SIVILOMBUDSMANNEN
Norwegian Parliamentary Ombudsman

ANNUAL REPORT 2020

DOCUMENT 4:1 (2020–2021)

National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Document 4:1 (2020–2021)

The Parliamentary Ombudsman's Annual Report for 2020 as National Preventive Mechanism against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

Submitted to the Storting on 23 March 2021

Foreword

2020 was an unusual year for the Parliamentary Ombudsman's National Preventive Mechanism (NPM). The COVID-19 pandemic changed the risk picture and highlighted the vulnerability of new groups of people. Development of new methods and visits to new sectors therefore became important. In the spring of 2020, the NPM conducted several visits to child welfare institutions and institutions within mental healthcare for children and adolescents. The autumn was spent conducting visits to care homes for elderly and to shared accommodation for persons with intellectual disabilities.

The year began with a public hearing in the Storting's Standing Committee on Scrutiny and Constitutional Affairs, concerning the Parliamentary Ombudsman's Special Report to the Storting on solitary confinement and lack of human contact in Norwegian prisons. Participants were the Minister of Justice and Public Security Jøran Kallmyr, Minister of Health and Care Services Bent Høie, and the leaders of the Norwegian Correctional Service and Directorate of Health. A Special Report is the most powerful instrument held by the Parliamentary Ombudsman, and the report is based on findings from the National Preventive Mechanism's (NPM's) visits to nineteen Norwegian prisons over five years. The fact that the Committee decided to hold a public hearing represented an important milestone for the work on restricting the use of solitary confinement in Norwegian prisons.

The year started as planned with regard to the NPM's visit activities; with visits to private child welfare institutions and mental healthcare institutions for children and adolescent. Children and adolescents deprived of their liberty are particularly vulnerable to violations of their integrity, and therefore have a right to special protection. One finding described in a separate article in Chapter 3 of the annual report, is that children who are admitted to mental health institutions can be subjected to extremely intrusive forms of coercion. Despite the fact that several human rights bodies recommend prohibition of coercive means and segregation in relation to children, the Mental Health Care Act permits administration of strong medication without the consent of the child in acute situations, and the use of restraints beds and segregation of children over 16 years of age. Another finding is that the local control commissions lack a common approach to children admitted to institutions, and that the practices of some commissions are problematic in relation to children's legal protection.

We also look more closely at the risk of violations of children and adolescents' rights in situations where children under the care of child welfare agencies involuntarily live alone with adult staff. Isolation is not permitted at child welfare institutions. According to child welfare legislation isolation occurs when a child is being kept apart from his/her peers at the institution, with contact with staff only. Our findings indicate that many of the so-called "enetiltak", where children are placed separately from other childern, conflict with the prohibition against the use of segregation. The investigations carried out by the NPM of this issue are presented in more detail in the second article in Chapter 3.

The year has also been characterised by the pandemic. When society went into lockdown in March, the Parliamentary Ombudsman decided to temporarily suspend planned visits. The infection situation and the "do no harm" principle were the main reasons behind this decision.

The pandemic did not make the work of identifying and preventing risk of torture and inhuman treatment any less important; but our working methods had to be adapted and priorities temporarily amended.

The Norwegian Correctional Service quickly introduced intrusive measures to prevent outbreaks of infection in prisons; and we were therefore concerned about how the pandemic would affect the conditions in prisons. In the period following the lockdown of society, we therefore for the first time conducted "visits" without an actual physical presence. Investigations were conducted using telephone interviews, document reviews and a questionnaire distributed to inmates in a selection of prisons. In the report, the Ombudsman highlighted eight issues to the responsible authorities. The purpose was to help to contribute to a reduction in the risk of inhuman and degrading treatment in case of a new pandemic outbreak. This work is described in more detail in the first article in Chapter 3.

As the infection situation stabilised in the summer, many had experienced a more restricted daily life as a result of the measures. Persons in care homes and people with intellectual disabilities living in shared accommodation stood out as groups that were particularly affected by intrusive restrictions. We therefore chose to temporarily amend our plans and instead to address two new sectors for the prevention mandate.

