



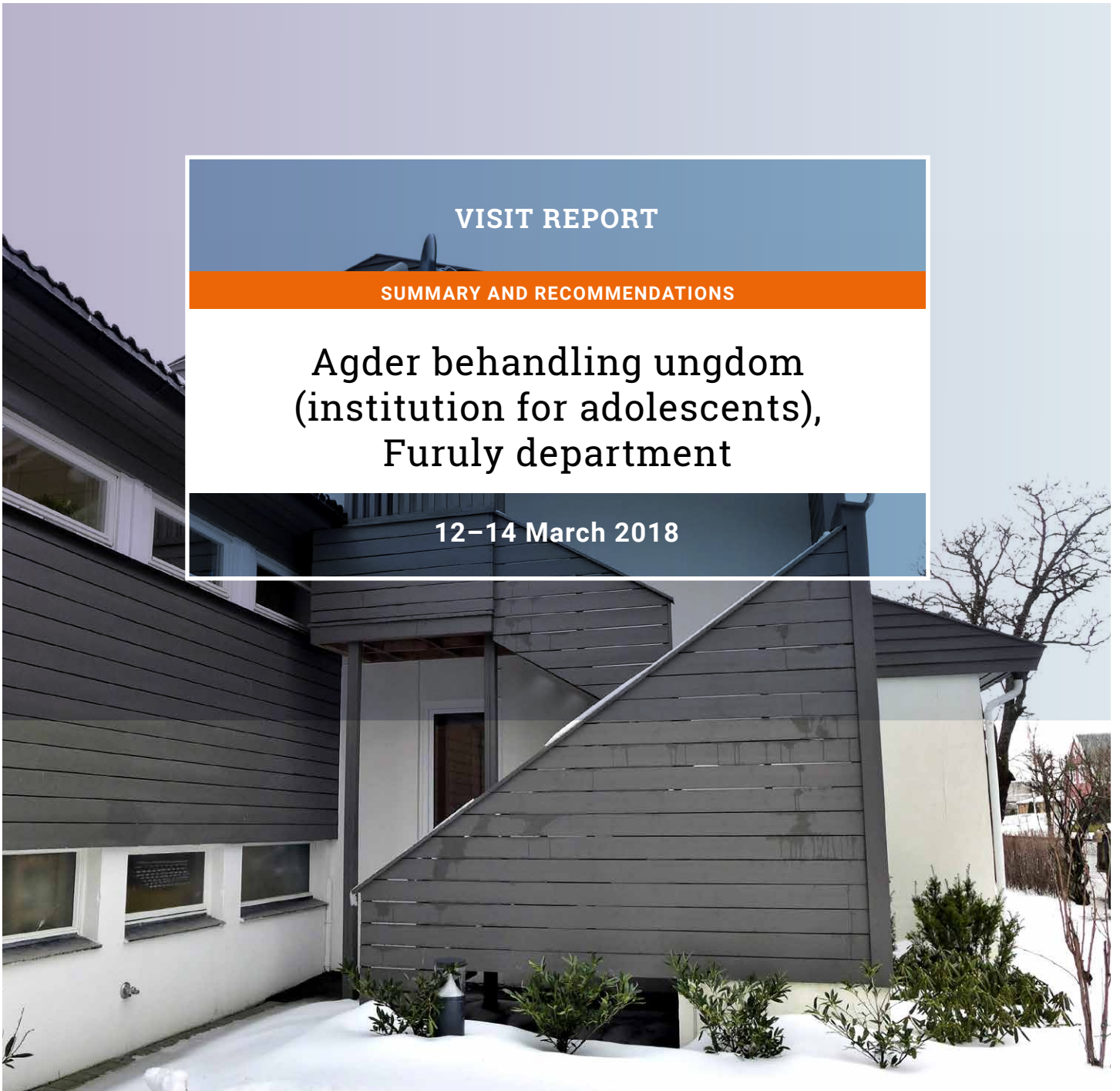
SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

VISIT REPORT

SUMMARY AND RECOMMENDATIONS

**Agder behandling ungdom
(institution for adolescents),
Furuly department**

12–14 March 2018



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



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1 The Parliamentary Ombudsman's prevention mandate

As a result of Norway's ratification of the Optional Protocol to the UN Convention against Torture in 2013, the Parliamentary Ombudsman was issued with a special mandate to prevent torture and other cruel, inhuman or degrading treatment or punishment.¹ The Parliamentary Ombudsman has established its own National Preventive Mechanism (NPM) in order to fulfil this mandate.

The NPM regularly visits 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 both announced and unannounced.

