checks or examinations are carried out during the admission interview, but the inmates are asked whether they have physical complaints, and any injuries are examined by the nurses. If the inmate is considered to be in need of medical attention, the nurses will book an appointment with the doctor. Some inmates stated that they had sustained injuries inflicted by the police when being detained, transported or in the police custody cell; see section 5.4.2.

The health department keeps records of any physical injuries sustained, and refers inmates to a doctor or to the accident and emergency unit if necessary. The health department did not have a camera for documenting such injuries, however.

On arrival, inmates should always undergo an examination to check for signs of physical injuries, regardless of how these have been sustained.⁴⁹ 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).⁵⁰ The CPT has expressed that photographs should be taken of any injuries that are found to exist and be enclosed with the patient records.⁵¹

All the inmates were assigned a primary nurse and a secondary nurse.

The NPM was informed that, in the absence of medical personnel, any medication that a detainee carried on him/her at the time of admission would normally be distributed by prison officers until the

⁴⁹ Many injuries may be found to exist that have not been inflicted by a representative of the authorities. It is also important to document any negative findings in order to avoid subsequent allegations of injuries inflicted by, for example, prison staff.

⁵⁰ The CPT Standards Chapter VII page 97 paragraph 71; The UN Subcommittee on the Prevention of Torture (SPT), Report on the Visit to the Maldives, (2009) CAT/OP/MDV/1, 26 February 2009, paragraph 112.

⁵¹ The CPT Standards page 98 paragraph 74.

matter had been considered by the health department. The accident and emergency unit would be contacted if necessary.

Several inmates confirmed that an interview with a nurse or doctor had been arranged shortly after their admission. However, some inmates reported that they had not had an interview with medical personnel on being admitted, or that they had had to wait three days or more.

In this context, reference is made to the CPT's recommendations to Denmark concerning medical examinations in connection with admission interviews:

'The CPT recommends that the Danish authorities take steps to ensure that every newly-arrived prisoner be properly interviewed and physically examined by a medical doctor, or a fully qualified nurse reporting to a doctor, during the initial screening. Such screening should always take place within 24 hours of a person's admission to prison, and preferably on the day of arrival at the establishment. Further, each prison health-care service should have in place a screening tool to enable them to properly assess the health-care needs of each newly-admitted prisoner.'⁵²

Reference is also made to the CPT's recommendations to Norway in 2011 concerning medical examination of prisoners in connection with admission interviews:

'The CPT reiterates its recommendation that the necessary steps be taken at Bredtveit and Skien Prisons and, where appropriate, in other prisons to ensure that every newly-admitted prisoner is properly interviewed and physically examined by a medical doctor—or a fully qualified nurse reporting to a doctor—as soon as possible after his/her admission; save for exceptional circumstances, the interview/examination should be carried out on the day of admission.'⁵³

After the initial medical consultation in connection with their admission, the inmates use a request form to get an appointment with the health department. Several patients mentioned that it sometimes took a long time to get an appointment with the doctor, however, and the health department confirmed that it normally took more than two weeks to get an appointment with the doctor when emergency treatment was not required.

The prison health department had established collaboration with the local hospital and the Correctional Services so that inmates could get escorted leave to consult specialist health services outside the prison on fixed days. By agreement, the health department had two days a week that could be used for escorted leave, which made it easier to plan prison transport services. The health department also took advantage of the new transport arrangement for inmates on remand and first-time offenders, whereby escorted leave could be arranged for such inmates other than on fixed days. The health department's experience of the arrangement was very good.

The health department has instructed the prison that, any need for immediate medical assistance outside normal working hours shall not be assessed by the prison officers, but shall always be assessed by medical personnel. Hence, the threshold for escorting inmates to the accident and

⁵² Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25, page 34, paragraph 51.

⁵³ Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 18 to 13 February 2014, CPT/Inf (2011) 33, page 29, paragraph 67.

emergency unit is low when health department staff are not present. The prison was equipped with defibrillators, and all the prison offices had received training in how to use them.

Recommendations

- Newly admitted inmates should undergo a medical examination by a doctor, or a nurse under the supervision of a doctor, preferably in connection with the admission interview or within 24 hours of being admitted at the latest. Any injuries should be registered and assessed in connection with admission.
- The health department should have a camera available so that any injuries that the inmates may have can be documented by medical personnel in the patient records.