During the autumn, we prepared and conducted several visits to care homes and shared accommodation for persons with intellectual disabilities. The visits were conducted using a combination of physical presence, telephone and video interviews and document reviews. In both sectors, we anticipated meeting persons who could face challenges in communicating complete information, or who were particularly vulnerable to infection and therefore difficult to interview. This led us to further expand our use of sources. Family and guardians constituted for the first time important sources in our investigations. This provided very useful information and added new perspectives to our visits. The visits that were conducted during the pandemic and the follow-up of other visits in 2020 are described in further detail in Chapter 4.

During the spring, we had extensive communication with national and international partners regarding how the pandemic affected the situation for those who were deprived of their liberty. The NPM's Advisory Committee provided important input. We also launched a website with information about COVID-19 and persons deprived of their liberty. We have strengthened internal competence and developed new working methods. External experts have added new and valuable knowledge to the NPM. This work is described in Chapter 5.

The work on preventing torture and inhuman treatment is global, and international cooperation has been particularly crucial in 2020. This is elaborated on in Chapter 6. It has been important and inspiring to discuss new challenges with other national preventive mechanisms, international organisations and human rights bodies. This dialogue contributed to ensure that the Parliamentary Ombudsman could resume its investigations relatively quickly after the lockdown of society in March, with new and adapted methods. The cooperation between the preventive mechanisms in the Nordic countries has been particularly productive in this period.

Photo: Mona Ødegård

Hanne Harlem
sivilombudsmann

Sectors covered by the NPM's mandate

59

PRISONS AND TRANSITIONAL HOUSING

127

DETENTION PREMISES USED BY THE CUSTOMS SERVICE

Approx.
115

POLICE CUSTODY FACILITIES, INCLUDING WAITING CELLS

3

POLICE IMMIGRATION DETENTION CENTRES

9

CUSTODY FACILITIES OF THE NORWEGIAN ARMED FORCES

1

INVOLUNTARY INSTITUTIONAL TREATMENT CENTRE (BRØSET)

68

MENTAL HEALTHCARE INSTITUTIONS

Approx.
70

INSTITUTIONS FOR INVOLUNTARY TREATMENT OF PERSONS WITH SUBSTANCE ABUSE ADDICTIONS

HOUSING FOR PERSONS WITH INTELLECTUAL DISABILITIES

The number of places where persons with intellectual disabilities can be deprived of their liberty is uncertain. This is due to a variety of reasons, including that many persons with intellectual disabilities live in their own home or in shared housing facilities.

Approx.
1000

CARE HOMES FOR ELDRELY

Approx.
150

CHILD WELFARE INSTITUTIONS

The figures are estimates based on a mapping conducted in 2014/2015, and updated in 2019.

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The Parliamentary Ombudsman's Prevention Mandate

On 14 May 2013, the Storting voted in favour of Norway ratifying the Optional Protocol to the Convention against Torture (OPCAT). The Storting awarded the task of exercising the mandate set out in OPCAT to the Parliamentary Ombudsman. In 2014, the National Preventive Mechanism (NPM) was established as a separate department to address this area of the Ombudsman's work.

The Parliamentary Ombudsman, represented by the NPM, conducts regular visits to places where people are deprived of their liberty, such as prisons, police custody facilities, mental healthcare institutions and child welfare institutions. The visits can be both announced and unannounced.

The NPM has the 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 NPM also has the right to access all necessary information that is relevant to the conditions of people deprived of their liberty.

During its visits, the NPM seeks to identify risk factors for human rights violations by making its own observations and through interviews with the people involved. Interviews with people deprived of their liberty are given special priority.

As part of its prevention efforts, the NPM engages in extensive dialogue with national authorities, control and supervisory bodies in the public administration, other ombudsmen, civil society, NPMs in other countries and international organisations in the human rights field.

An advisory committee has been established that contributes expertise, information, advice and input to the prevention work.

The UN Convention against Torture

The UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment states that torture and inhuman treatment are strictly prohibited, and that no exceptions can be made from this prohibition under any circumstances. States that endorse the convention are obliged to prohibit, prevent and punish all use of torture and other cruel, inhuman or degrading treatment or punishment. According to the Convention, each State party shall "ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture [or other cruel, inhuman or degrading treatment or punishment] has been committed in any territory under its jurisdiction".[1]

Norway ratified the Convention against Torture in 1986. The prohibition against torture is set out in various parts of Norwegian legislation, including Article 93 of the Norwegian Constitution.

The UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment states that torture and inhuman treatment are strictly prohibited, and that no exceptions can be made from this prohibition under any circumstances.

1 UN Convention against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment articles 12 and 16.

The Optional Protocol to the Convention against Torture (OPCAT)

The Optional Protocol to the UN's Convention against Torture aims to prevent torture and inhuman treatment of people deprived of their liberty. The Optional Protocol was adopted by the UN General Assembly in 2002, and it came into force in 2006. Central to the protocol is the understanding that people who are deprived of their liberty find themselves in a particularly vulnerable situation and face an increased risk of torture and other cruel, inhuman or degrading treatment or punishment.

States that endorse the Optional Protocol are obliged to establish or appoint one or several National Preventive Mechanisms (NPMs) to regularly carry out visits to places where people are or may be deprived of their liberty, to strengthen their protection against torture and inhuman treatment.

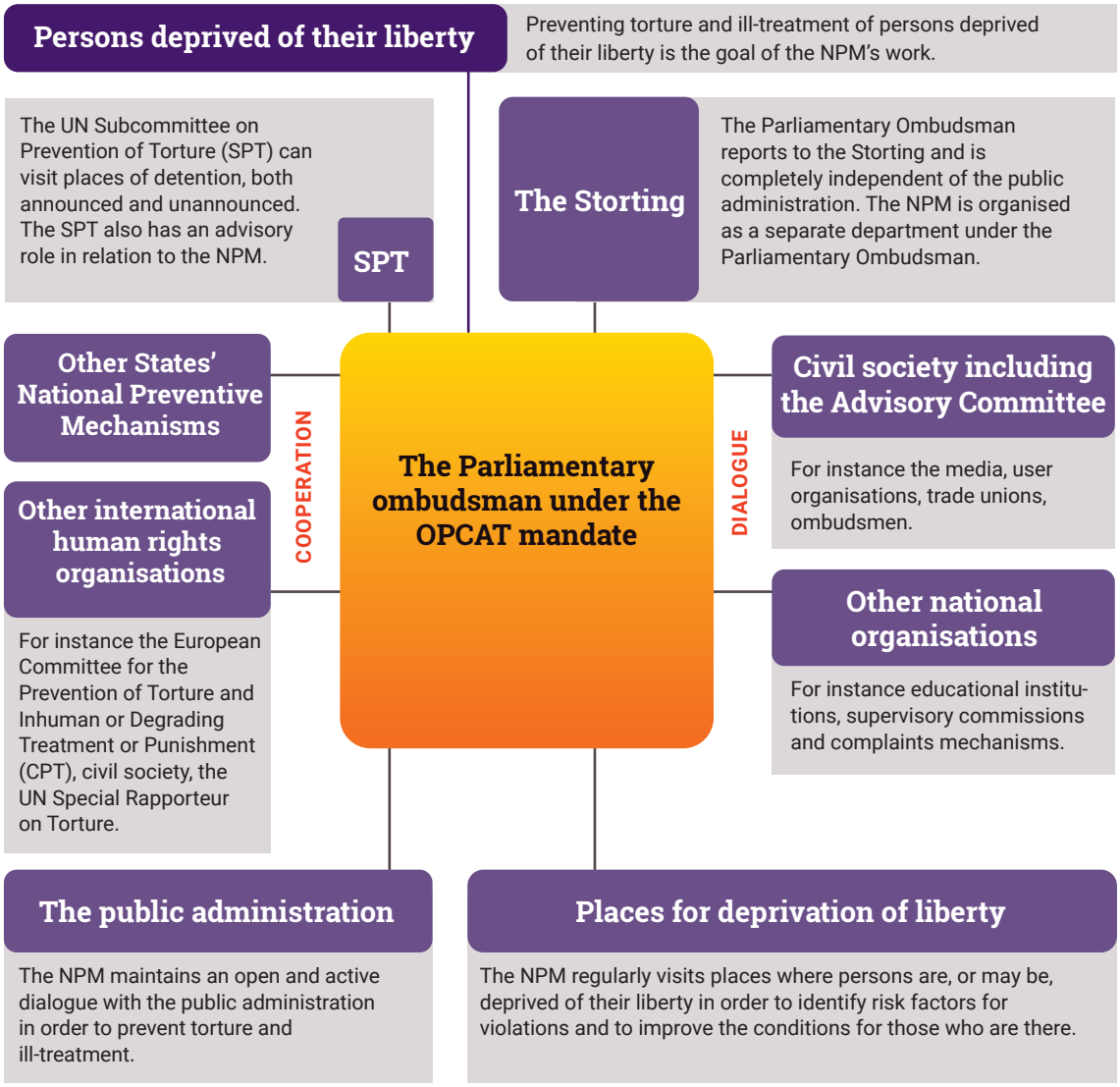
The NPMs can make recommendations that highlight risk factors for violations of integrity. They can also submit proposals and comments concerning existing or draft legislation.

