



**SIVILOMBUDSMANNEN**  
Norwegian Parliamentary Ombudsman

**VISIT REPORT**

**SUMMARY AND RECOMMENDATIONS**

## **Kvammen Emergency Institution**

**16-17 January 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.<sup>1</sup> 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.<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 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.

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

<sup>2</sup> 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 Summary

The Parliamentary Ombudsman's National Preventive Mechanism (NPM) made a visit to Kvammen emergency institution 16–17 January 2018.

Kvammen emergency institution is located in Melhus outside Trondheim. The institution is owned by the state and reports to the Office for Children, Youth and Family Affairs – Central Region. Kvammen emergency institution has five places for children and adolescents between the ages of 12 and 18. Kvammen is approved for care orders under the Norwegian Child Welfare Act Section 4-6, first and second paragraph, and Section 4-25.

All children and adolescents arriving at Kvammen emergency institution had to undergo an admission process that entailed a stay at the admission unit Kåret for up to three days. In certain cases, they had to stay there even longer. The admission unit looked bare and had a prison-like feel. On admission, the adolescents' mobile phones were routinely confiscated and their bags were searched.

They were informed about the house rules and what was expected of them, but received very little information about their rights.

Findings that emerged during the visit showed that Kvammen also had other rules and practices in place that entailed the adolescents being subjected to unlawful, routine use of force during the rest of their stay at the institution. Mobile phones, tablets and laptops were confiscated from all of the residents for the entire length of the stay. They did not have access to the internet in the admission unit. It also emerged that the residents could not in principle leave the institution's grounds without an adult. Findings also showed that Kvammen restricted the adolescents' freedom of movement in a way that meant they were isolated from the other residents, without there being legal authority for this.

There are strict conditions for using force pursuant to both national legislation and international conventions, and an institution cannot write house rules, procedures, or similar that can restrict adolescents' rights. General rules cannot be imposed, which are an intervention that requires special legal authority in the Rights Regulations.

Kvammen's routine use of force during admission and the stay meant that the residents were subjected to unlawful use of force.

The staff at Kvammen did not want the police to have a role in the admission process. They saw it as their duty to take care of the adolescents once they arrived at the institution.

However, it emerged that Kvammen had in some cases used force on the basis of the police's wishes and needs. It is the institution's responsibility to uphold the residents' due process protection and integrity. The police cannot instruct a child welfare institution to use force in excess of the restrictions provided for in child welfare legislation. Nor can the institution lawfully follow instructions from the police that it does not consider necessary and that are not within the regulations to which the child welfare institution is subject.

Encroachments on personal integrity must be warranted by law. All decisions on the use of physical force or restrictions that are considered individual decisions must comply with the Public Administration Act's provisions on case processing in connection with individual decisions. An

administrative decision must state the grounds for the decision and be in writing. The Rights Regulations state that all decisions shall be entered in the records.

The Parliamentary Ombudsman found a number of errors and shortcomings in Kvammen's administrative decisions and record keeping relating to the use of force. This concerned among other things shortcomings in logging decisions on the use of force, weak grounds and descriptions that made it difficult to assess whether the statutory conditions for the use of force were met, decisions that were made on the wrong legal grounds, and decisions on use of force that Kvammen was not authorised to make. Nor were the use-of-force records quality assured by the institution's management. The under-reporting on the use of force seen in conjunction with inadequate administrative decisions, unauthorised use of force, and shortcomings in quality assurance entailed a major risk of the adolescents being subjected to unnecessary force.

Kvammen focused on avoiding the use of force in situations of acute danger, which was their definition of physical force. The staff talked to the adolescents about what could be a trigger for them or make them angry, in order to avoid getting into situations where they considered it necessary to use physical force. This was enshrined in the procedure for admission, which emerged from the patient records related to admission.

When it came to the use of force in the form of restrictions on the freedom of movement, the management at Kvammen appeared not to have reflected on this issue or have any wish to prevent it. Nor did they have any thoughts concerning – or aim to prevent – other types of coercion, such as confiscating electronic means of communication or body searches.

The staff at Kvammen wanted adolescents to be present in meetings concerning their case. Each adolescent had a main contact person, who was responsible for making sure that the adolescents were involved in the preparation of the plans concerning them. Weekly house meetings were also held at Kvammen, where the adolescents could say what they wanted for dinner at the weekends and to do on Sundays.

However, due to the extensive, routine use of force at Kvammen – and the fact that the adolescents were not given enough information about their rights – it is difficult to assess to what extent the adolescents were actually involved in decisions about their day-to-day life.

The County Governor has highlighted a number of concerns for a long time in its supervisory reports to Kvammen emergency institution. It was difficult to see during the visit how Kvammen had worked to follow up the County Governor's reports.

On the basis of the findings made during the visit, the Parliamentary Ombudsman expressed serious concerns about whether Kvammen emergency institution was being run in accordance with child welfare legislation and children's rights.

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

#### Physical conditions in Kåret

- The institution should make sure that the adolescents are received in a safe, dignified, and welcoming environment.

#### Right to information

- The institution should ensure that the adolescents always receive and have access to adapted information regarding their rights.

#### Use of force during admission

- The institution should ensure that the adolescents' due process protection and right to privacy are safeguarded and that their property is never searched or confiscated without this being provided for in an administrative decision.
- The management at Kvammen should immediately ensure that all routine and unlawful use of force during the admission phase cease, and that procedures and practices are in accordance with children's rights and the Child Welfare Act with pertaining regulations.

#### Use of force during stays

- The management at Kvammen should immediately ensure that all routine and unlawful use of force during stay cease, and that procedures and practices are in accordance with children's rights and the Child Welfare Act with pertaining regulations
- The management should ensure that all unauthorised use of isolation ceases immediately.

#### Documentation of force

- Kvammen should immediately implement training measures to ensure that all use of force is in line with children's rights and the Rights Regulations, and that they are documented in line with the applicable regulations.
- Kvammen should immediately implement procedures for quality assurance and documentation of all use-of-force decisions.

#### Preventing the use of force

- Kvammen should implement systematic efforts to prevent all use of force, including the discontinuation of all routine use of force.

#### Participation

- Kvammen should ensure that the institution is run in such a way that the adolescents can exert real influence on their day-to-day life.

#### Follow-up of the County Governor's visit

- The institution should ensure they have procedures and practices in place for following-up the County Governor's reports and the implementation of necessary measures.

**Satisfactory operation**

- The Office for Children, Youth and Family Affairs (Bufetat) should ensure that Kvammen is run in a satisfactory manner and in line with children's rights and child welfare legislation. The institution should immediately ensure that no adolescent in Kvammen is subjected to routine and unlawful use of force.



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