



SIVILOMBUDSMANNEN

Norwegian Parliamentary Ombudsman
National Preventive Mechanism

VISIT REPORT

Akershus youth and family centre, department Sole

7–8 and 15 November 2016



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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 ill-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 2002.

3 Summary

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited Akershus youth and family centre, Sole department, in November 2016. Akershus youth and family centre is a state-run child welfare institution, where the Sole department is one of three emergency departments. It receives adolescents aged between 12 and 18, and is approved to accommodate four adolescents under the Norwegian Child Welfare Act Sections 4-24 first paragraph, 4-25 second paragraph and 4-26.

Sole is a closed institution. This means that the doors are locked and leaving the department is only permitted by agreement with the staff.

On several points, Sole appears to have established good practices for addressing the adolescents' rights on admission and during their stay there.

However, our findings showed that the institution could have clearer procedures and guidelines in place to reduce the risk of the adolescents being subjected to degrading treatment, particularly in situations entailing an enhanced risk of such treatment. A body search, especially if it involves full removal of clothing, is an invasive measure, and can, according to the European Court of Human Rights (ECtHR) and the European Committee for the Prevention of Torture (CPT), result in human rights violations. National guidelines do not provide any concrete instructions on how a body search is to be carried out to ensure that it is done as considerately as possible. Findings showed that Sole did not have a dedicated procedure for how staff should proceed in instances where the removal of clothing is considered necessary during a search.

Based on the information received by the NPM, it was also unclear what role the police were permitted to play in relation to the adolescents who were admitted to Sole. Among other things, it was unclear whether the police were permitted to assist during the initial search on arrival at Sole, when handcuffs were removed and if the police accompanying the adolescents into the department.

It was also found that body searches and searches of adolescents' belongings were not always based on administrative decisions and that records were not always kept.

The use of force constitutes a risk of degrading and inhuman treatment. National and international research shows that children in institutions feel that there is too much use of force.

Sole had worked systematically over time to prevent the use of force in acute danger situations, including through a training programme on trauma-sensitive child welfare and the reorganisation of work methods.

A review of the use-of-force records showed that most of the decisions to use force at Sole did not concern situations of acute danger but rather a limitation of the adolescents' freedom of movement outside the institution. This type of decision is in effect also a deprivation of liberty and, as such, an invasive measure. International guidelines underline that depriving adolescents and children of their liberty shall take place as a last resort and for as short a period as possible. Hence it is also important to strive to prevent this type of use of force.

People's physical surroundings can affect their sense of security and of being cared for as individuals. At the time of the NPM's visit, the communal areas were bare and unappealing. The department has subsequently initiated work to improve the situation.

Research has documented a high incidence of mental illness in children at child welfare institutions and in foster homes. Good cooperation between the child welfare service and child and adolescent psychiatry services is important to ensure that children receive the help they need. At the time of the visit, Sole stated that it was preparing an agreement with the child and adolescent psychiatry service, but that it did not have an agreement in place at that time.

Recommendations

Body searches and personal searches

- The Sole department of Akershus youth and family centre should ensure that all body searches and searches of adolescents' belongings are subject to administrative decisions and recorded as use of force, including when consent has been obtained from the adolescent.
- The Sole department of Akershus youth and family centre should ensure that administrative decisions on body searches are always based on concrete grounds.
- The Sole department of Akershus youth and family centre should ensure that staff receive training in the uniform practice of body searches whereby the adolescents' dignity and integrity are respected.

The role of the police

- The Sole department of Akershus youth and family centre should ensure that the department has clear guidelines for what role the police is allowed to play in connection with admission and when there is a need for assistance. If the police play a role, this should be documented in the admission log.

Preventing the use of force

- The Sole department of Akershus youth and family centre should continue its systematic efforts to prevent use of force, including in the case of decisions to limit freedom of movement.

Right to health services

- The Sole department of Akershus youth and family centre should ensure that an agreement is entered into with the specialist health service to safeguard children's rights to health care.

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

