SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman
National Preventive Mechanism

VISIT REPORT

Akershus University Hospital, Adolescent Psychiatric Clinic

13–15 September 2016

National Preventive Mechanism against
Torture and Ill-Treatment

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1 The Parliamentary Ombudsman's prevention mandate

Based on Norway's ratification of the Optional Protocol to the UN Convention against Torture, the Parliamentary Ombudsman has been given a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.[1] To fulfil this mandate, a special unit known as the National Preventive Mechanism (NPM) was established in the Parliamentary Ombudsman's office.

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

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

The Parliamentary Ombudsman, represented by the NPM, has right of access to all places of detention and the right to speak privately with people deprived of their liberty. The NPM also has right of access to all essential information relating to detention conditions. During its visits, the NPM seeks to identify risk factors for violations through independent observations and through conducting interviews with the people involved. Interviews with persons deprived of their liberty are given special priority.

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

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

2 Torture and ill-treatment

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment is established in several international conventions that are binding on Norway.

The UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention against Torture), adopted in 1984, plays a central role in this connection. The same prohibition is also enshrined in the UN International Covenant on Civil and Political Rights (Article 7), the UN Convention on the Rights of the Child (Article 37), the UN Convention on the Rights of Persons with Disabilities (Article 15), and the European Convention on Human Rights (Article 3). Norway has endorsed all these conventions.

People who have been deprived of their liberty are more vulnerable to violations in relation to the prohibition against torture and inhuman treatment. That is why the UN adopted an Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 2007.

3 Summary[2]

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited the adolescent psychiatric clinic at Akershus University Hospital (Ahus) on 13–15 September 2016. Akershus University Hospital health trust is a local and district hospital that serves a population of approximately 500,000 people. Ahus's catchment area comprises all the municipalities in the Follo and Romerike areas (except for Nes municipality within somatic services), Rømskog in Østfold county and Oslo's three northernmost city districts: Alna, Grorud and Stovner.

The adolescent psychiatric clinic is part of the Department of child and adolescent mental health services, and is located at Nordbyhagen in Lørenskog municipality. The clinic has one open and one closed ward and provides emergency care to young people under the age of 18, as well as elective admission for assessment and treatment for people between the ages of 13 and 18 years. It is also approved for use of coercive measures. In addition, the clinic has a mobile treatment team that visits young people, both for emergency assistance and, by application, for assessment and treatment.

The NPM notified the hospital of the visit in advance, but not of the exact time when it would take place. The hospital submitted the requested documents prior to the visit.

The visit started with a tour of the whole clinic. Later on the first day of the visit, the NPM had a meeting with the clinic's management to present the Parliamentary Ombudsman's prevention mandate and the methods that would be used during the visit. All patients were offered the opportunity for a private interview with the NPM. Interviews were also conducted with members of staff and next of kin. During its visit, the NPM also reviewed use-of-force records from both wards. The visit lasted for three days.

The physical conditions at the clinic appeared to be good, and the patients had the opportunity to go outside, either in an atrium or unaccompanied outside the building by agreement. The clinic had a weekly overview of activities, and most of these activities will form part of the patients' milieu therapy.

Mental health care for children under the age of 16 is based on parental consent. This means both that the admission is considered voluntary regardless of the child's opinion, and that use of force by clinic staff will in many cases be registered as voluntary because it will be based on parental consent. The fact that admissions based on the consent of the parents and not the child are registered as voluntary raises a number of ethical and treatment-related challenges. When something that could be perceived as use of force is not registered as such, this type of admissions could create difficulties in the relationship between the patient and the staff treating him/her as well as in the relationship between the patient and his/her parents or guardians.

The Convention on the Rights of the Child states in Article 12 that children have the right to express their views and to be heard, and that their views shall be given due weight in accordance with their age and maturity.[3] The Children Act states that children's opinions shall be heard from the age of

[2] The full report can be found in Norwegian on the Parliamentary Ombudsman's website.
[3] The Convention on the Rights of the Child Article 12.

seven.[4] The Patient and Users Rights Act states that children should be allowed to express their opinion on matters relating to their own health from the age of 12.[5] Nevertheless, children aged between 12 and 16 years can be admitted to inpatient institutions against their will. The Act does not entitle young people between 12 and 16 years of age to be heard in connection with mental health care admissions. The fact that the principles of the Convention on the Rights of the Child have not been incorporated into the Act creates a risk that the child's case will not to a sufficient extent be considered in relation to the strict conditions stipulated to protect personal integrity.

At the same time, the visit left the impression that the clinic manages the admission issue well and use their discretion within the legal framework. Several examples of user participation emerged that could promote the patients' experience of being heard and having influence over their own treatment.

Administrative decisions to establish compulsory observation, compulsory mental health care, segregation, treatment without the consent of the patient and use of coercive measures are saved in the electronic patient records, where grounds are given for each decision in separate patient record notes. The grounds are not stated in the decisions themselves. The clinic management was not sure whether the patients routinely received the written grounds for the administrative decision (the patient record note) together with the decision.

In cases concerning young people under the child welfare service's care, it is the head of the relevant municipality's child welfare service who is responsible for giving consent to admission. In the clinic's experience, none of the heads of the municipal child welfare services in Ahus's catchment area have an out-of-hours duty phone, which means that they can only be reached during ordinary working hours. This has occasionally caused problems in connection with emergency admissions in the evening or during weekends, when the clinic has lacked formal consent to the admission until the next working day. This gives cause for concern, since in reality it means that a patient can be admitted for up to two and a half days without a lawfully made administrative decision.

During the visit, information about the supervisory commission and the Parliamentary Ombudsman was prominently displayed in both wards. However, there was no visible information about the County Governor, and none of the patients who the NPM spoke with had heard about the opportunity of appealing to the County Governor.

The clinic had furnished a special room with a medicine table and four chairs bolted to the floor for use in connection with forced nutrition. The room also contained a padded restraint for the chair that was sometimes used. It was secured across the patient's thighs to make it more difficult for him or her to use his/her legs to resist. This raises the question of whether the chair, in cases where this padded restraint is used, is to be considered a coercive measure that an administrative decision for short-term holding will not cover.

[4] The Children Act Section 33.
[5] Patient and Users Rights Act Section 6-5.

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

Patient rights

Administrative decisions

- Patients should always be informed, both verbally and in writing, about administrative decisions to use force and about the concrete grounds for such decisions (the patient record entry).
- Collaboration should be established between the municipalities and the specialist health service to ensure that young people are not admitted without the requirements of the law being met.

Opportunities to complain

- The clinic should ensure that information about the County Governor is always prominently displayed and easily accessible to patients.

Coercive measures

Treatment without the consent of the patient

- It should be examined whether the chair used for tube feeding constitutes a coercive

Office address: Akersgata 8, Oslo
Postal address: P.O. Box 3 Sentrum, NO-0101 Oslo
Telephone: +47 22 82 85 00
Free of charge: +47 800 80 039
Fax: +47 22 82 85 11
Email: postmottak@sivilombudsmannen.no
www.sivilombudsmannen.no/NPM