



**SIVILOMBUDSMANNEN**  
Norwegian Parliamentary Ombudsman

VISIT REPORT

SUMMARY AND RECOMMENDATIONS

**Skjerfheimkollektivet**

18-20 September 2018



National Preventive Mechanism against  
Torture and Ill-Treatment



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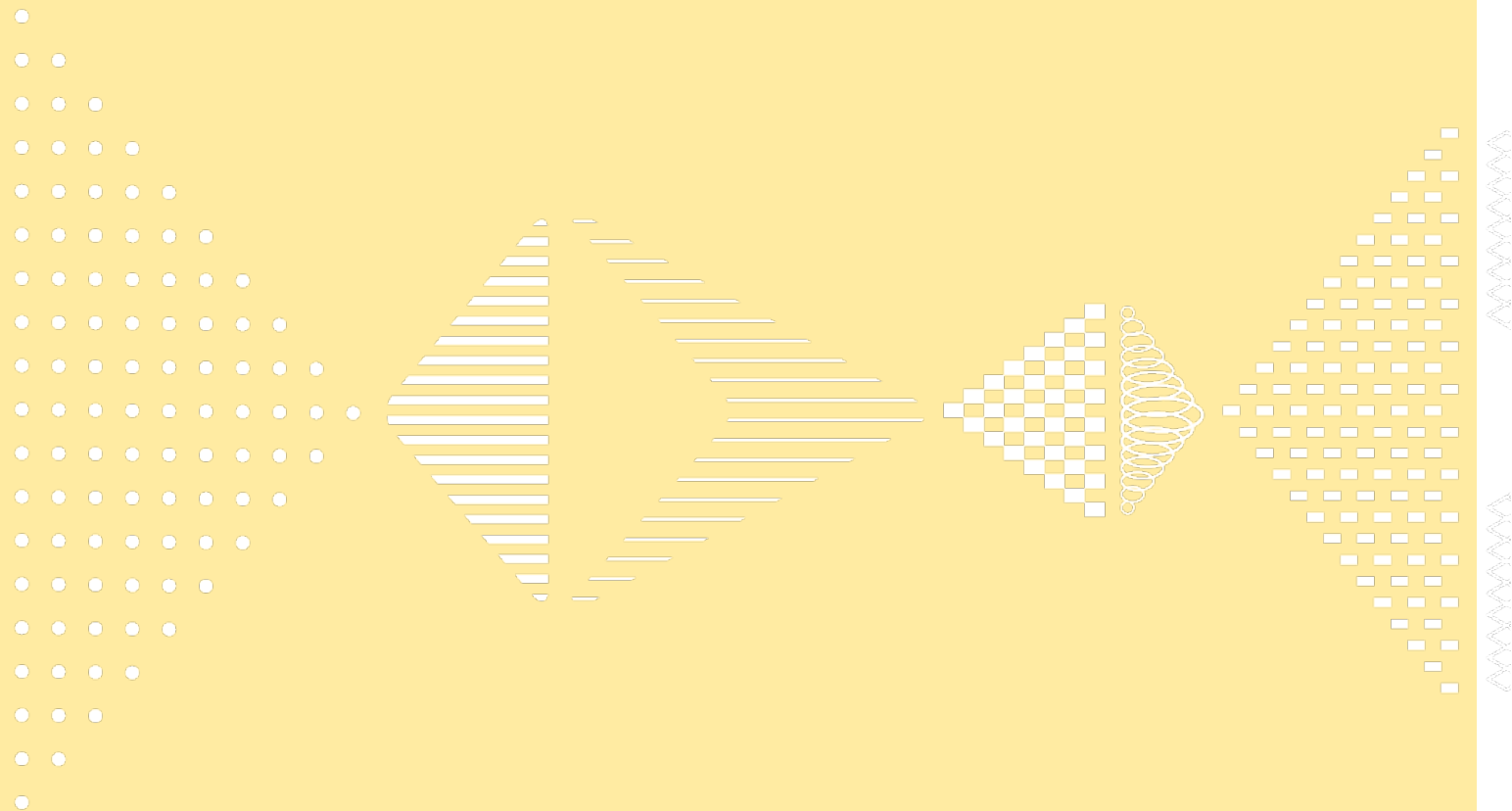
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# 1 Torture and inhuman treatment

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 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 vulnerable to violations of the prohibition against torture and inhuman treatment, which 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.



## 2 The Parliamentary Ombudsman's prevention mandate

Norway endorsed the Optional Protocol of the UN Convention against Torture in 2013. The Convention obliges states to set up bodies to protect persons deprived of their liberty from torture and other cruel, inhuman or degrading treatment or punishment.<sup>1</sup> The Parliamentary Ombudsman was given this task, and the National Prevention Mechanism (NPM) was set up in order to carry out this duty.

The NPM makes regular visits to facilities 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 the people staying there. The Parliamentary Ombudsman also has right of access to all necessary information that is relevant to the conditions under which people are deprived of their liberty.

The risk of torture or inhuman treatment occurring is influenced by factors such as legal and institutional frameworks, physical conditions, training, resources, management and institutional culture.<sup>2</sup> 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 inhuman treatment is based on a wide range of sources. During its visits, the NPM examines the conditions at the institution through its 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. 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.

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<sup>1</sup> Section 3 a) of the Parliamentary Ombudsman Act.

<sup>2</sup> See the UN Subcommittee on the Prevention of Torture (SPT), The approach of the Subcommittee on Prevention of Torture to the concept of prevention 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/12/6.