5.5.2 Confidentiality

Inmates could request contact with a doctor or other medical personnel by filling in a request form. The request form contained a field in which they could indicate the reason for the request. The medical department preferred that the inmates stated why they required an appointment so that the department could give priority to the most important requests first. In most cases the request forms were handed over to the prison officers folded, but usually not in a closed envelope. A few of the inmates stated that they used envelopes, but that they had to ask the officers for them.

The CPT Standards for health care services in prisons underline the importance of ensuring that inmates are able to communicate with medical personnel in a way that safeguards confidentiality:

'Prisoners should be able to approach the health care service on a confidential basis, for example, by means of a message in a sealed envelope. Further, prison officers should not seek to screen requests to consult a doctor.'⁵⁴

Reference is also made to the CPT's recommendations to Denmark in 2014:

'...the system of making an application to see a member of the health-care staff should be reviewed to ensure that it guarantees medical confidentiality. In particular, prisoners should not be obliged to openly state the reason why they wish to see a member of the health-care staff; they should be informed about the possibility to make an application using a sealed envelope.'⁵⁵

The prison health department was responsible for preparing and handing over the inmate's medication doses to the guardrooms. Multi-dose solutions where the medication is prepared by the pharmacy are also used extensively. This means that a tube is prepared containing medication for 14 days' consumption. On weekdays, nurses also distributed and checked medication used for opioid substitution treatment (OST) for all the prison's OST patients on weekdays. Apart from what is described above, the distribution of medication was the responsibility of the Correctional Services.⁵⁶ The prison officers underwent training in how to handle medication every three years. Confidentiality in connection with the distribution of medication was maintained by the prison officer signing a separate form on the duty of confidentiality during their training. The system is vulnerable, however,

⁵⁴ The CPT Standards page 39 paragraph 34.

⁵⁵ Report to the Danish Government on the visit to Denmark carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 4 to 13 February 2014, CPT/Inf (2014) 25, page 35, paragraph 53.

⁵⁶ The Directorate of Health, *Health and care services for prison inmates* (in Norwegian only), IS-1971, January 2013, updated November 2013, section 3.2.2, page 25.

and it is not desirable that anyone other than medical personnel receive information about what medication inmates use, or about any health problems they may have and confidential medical information. The current system entails a risk of medical personnel's duty of confidentiality being breached.

Recommendations

- The prison should ensure that confidentiality is maintained about all consultations with the health department's medical staff, including with the dentist, physiotherapist, psychologist and psychiatrist. The staff should ensure that requests for medical consultations are placed in a closed envelope and that such envelopes are readily available to all the inmates.⁵⁷
- The prison and the health department should cooperate to find alternative procedures for administering medication so that confidentiality regarding health issues is maintained.

5.5.3 Preventive health services

The prison's health department pointed out that the indoor climate in the prison is poor and that many inmates complain about mattresses that cause back pain. The County Governor had been contacted with a view to clarifying where the responsibility lay. The health department also wanted the municipality to conduct an inspection of environmental healthcare measures in the prison, and had enquired about this.

The NPM has pointed out in several reports after visits to other prisons that the health service is responsible for contributing to environmental healthcare.⁵⁸ The Directorate of Health's guide to health and care services for prison inmates describes the task as follows:

'The prison health service may act as a consultant for the prison administration in questions relating to environmental healthcare. As part of the municipality and the municipal health service, the prison health service shall contribute to the municipality's public health work, among other things to the overview of [inmates'] medical condition and factors that can affect it, and by providing general and individual medical information etc.; see also the Act relating to municipal health and care services etc.'⁵⁹

The CPT also recommends that medical personnel take on duties relating to preventive health services, including hygiene measures:

'The task of prison health care services should not be limited to treating sick patients. They should also be entrusted with responsibility for social and preventive medicine. (..)It lies with prison health care services - as appropriate acting in conjunction with other authorities - to supervise catering arrangements (quantity, quality, preparation and distribution of food) and conditions of hygiene (cleanliness of clothing and bedding; access to running water; sanitary installations) as well as the

⁵⁷ See also the Parliamentary Ombudsman's reports from the visits to Tromsø Prison and Bergen Prison in 2014 and to Ringerike Prison in 2015.

⁵⁸ See the Parliamentary Ombudsman's reports from visits to Tromsø Prison, section 5.3.4, and to Bergen Prison, section 5.4.5.

