SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

VISIT REPORT

SUMMARY AND RECOMMENDATIONS

Stavanger University Hospital

9-12 January 2017

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, mental health care 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 Summary

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited Stavanger University Hospital's special unit for adults on 9–12 January 2017. The hospital was notified in advance that the Parliamentary Ombudsman was planning a visit, but the date of the visit was not stated.

The wards visited consistently had pleasant and open communal areas. The patient rooms felt bare. Several wards had a strong focus on offering patients opportunities for physical activity, but many would like other forms of meaningful activity, therapy and services adapted to their level of functioning and interests. Most of the wards visited had no direct exit for patients who wanted to spend time outdoors. The patients had limited access to outdoor areas, and the situation was particularly challenging for patients in the segregation units.

Most patients in the visited wards reported that they mostly felt that they were being treated humanely, politely and with respect by the milieu therapists. Both patients and staff stated that they had experienced a positive trend in the institution's culture over time. However, information emerged about incidents where it seemed that an authoritarian attitude among some of the staff had triggered violent and disruptive behaviour on the part of patients.

Findings made during the visit show that the hospital has succeeded in achieving a significant reduction in the use of mechanical restraints. Important measures had been implemented to prevent the use of coercive measures. One example of good practice was that the figures for the individual wards' use of coercive measures were reviewed to provide a basis for discussing reasons for variation in the use of force. The hospital should nevertheless consider implementing measures that also address other factors that could have a bearing on the use of coercive measures, such as physical conditions, available activities, institution and ward cultures, and patient involvement.

A document review showed that the hospital generally ensures that its use of mechanical restraints is well documented. The documentation showed that many coercive measures were of short duration, with frequent attempts at releasing the patient from the restraints. It nevertheless gives cause for concern that some patients had been continuously restrained in a restraint bed for more than 24 hours. The staff mostly had good practical training aimed at ensuring that patients were restrained in the gentlest way possible. At the same time, some problematic circumstances were identified in connection with the restraining of patients, such as covering of their mouth or face, active involvement by the local police and patients sleeping in restraint beds.

Findings made during the visit indicate that segregation was an integrated part of the treatment. The physical conditions on the wards, with more than a quarter of patient rooms located in the segregation sections, seemed in itself to represent a risk of disproportionate use of segregation. The segregation sections had a sterile feel, particularly the patient rooms. Many found the segregation sections prison-like. The premises were cramped and inflexible, which made it difficult to address all the patients' needs, particularly when all the segregation rooms were in use at the same time. Findings made during the visit showed that this was common, and that many patients were therefore told to stay in their room. The doors were not locked, but they were hard to open because of the round doorknobs. This form of segregation gave it a feel of solitary confinement. The measure was perceived as distinctly more invasive than segregation with unrestricted access to the segregation section's living room, since it entailed greater restrictions on the freedom of movement, human

contact, activities and stimuli. Most of the wards had also had patients who had been subject to continuous segregation for periods of several months, sometimes for five months or more. Segregation for such prolonged periods of time entails a clear risk of inhuman or degrading treatment, particularly in light of the physical conditions in the segregation sections and the practice of segregation in the patient's own room.

As regards treatment without the consent of the patient, several patients stated that it was traumatic to take medication against their own will, and some experienced unpleasant side effects of the medication. At the same time, findings indicate that the personnel treating the patients respected the fact that forced medication is a measure that represents a serious violation of a patient's integrity. The document review showed that the hospital mostly ensures good documentation of the assessments carried out before a decision is made. Some decisions were nonetheless inadequate, either in that the person responsible for the decision had not considered whether all the statutory requirements were met, or because the grounds given for the decision appeared inadequate. This applied in particular to the requirement that there must be a 'great likelihood' that the treatment will have a positive effect.

In recent years, Stavanger University Hospital has performed ECT on a small number of patients on the basis of the legal principle of necessity. There is particular cause for concern regarding the treatment of one of these patients. The patient came from a minority language background and was subjected to a number of treatments based on the principle of necessity. The documentation suggests that inadequate consideration was given to whether the requirements for treatment on grounds of necessity were met. The findings also indicate that no interpreter was used and no attempt was made to call in an interpreter before an ECT treatment was performed based on the principle of necessity in a situation where the patients could not understand or communicate in Norwegian. Next of kin was asked to consent to the intervention on the patient's behalf, based on the principle of necessity. ECT on grounds of necessity is a highly invasive and controversial treatment that carries a high risk of inhuman or degrading treatment of patients. The case sheds light on the considerable ethical challenges associated with a practice for which there is no clear basis in health law. It also gives cause for concern that the national health authorities are not notified when ECT is carried out based on the principle of necessity. This means that the health authorities are denied access to important information about a practice with far-reaching effects for the patients who undergo such treatment.

A new set of common house rules had been prepared for the special unit for adults. The rules were brief, respectful and clear, and also contained an explanation that rights can be restricted by decisions made pursuant to Chapter 4 of the Mental Health Care Act. Findings made during the visit indicate that some of the old house rules were nonetheless enforced on some wards.

Findings made during the visit also showed that the local police had in some cases been involved in the implementation of extensive control and coercive measures on the wards, such as long-term supervision and searches. The police involvement in such situations demonstrated a need to clarify in what situations it can be can be justified from a professional point of view to request police assistance to implement control and coercive measures on the wards.

Recommendations

Physical conditions and activities

- The hospital should, in consultation with the patients, ensure a varied range of activities adapted to the individual patient's level of functioning and interests.
- All patients should have the opportunity to spend at least one hour outdoors every day.

Use of coercive measures

Use of mechanical restraints

- The mouth or face of restrained patients should never be covered.
- The police should not be involved in the use of mechanical restraints.

