



SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

VISIT REPORT

SUMMARY AND RECOMMENDATIONS

The Klokkeergården Collective

6–8 June 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, 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 Summary

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) visited the Klokkegård Collective "Klokkegårdskollektivet" on 6-8 June 2017. The Klokkegård Collective is one of several long-term institutions under the foundation "Stiftelsen Klokkegård". The foundation was established in 1980 with the objective to rehabilitate young people with substance abuse and behavioural problems.

The Klokkegård Collective is in Åsnes municipality in Hedmark county and can accommodate 15 persons between the ages of 13 and 18. The institution is approved for placement without the young person's consent.

The physical surroundings at the collective appeared to be good, and there seems to be a broad range of activities on offer for the young people, both at and outside the institution. The Parliamentary Ombudsman also had the impression that the young people were given good opportunities to help to decide which activities they wanted to participate in. The institution also had good procedures in place for safeguarding the health of the young people upon arrival and during their stay.

The collective had made few administrative decisions on the use of force in the past year. However, the institution made many decisions to limit freedom of movement and the use of electronic means of communication in 2016. It seemed that such decisions were made routinely when the young people arrived at the institution. It was also found during the visit that the record-keeping practice had potential for improvement. A review revealed shortcomings in the records, including the fact that any alternative measures that had been considered/tried before the use of force were rarely recorded.

It was also found that the institution had a practice of grounding the young people in their rooms if they overslept. This is a clear violation of young people's right to autonomy and privacy and increases the risk of them feeling isolated. Those who overslept in the morning and failed to appear downstairs by 8.45 had to stay in their rooms for the rest of the day. This included having to eat their meals in their rooms. Nor were they allowed to participate in social activities organised outside the house. No administrative decision was made regarding this restriction even if the grounding involved a clear restriction on the young people's freedom of movement inside and outside the institution.

The Klokkegård Collective had a practice of taking the young people on what they referred to as 'motivational trips' as part of their treatment. According to the institution plan, the purpose of such trips is to enable the young people to concentrate on working on conflicts or problems that have developed quickly or over time, without being disturbed. The institution stated that the motivational trip meant that 'a young person leaves the institution together with two adults for a limited period in order to keep an overview of and focus on special tasks.' The institution plan lists four main reasons for organising a motivational trip: reintegration after an escape; special care of a young person after substance abuse; intensifying treatment; and a need for extra care and attention.

However, it was found during the visit that violating one of the institution's main rules was also an important reason why the young people were sent on motivational trips. Both staff and the young people stated that one of the reasons for a motivational trip could be if someone had 'secrets' with other young people.

It was found that the motivational trips were mainly carried out following a decision by the staff. Thirty-five motivational trips were organised in 2016, and as of 27 April, nine such trips had been carried out in 2017. A document review showed that the trips lasted from a few days up to 14 days.

In the Parliamentary Ombudsman's assessment, there was a clear risk that the motivational trips at the Klokkegården Collective were seen as punishment. It was difficult to see any correspondence between many of the circumstances that could lead to a motivational trip and the guidelines to the Rights Regulations concerning 'destructive behaviour' or 'necessary on the basis of the responsibility to provide the individual with care and considerations for everyone's safety and happiness'.

When the staff had decided to take a young person on a motivational trip, the young person was normally pulled aside by staff members in the hallway near the exit of the main building. If the young person did not wish to go on the trip and did not go out to the car voluntarily, the staff and the young person remained in the hallway until the latter consented to the trip. In such situations, the staff would block the doors in the hallway by standing in front of them to prevent the young person from going anywhere but straight out to the car. The young person was not allowed to return to the rest of the group or to their own room, and nor were they allowed to pack their things.

The young people were not always told about the reason for the motivational trip. Nor were they told how long the motivational trip would last. The management said that the young people couldn't be informed about the duration of the trip, because the young person him/herself and the work carried out during the trip determined how long the trip would last. In the cases where the young person had not been told about the reason for the motivational trip or where this was not apparent, the length of the trip could be determined by the young person's ability to describe the circumstances that made the adults decide to organise a motivational trip. Several of the young people experienced this as the staff waiting for them to 'confess something' and that if they confessed to the rights things, they would be allowed to go back to the institution.

In many cases, the motivational trips also included a period as 'phaseless', and always a plenary meeting at which the young person had to state the reason why he/she was sent on the trip and answer questions from both adults and the other young people.

The degree of force and the lack of any real opportunity for the young people to participate meant that it was difficult to see how a motivational trip could make a positive contribution to any lasting change. The young people were placed in a coercive situation where their only way out was to comply with the adults' demands for how they should behave and what they should say.

In total, the pressure that was exercised in the hallway before a trip without it being possible for the young person to withdraw to their room, the lack of openness as regards the reason for the trip and its length, the 'phaseless' period and the uncertainty about how long this would last, and the plenary meeting requirement constituted a worrying lack of openness and respect from the institution vis-à-vis the young people.

The fact that, in the past year, there had been an instance where a young person had been subjected to physical pressure to complete a motivational trip, underpins concerns about the risk of inhuman treatment that young people are subjected to through the Klokkegården Collective's use of involuntary motivational trips.

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

Arrival at the institution

Routine restrictions upon admission

- The institution should ensure that an individual and concrete assessment is made when young people's freedom of movement and use of electronic means of communication are restricted, and that the assessments are documented.
- An administrative decision on restrictions on the freedom of movement and use of electronic means of communication should not apply for 14 days as a matter of routine.
- The institution should ensure that continuous assessments are made of whether to uphold restrictions and of measures to curtail the use of force and that the assessments are documented in a satisfactory manner.

Body searches and personal searches

- It should be ensured that staff receive training in the uniform practice of body searches whereby the young people's dignity and integrity are respected.

Use of force

Grounding in the room in connection with oversleeping

- The young people should not be grounded in their rooms as a routine form of punishment if they oversleep.

Documentation/record-keeping

- The institution should ensure that the young people's due process protection is safeguarded by making and registering decisions and records correctly and ensuring that alternatives to force are always considered and documented in the record.

Collection of urine samples

- Urine samples should only be collected in the presence of a staff member of the same gender as the young person.

Special recommendations regarding 'motivational trips'

The use of 'motivational trips'

- The institution should ensure that young people are never subjected to improper pressure to make them go on a 'motivational trip', and that their right to be heard and treated with dignity is fully safeguarded.

Plenary sessions

- Communal meetings or plenary sessions that concern one or more of the young people should always be based on their voluntary participation and right to be heard and be carried out in a way that fully respects the young person's integrity and right to privacy.

'Phaselessness'

- Measures should be taken to ensure that no general restrictions, for example in the form of 'phaselessness', are introduced that restrict the residents' rights in a manner that is perceived as humiliating or degrading.

Legal protection

- All administrative decisions should, concretely and individually, provide a reason and description of why the measure is carried out in relation to the individual young person.
- A young person who has been subjected to force should always be heard in the evaluation of the use of force.

Preventing the use of force**Procedures for preventing and notifying abuse**

- The institution should prepare procedures for preventing and notifying abuse and ensure that all staff receive regular training and guidance in these procedures.

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