The Parliamentary Ombudsman has right of access to all places of detention and the right to speak in private with people who have been deprived of their liberty. The Parliamentary Ombudsman also has right of access to all necessary information that is relevant to the conditions for people deprived of their liberty.

The risk of torture or ill-treatment occurring is influenced by factors such as legal and institutional frameworks, physical conditions, training, resources, management and institutional culture.² Effective prevention work therefore requires a broad approach that does not exclusively focus on whether the situation complies with Norwegian law.

The Parliamentary Ombudsman's consideration of factors that constitute a risk of torture and ill-treatment is based on a wide range of sources. During its visits, the Ombudsman examines the conditions at the institution through its own observations, interviews and a review of documentation. Private interviews with those who are deprived of their liberty are a particularly important source of information, because they have first-hand knowledge of the conditions at the institution in question. They are in a particularly vulnerable situation and have a special need for protection. Interviews are also conducted with the staff, management and other relevant parties. Documentation is also obtained to elucidate the conditions at the institution, such as local guidelines, administrative decisions on the use of force, logs and health documentation.

After each visit, the Parliamentary Ombudsman writes a report describing its findings and recommendations for preventing torture and other cruel, inhuman or degrading treatment or punishment.

The reports are published on the Parliamentary Ombudsman's website and the institutions visited are given a deadline for informing the Ombudsman about their follow-up of the recommendations. These letters are also published.

In its endeavours to fulfil the prevention mandate, the Parliamentary Ombudsman also engages in extensive dialogue with national authorities, control and supervisory bodies in the public administration, civil society and international human rights bodies.

¹ Section 3 a of the Parliamentary Ombudsman Act.

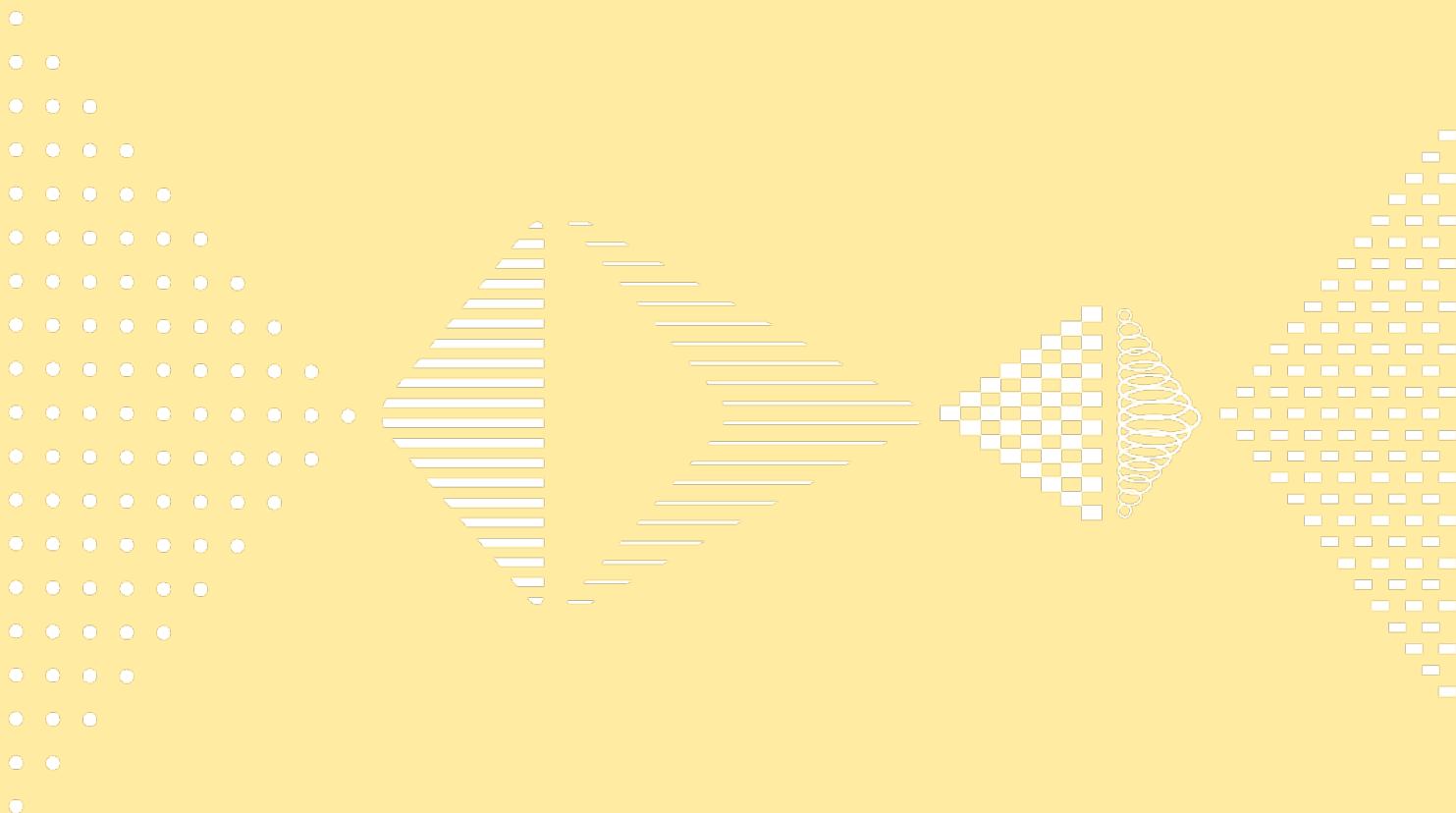
² See the UN Subcommittee on Prevention of Torture (SPT), The approach of the Subcommittee on Prevention of Torture to the concept of prevention of torture and other cruel, inhuman or degrading treatment or punishment under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 30 December 2010 CAT/OP/30/6.

