



SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

Investigation under the OPCAT mandate

SUMMARY

**Protecting prison inmates
during the COVID-19 pandemic**

June 2020



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

I. Summary

The Parliamentary Ombudsman has investigated the safeguarding of inmates in Norwegian prisons during the initial period following the outbreak of the Covid-19 pandemic. The investigation is based on information obtained concerning the period between 12 March to 14 May 2020.

The pandemic, particularly in the initial phase, created an extraordinary and complex situation. The measures that were implemented must be considered in light of the information available about the virus, as well as infection rates in society at the time when the measures were introduced. The lack of knowledge of how the virus was transmitted, its reproduction rate and concerns regarding capacity within the health services meant that far-reaching measures were introduced in society, including within the correctional services.

The purpose of this investigation is to contribute to a reduction in the risk of inhuman and degrading treatment in case of a new pandemic outbreak.

We have examined initiatives implemented by the relevant authorities and the consequences they have had for inmates in a sample of prisons. The study is based on information provided by the Ministry of Justice and Public Security, the Ministry of Health and Care Services, the Directorate for Correctional Service and the Directorate for Health, interviews with and information provided by prison management and the health services in a range of prisons, and a questionnaire distributed to a selection of inmates in four different prisons.

In the period after 12 March, the number of prison inmates was reduced via measures such as early release, suspended detention and transfer to home detention. The measures made it possible to avoid inmates having to share a cell; they also made it easier to maintain physical distancing and to safeguard hygiene requirements. It must be assumed that the implementation of these measures has been vital to the success of preventing major outbreaks of infection in the prisons.

Steps were taken to ensure that inmates received information about the Covid-19 pandemic. The Norwegian Correctional Service cooperated with voluntary agencies in drafting information material and in setting up information channels to assist relatives.

During the period under review, several restrictions were placed on the daily lives of prisoners for the purpose of infection control. For example, activities and work sessions were discontinued or reduced considerably. Education was largely cancelled as it was not considered possible to adapt to digital education as was the case in schools outside of prisons. Visits were no longer permitted; however, arrangements were made to ensure that inmates could maintain contact with their lawyer without risking infection, for example by telephone or through a glass screen.

To reduce the adverse effects of these restrictions, several compensatory measures were introduced. Data tablets were introduced as an alternative for maintaining contact with friends and family who could no longer visit, and the call time for ordinary telephone calls were extended. Several prisons continued certain work and activity sessions that were consistent with infection control measures. Activities such as quizzes, extended TV channel access and indoor training were offered, and the

study indicated that considerable creativity was applied in several prisons, regarding compensatory activities.

Despite the compensatory measures that were introduced, the impression from the study is that many inmates experienced spending considerably more time locked in their cells during a 24-hour period than they would under normal circumstances. Consequently, many inmates experienced serving during this time period as challenging. Several inmates also stated that they were never given the opportunity to make use of the compensatory measures.

One of the most comprehensive infection control measures was the introduction of routines for exclusion from the prison community (solitary confinement). The Parliamentary Ombudsman has considered whether this was in accordance with human rights standards. In particular, the Parliamentary Ombudsman has examined the introduction of routine exclusion of new inmates by the imposition of a 14-days quarantine. Despite the fact that the health authorities advised against it, mandatory quarantine was nevertheless introduced by the Norwegian Correctional Service. The principal reason was the absence of the possibility to test new inmates for the Corona virus, concerns about reduced capacity within the prison health service and concerns for inmates particularly vulnerable to infection.

The risk of infection with the Corona virus must be balanced against the serious adverse effects of solitary confinement. The study shows that the complete exclusion of all new inmates for 14 days, without this being based on an individual assessment of the risk of infection, was not in accordance with the requirements for necessity and proportionality, as stipulated in human rights requirements.

The Parliamentary Ombudsman also found that women inmates had to undergo quarantine in a high security prison, regardless of whether they were to serve their sentence in a high or lower security facility. The reason given for this was that effective infection control measures could not be implemented for women in lower security facilities.

We have also examined whether the pandemic has had negative consequences for inmates' access to health care. Findings indicate that inmates have experienced more difficulty in contacting health services during the Covid-19 pandemic than under normal circumstances, as the health services have prioritised emergency treatment. The Parliamentary Ombudsman is concerned that inmates in quarantine and solitary confinement, who are unable to safeguard their own interests, have not received necessary follow-up from the prison health service. It also appears that adverse effects from isolation and psychological strain as a result of quarantine and solitary confinement have not been given adequate attention.

The relevant authorities have indeed maintained an ongoing dialogue during the pandemic; however, the study suggests that the correctional services have found it challenging to adapt the health authorities' general infection control advice to prison circumstances. We found examples of comprehensive emergency infection control measures introduced in some municipalities, before central guidelines had been drawn up. Lack of clarity regarding statutory authority and absence of national guidelines properly adapted to a prison context increase the risk that radical measures are introduced locally without an adequate evaluation of proportionality.

The Supervisory Councils for correctional services had not conducted physical inspections during the period under review; however, - with the exception of one of the councils - they had largely continued the processing of individual enquiries from inmates. Alternative methods of supervision had been considered to some degree, but were not yet implemented. The extensive restrictions that were imposed on inmates during the period indicate that it is vital to have supervisory bodies that can function effectively, also in extraordinary situations.

II. Key feedback to the responsible authorities

Based on the Parliamentary Ombudsman's evaluation of the safeguarding of inmates during the Covid-19 pandemic, we would like to highlight the following key points regarding the authorities' further work with Covid-19 and other similar situations in the future.

- **Comprehensive infection control measures, such as isolation, must be based on a medical decision and be pursuant to legislation. Infection control measures must comply with human rights requirements of necessity and proportionality. There is a need for clarification of the legal framework for comprehensive infection control measures from municipal authorities in state institutions such as prisons.**
- **When the daily lives of inmates are severely restricted, as they have been during the Covid-19 pandemic, it is a prerequisite that inmates receive timely and updated information in a format and language they understand.**
- **On entering an institution, assessments of the inmate with prison health services should be carried out as quickly as possible, at the latest within 24 hours. The assessment interview should incorporate a mapping of potential infection.**
- **All inmates who are held in solitary confinement must be supervised daily by health services, regardless of the reason for their isolation. Inmates who are held in isolation due to indicated or suspected infection should be examined by health personnel at least twice per day.**
- **Inmates must be given the opportunity to take care of their personal hygiene and to maintain physical distancing. This is on the premise that the inmates have their own cell and adequate access to toilet and hand washing facilities.**
- **On introduction of extreme and general restrictions regarding contact with the outside world, such as prohibition of visits, it is decisive that the authorities make alternative arrangements that enable inmates to maintain contact with their closest family.**
- **The Ministry of Justice and Public Security, the Ministry of Health and Care Services, the Directorate for Correctional Service and the Directorate for Health should jointly ensure that infection control measures are adapted to the situation for inmates in prisons in accordance with human rights standards.**
- **The Ministry of Justice and Public Security should ensure that the Supervisory Boards are given the necessary authority (or competence) and capacity to maintain effective supervision adapted to the situation.**

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