The NPMs must be independent of the authorities and places of detention, have the resources they require at their disposal and have staff with the necessary competence and expertise.

The Optional Protocol has also established an international prevention committee that works in parallel with the preventive mechanisms, the UN Subcommittee on the Prevention of Torture (SPT). The SPT can visit all places of detention in the states that have endorsed the Optional Protocol. The SPT's mandate also includes providing advice and guidance to the National Preventive Mechanisms.

The NPMs must be independent of the authorities and places of detention, have the resources they require at their disposal and staff with necessary competence and expertise.

The NPM´s most important relations



Working Methods

Our principal task is to uncover, examine and understand the specific challenges at each place we visit. We make recommendations on how risk of inhuman treatment can be limited, to better safeguard those who have been deprived of their liberty, and we use dialogue as a means of implementing change. We also work strategically through knowledge-sharing and advocacy.

The working methods of the National Preventive Mechanism (NPM) shall identify the risk of torture and inhuman treatment, to prevent people from being subjected to such violations. The risk of torture or inhuman treatment is influenced by factors such as legal and institutional frameworks, physical conditions, training, resources, management and institutional culture.[1] Therefore we have a broad methodological approach.

Our primary method is to visit places where persons are deprived of their liberty. Visits give us the opportunity to speak with persons deprived of their liberty, and provide insight into the conditions in places in Norway where deprivation of liberty takes place.

Effective and credible prevention efforts depends on our freedom to choose which places we visit, and how and when we carry out the visits. It also requires full access to documents and all parts of the institution we visit, and the opportunity to conduct interviews in private.

1 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/12/6.

During the NPM's visits, the conditions at the institution are examined through observations, interviews, and document reviews.

Thorough planning form the basis of a successful visit

A considerable amount of time is spent on preparing visits, including prioritisation of the places to visit and when to visit them. To be able to carry out systematic and effective preventive work, access by the Ombudsman to different sources of information is crucial. A review of relevant documentation before the visit makes it possible to identify potential risk factors for degrading and inhuman treatment. This ensures that the visits address the challenges that are most relevant to the place in question.

The mandate covers all places where people have been or can be deprived of their liberty. This means that the places visited by the NPM can have major variations in size, organisation and management. These differences make it neccessary to continually develop our working methods.

Visits must also be planned to ensure that we can talk to as many people as possible at the institution in question. When we visit large institutions, it is important to plan in a way that enables us to conduct as many interviews as possible and that interviews include those who may be most at risk of having their rights violated. When we visit small institutions, it is important that the visit takes place at a time when as many people as possible are available to interview. The number of persons that have been deprived of their liberty, the staff and their shifts, and the presence of managers are factors that should be considered when planning a visit.

Prior to visits, we prepare interview guides adapted to the different groups we wish to interview. All conversations take place in the form of partly structured interviews with two members of the NPM present. This ensures that the information we receive during the interviews is adequately documented. In addition to interview guides, we also prepare documents that examine issues that we expect to find at the institution we are visiting. These can depend on the type of institution, whether it is private or public, its size and so on.

In 2020, the Parliamentary Ombudsman's National Preventive Mechanism carried out visits to child welfare institutions, housing facilities for persons with intellectual disabilities, care homes for elderly and mental healthcare institutions for children and adolescents.