2 Torture and inhuman 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 of 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 2002. Norway endorsed the Optional Protocol in 2013.



3 Summary

The Parliamentary Ombudsman's National Prevention Mechanism (NPM) visited Agder behandling ungdom (institution for adolescents), Furuly department, in March 2018. Furuly is in Mandal and is one of Agder behandling ungdom's three departments. Agder behandling ungdom is a public institution owned by the Office for Children, Youth and Family Affairs (Bufetat) – Region South.

Furuly has three places and receives young people, including those who have been placed there without their consent.

Due to few placements over the past year and many new or recently revised routines and procedures, the Parliamentary Ombudsman has a limited basis for assessing the institution's practices. This report therefore goes less into certain areas that have been investigated during previous visits to child welfare institutions.

The staff and management at Furuly had experienced being in a situation where they had needed to implement force under pressure from the police. It also emerged that the child welfare service and the department of child and adolescent mental health (ABUP) expected the institution to make decisions on extensive restrictions. The institution itself had not felt that it had had any choice, and the County Governor pointed out that restrictions were enforced that were in excess of what is permitted pursuant to the Rights Regulations.

Like adults, children and young people have a right to not be subjected to arbitrary deprivation of their liberty. The police or other parties cannot instruct a child welfare institution to exercise force in excess of the restrictions provided for in the Rights Regulations. The use of force on the basis of requests or pressure from the police or other parties entails a high risk of young people being subjected to arbitrary deprivation of their liberty, in breach of fundamental rights principles enshrined in humans rights.

On admission, the staff went through the young people's baggage with them, among other things to see whether they might need any clothing or personal items. However, it emerged that the staff could also look for weapons or narcotics and that the search situation should be recorded if the young people object to the measure. The Ombudsman underlines that if a search is to be carried out, an administrative decision must be made before the search is conducted, and this must be communicated to the adolescent in question who can then choose whether they wish to be present. It must also be logged in the use-of-force records.

At the time of the visit, Furuly had an extensive procedures handbook. The NPM found that much work had been done on implementing routines and procedures from autumn 2015. In the period May 2017 to February 2018, further efforts were made to develop procedures and treatments. Furuly had procedures for restricting freedom of movement in an apartment on the centre's first floor, which appeared to facilitate a more extensive use of force than the staff and management said they considered to be expedient. Furthermore, the procedures did not provide any description of how Furuly should ensure that restrictions are implemented in a way that does not isolate the adolescent in question from the other residents. They also contained elements that the Ombudsman pointed out could contribute to insecurity and helplessness and that increased the experience of force.

4 Recommendations

The use of force following requests from other authorised parties

- The institution and Bufetat should ensure that force is never exercised in excess of the limits the institution finds professionally justifiable and that are provided for in the Rights Regulations.

Baggage searches

- The institution should ensure that the young people's due process protection and right to privacy is safeguarded and that their property is never searched without this being provided for in an administrative decision.

Restrictions on the first floor.

- The institution should ensure that procedures and practice relating to restricting freedom of movement are in full compliance with children's rights and the Child Welfare Act with pertaining regulations.
- The institution should ensure that restrictions on the freedom of movement are not exercised in a manner that isolates the young people.

Preventing the use of force

- The institution should ensure that important information that can help to prevent the use of force is systematised and made available to all staff.

School and daytime activities

- Together with the responsible agencies, Furuly should ensure that children and young people who have a right to schooling are provided this without undue delay.

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