Segregation

Physical conditions in the segregation sections

- The hospital should conduct an assessment of whether the segregation sections are suitable for safeguarding the rights and humane treatment of the individual patients. The assessment should cover both the layout of the sections and each section's proportion of the wards' total number of beds.
- Patients in segregation sections should be guaranteed at least one hour outdoors with adequate opportunities for physical activity.

Segregation

- The hospital should take action to ensure that patients are not segregated in their rooms in segregation sections, which is in reality equivalent to solitary confinement.
- The hospital should take special action to prevent long-term segregation.
- The hospital should discontinue the practice of making routine segregation decisions for patients admitted pursuant to Section 10-2 of the Health and Care Services Act.

Treatment without the consent of the patient

Decisions regarding treatment without the consent of the patient

- The hospital should draw up common procedures for assessments and implementation of decisions regarding treatment without the consent of the patient in order to ensure uniform practice and strengthen the patients' due process protection.

Electroconvulsive therapy (ECT)

Use of ECT based on the principle of necessity at Stavanger University Hospital

- The hospital should review its procedures for use of ECT on grounds of necessity in order to ensure that patients are not subjected to an unlawful practice.
- The hospital should ensure that patients who need it receive information about treatment, decisions and their rights of appeal through a qualified interpreter.

Other encroachments on personal integrity and liberty

Restrictions on contact with the outside world

- Decision documents concerning restrictions on contact with the outside world should contain concrete grounds in order to safeguard the patient's right of appeal.

House rules

- The hospital should ensure that local house rules do not infringe on the patients' freedom of expression and freedom of religion.
- The hospital should ensure that visit control is not implemented without a concrete individual assessment.

The role of the police in connection with measures implemented on the wards

- The hospital should review, in consultation with the police, its practice regarding police assistance onwards.

Patient safety

- The hospital should review its procedures to ensure that patient injuries that arise in conflict situations with the staff are always registered in the nonconformity registration system.

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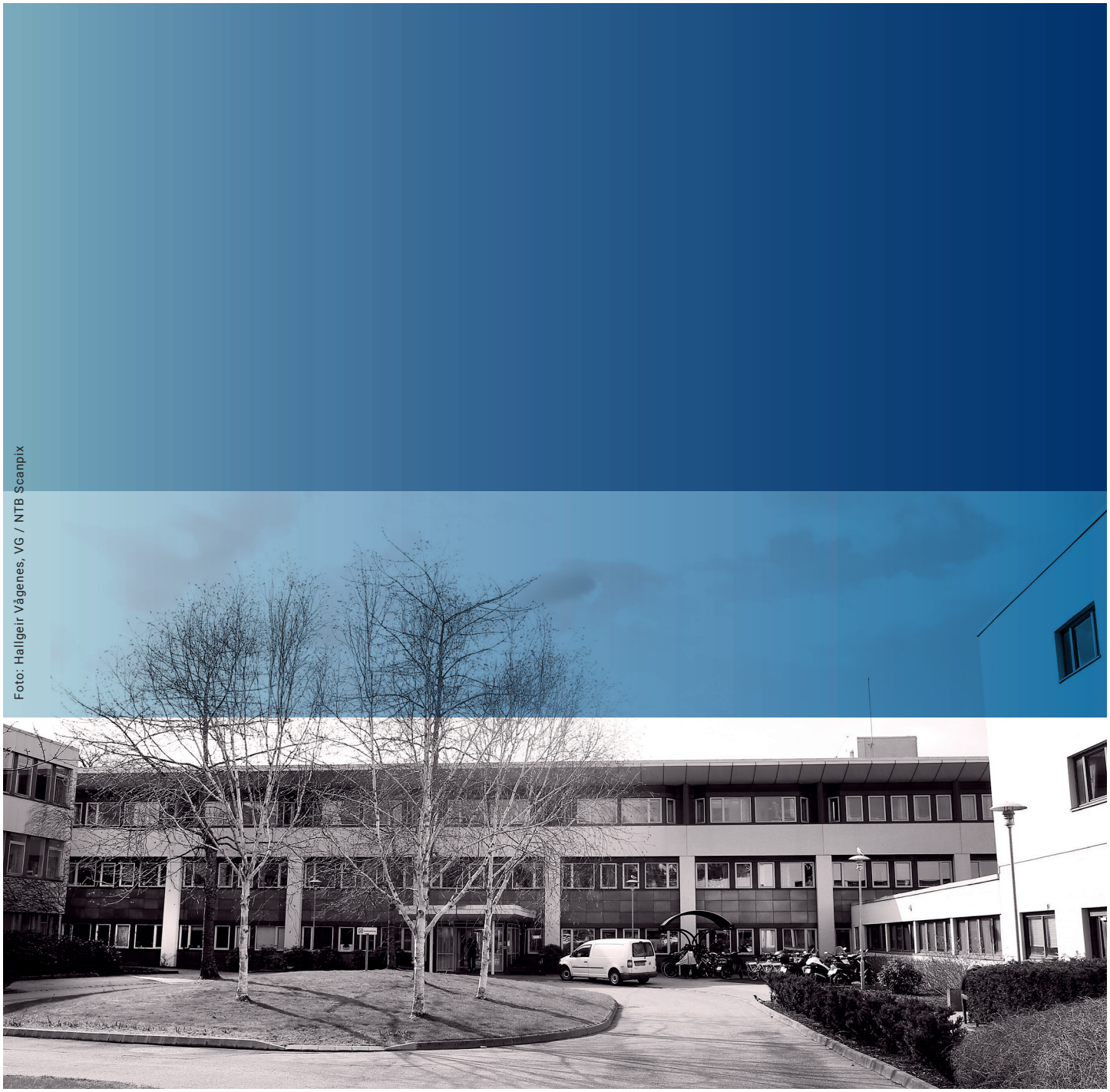

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