### 3 Summary

Skjerfheimkollektivet is a residential and treatment institution for adolescents aged between 15 and 18 with serious substance abuse problems. The institution is a department under Buskerud, Vestfold and Telemark behandling ungdom, owned by the Norwegian Children, Youth and Family Affairs Service (Bufetat). The NPM visited the institution on 18-20 September 2018.

Skjerfheimkollektivet was well equipped and facilitated a number of different activities. The rooms and communal areas seemed pleasant, with homely furnishings that had clearly been chosen with the residents in mind. The exceptions were the room for urine tests and “the sluice room”. These were rooms that were used to perform coercive measures and it is therefore important that they are designed to ensure the patients’ sense of security and dignity.

In the years before our visit, Skjerfheimkollektivet had made several of changes to the way in which they worked with the residents. The changes implied among other things using a more individual approach to the residents’ treatments and day-to-day lives, less rigidity and more focus on the residents going to school or working outside the institution. Overall, the changes were important to providing a secure framework and good treatment for each individual resident.

Skjerfheimkollektivet employed various measures that were described as camps or trips.

Admission camps and motivational trips were part of the institution’s treatment regime, and at Skjerfheim, they were conducted on the basis of use-of-force decisions. The institution must ensure participation and consent on the part of the resident before being entitled to take them on trips as part of a treatment regime. Force may not be used to exercise this type of measure. Both the County Governor and the Office for Children, Youth and Family Affairs – Region South have previously pointed out to Skjerfheimkollektivet that using motivational trips must be on the basis of the resident’s consent. The Parliamentary Ombudsman cannot see that this differs in the case of admission camps, which were also part of Skjerfheim’s treatment regime.

The admission camps were also routinely organised, and all residents had to attend with two or more adults at the start of their stay. This means that the institution cannot make an individual decision on the use of force to take a resident to a camp. Coercive measures may not be routinely exercised as a normal part of institution’s treatment regime or other operations.

Skjerfheim described detoxification trips as a measure it used when an adolescent was under the influence and was not permitted to be with other residents. The measure was decided by the staff and was to be described and based on a use-of-force decision pursuant to Section 22 of the Rights Regulations.

Information and participation are essential to preventing use of force and to be able to provide the right help to the residents. It emerged during the visit that a lack of information about and possibility to exercise user participation led to the admission camp being characterised by insecurity, fear and use of force.

The NPM also discovered that the length of the admission camps, motivational trips and detoxification varied, and the residents were not told how long they were going to be away. The trips were concluded when the staff considered that they had ‘covered everything/it was time’. The lack

of opportunity to participate and be heard and the lack of information about content, place and length amplify the impression of the trips being forced.

The section manager at Skjerfheim had the overall responsibility for use-of-force decisions and records, following up the residents' complaints and cooperating with the supervisory authorities. The administration's strategy was that the use of force should always be discussed in the staff group. The staff confirmed this.

Although the staff and administration at Skjerfheim appeared to have reflected on and discussed the use of coercion, this was not as well reflected in all the use-of-force records we were presented. A review of the records showed that the use-of-force decisions and record keeping had several weaknesses as regards justification, completion and dating.

The administrative decisions relating to detoxification trips generally lacked adequate descriptions and grounds. This made it difficult to see whether the conditions in Section 22 of the Rights Regulations were met. It was also difficult to see where the detoxification took place, and in some decisions, it emerged that the resident's freedom of movement had been restricted in places that had not been quality assured or were not an approved part of the institution. This meant that adolescents who had been placed at the institution had in practice been forcibly detained outside it. The Parliamentary Ombudsman cannot see that Section 22 can be used to restrict someone's freedom of movement in a place that is not part of the institution.

Restricting someone's freedom of movement in a place that is entirely removed from the rest of the institution, even if it is a quality assured unit, appears to be a very invasive measure and significantly more invasive than restricting the person's right to leave the institution or restricting their movements in the institution itself. Such practice also entails a significant risk of isolating the person from the other residents. An institution cannot use measures that constitute isolating a resident. In an interpretation of the Act, the Ministry has commented that the right to restrict freedom of movement inside or outside the institution does not provide for isolating children and adolescents from the institution's other residents.

### **3.1 Recommendations**

#### **Physical conditions**

- The institution should ensure dignified physical conditions in rooms where coercive measures are carried out.

#### **The staff manual's guidelines on treatment, attitudes and rules**

- The management should ensure that the institution's written procedures, treatments and methods fully reflect the residents' integrity and rights.

#### **Different practices among staff**

- Skjerfheim should continue its efforts to ensure a shared culture and work methods that safeguard the residents as best as possible.

#### **Better training**

- The management should ensure systematic training of both permanent and temporary staff. Regular training should be given to all staff on the use of applicable regulations and treatment methods.

#### **Administrative decisions and records**

- The institution should ensure that records on the use of force are in accordance with children's rights and the Child Welfare Act with pertaining regulations. Decisions should be reviewed in a way that safeguards the residents' due process protection and right to complain.
- The institution should never use force as punishment or as a routine part of the institution's treatment regime or other operations.

#### **Lock-ins in single rooms**

- The institution should ensure that procedures and practice relating to isolation are in accordance with children's rights and applicable legislation.

#### **Use of trips as measures**

- The institution should ensure that force is not used to conduct trips as part of a treatment regime.
- The institution should ensure that trips that are part of treatment are taken on grounds of consent, thorough information and the possibility to exercise user participation.
- The institution should ensure that it only imposes restrictions to freedom of movement at the institution.
- The institution should ensure that there are descriptions of and grounds for all measures to bring them in accordance with children's and adolescents' rights and applicable legislation.



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