⁵⁹ The Directorate of Health, *Health and care services for prison inmates* (in Norwegian only), IS-1971, January 2013, updated November 2013, section 3.3.4, page 31.

heating, lighting and ventilation of cells. Work and outdoor exercise arrangements should also be taken into consideration.⁶⁰

Recommendation

- The health department can contribute medical expertise in order to improve the living conditions for prison inmates through public health work and other healthcare measures in the prison environment. Particular focus should be maintained on vulnerable groups that are especially exposed to injury/health problems, including inmates with disabilities.

5.5.4 Professional standard

The inspection, a review of patient records and meetings with health department staff indicate that the prison health service maintained a good professional standard.

5.5.5 Professional ethics and independence

In general, the prison's health department seemed to observe professional ethics and meet the requirements for independence. It seemed to be aware of its role as a health service provider and, according to the information provided, it never carried out body searches, assessments of inmates' suitability for punishment, or the use of coercive measures in the prison, including of the security cells and the security bed. All inmates placed in a security cell or security bed are offered to talk to a healthcare worker.

The NPM's review of the use of the security bed found that an inmate had been checked on by a doctor from the accident and emergency unit a few hours after being restrained at his own request (see section 5.1.1). The doctor's assessment was that the inmate was calm and not in need of immediate medical attention. The doctor from the accident and emergency unit nevertheless recommended continuing with the restraints with reference to previous serious incidents and turbulent/impulsive and threatening behaviour. This appears problematic. Medical personnel shall neither approve nor recommend use of coercive measures to the Correctional Services. It is also worrying that a doctor recommends restraints as a preventive measure.

Based on this, there is cause for concern about whether the medical staff at Skien accident and emergency unit are conscious of their role in relation to patients who have been deprived of their liberty.⁶¹ The duty of medical personnel is (except when they are called on as expert witnesses) to assess and safeguard the patient's state of health. This also applies where the examination is initiated by the police or prison. In such cases, there is an increased risk that the focus of the health assessment shifts from examining the patient to approving the authorities' use of coercive measures. This could undermine the relationship of trust between the patient and medical personnel.

In this context, reference is made to the UN Principles of Medical Ethics of 1982, which state *inter alia* the following:

⁶⁰ The CPT Standards page 43 paragraph 52-53.

⁶¹ See the Parliamentary Ombudsman's report from the visit to Ålesund custody facility on 11 March 2015, section 5.4.3.

'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.'⁶²

In this case, the inmate stated that he wanted to be released from the security bed only twenty minutes after he received medical attention. According to the records, he remained in the security bed for a further twelve hours. The supervision log lacked information about these last twelve hours (see section 5.1.1).

Recommendation

- In order to maintain a relationship of trust with patients, doctors from the accident and emergency unit must ensure, in the same way as the prison's medical personnel, that they never recommend or approve any use of coercive measures.

5.6 Conditions for vulnerable groups

5.6.1 Conditions for foreign inmates

At the time of its visit, the NPM was informed that about twenty inmates had problems making themselves adequately understood in Norwegian or English. Foreign inmates can be especially vulnerable because they are often far away from their home, family and social network, because they receive fewer visits and because of cultural differences and language problems. They may also feel that they are serving their sentence under stricter conditions and that the process of being returned to society is slower because they face expulsion from Norway.

There were no clear indications that foreign nationals experience their time in prison as more difficult than the other inmates in the Skien branch of Telemark Prison.

5.6.2 Conditions for inmates with disabilities

The prison had two adapted cells for inmates with disabilities. These are located in sections B and H. There were no inmates with such needs at the time of the NPM's visit. The cells appeared to be satisfactorily adapted, including with room to turn a wheelchair and the necessary width to provide passage in the bathroom and the rest of the cell.

5.7 Capacity extension/new buildings

In the allocation letter from the Ministry of Justice and Public Security, the Directorate of the Norwegian Correctional Service was assigned the task of planning new detention facilities at the Skien branch of Telemark Prison. The plan is to extend the prison's capacity by adding 80 new places. It appeared unclear whether the extension will ensure that the inmates are offered the same employment opportunities and activity programmes.

A lack of activity can have an impact on health and adversely affect the inmates' personal progression. When building new detention facilities, it should therefore be ensured that all inmates can be offered satisfactory activity programmes.

Recommendation

⁶² UN Principles of Medical Ethics relevant to the role of health personnel, particularly physicians, in the protection of prisoners and detainees against torture, and other cruel, inhuman or degrading treatment or punishment, adopted 18 December 1982 by the UN General Assembly. Res 37/194, Principle 3.

- When building new detention facilities, it should be ensured that all inmates can be offered satisfactory employment opportunities and activity programmes.



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