We do not generally inform the places we visit about the dates of the scheduled visit. Normally, the institution is notified that a visit will take place within a period of two to twelve months. This enables us to gather information from several sources before the visit. Key sources in this phase include documents from the place to be visited, the supervisory authorities, official authorities and other relevant bodies. We also inform our Advisory Committee and request information from members of the committee if relevant. The Ombudsman has the right to access all necessary information that is relevant to the conditions of people deprived of their liberty. This can include administrative decisions, patient and other relevant records, statistics and internal documents on operations.

In some cases, our visits are completely unannounced. These are visits to places where the advantage of arriving unannounced is assumed to be greater than the advantage of being able to collect information ahead of the visit. In other cases, there are circumstances that indicate we should give advance notice.

In the autumn of 2020, we chose to notify the places of the date we intended to visit, one to two weeks in advance. The reason was the strain the ongoing pandemic put on the staffing situation at the places we visited. There was a need for adaption to enable us to carry out the visits in a safe manner with infection control measures in mind. Another important reason was that that these visits were to places for persons with cognitive challenges (dementia and intellectual disabilities) who might need to be prepared for our visit in order to feel safe talking to us. This method will be evaluated after the initial visits to care homes and housing facilities for persons with intellectual disabilities.

Interviews with people deprived of their liberty
During the NPM's visits, the conditions at the institution are examined through own observations, interviews and a review of documentation. We take photographs to document physical conditions, information posters and equipment.

The NPM's priority is always to conduct private interviews with the persons who have been deprived of their liberty. These interviews are a particularly important source of information, as the persons deprived of their liberty have first-hand knowledge of the conditions in the place in question. They are in a particularly vulnerable situation and have a special right to protection. Interpreters and other necessary adjustments are used as required. Interviews are also conducted with the staff, management, health service and other relevant parties.

In 2020 we have developed new methods that involve systematic collection of information from the next of kin of those who have been deprived of their liberty. In some cases, those who have been deprived of their liberty will not be able to provide us with information about their situation. In such situations, family members and guardians can be important additional sources of information about the conditions at the place in question. In our experience thus far, systematic contact with families and guardians provides extensive and valuable information.

All findings are published
When the visit is concluded, a report is written to descibe any uncovered risk factors. In this phase, further documentation is frequently obtained to supplement sources already consulted. This often includes routines and procedures, local guidelines, administrative decisions on the use of coercion, logs, plans and health documentation.

NPM employees travel in an environmentally friendly manner.

Visit reports are published on the Parliamentary Ombudsman's website. Some of the institutions we have visited are very small, so we may publish a collective description of findings from several places in one report. This can apply to small institutions in the child welfare sector and housing facilities for persons with intellectual disabilities. This is done primarily to ensure anonymity for those who have been deprived of their liberty. However, it can also be beneficial to collate more extensive source material and to better describe contexts and more overarching risk factors. Therefore, a separate report is not always published for each place visited.

In addition to our findings, the reports contain recommendations to institutions where necessary. The goal of these recommendations is to reduce the risk of torture or other cruel, inhuman or degrading treatment or punishment.

The visit reports are sent to the responsible ministry, directorate, supervisory authority and members of our Advisory Committee. Each institution receives copies of our reports and we ask that these are made available to those deprived of their liberty, staff and others who may find them useful, such as families or guardians.

The places visited are given a deadline for informing about measures implemented to folow up the recomendations by the Ombudsman. Information about follow-up is also published on the Ombudsman's website. Follow-up of some recommendations requires limited efforts – others are more demanding. This means that follow-up after some visits can be a time consuming process, whilst it is concluded relatively quickly after others.

Development of methods: The COVID-19 pandemic and visits to new sectors

In 2020, the preventive work of the Ombudsman has been affected by the COVID-19 pandemic. Considering the precautionary principle, the NPM decided to suspend planned visits from 11 March 2020. During the spring, we had extensive communication with national and international partners regarding how the pandemic affected the situation for those who were deprived of their liberty. We also launched a dedicated website where we gathered relevant resources related to the COVID-19 pandemic.

The preventive work of the Ombudsman has been affected by the COVID-19 pandemic. The NPM chose to suspend physical visits temporarily based on the precautionary principle. It was necessary to think anew about how we could fulfil our mandate without being physically present.

In spring we conducted an investigation of the conditions in several prisons at the start of the pandemic. Physical visits were replaced by telephone interviews and a questionnaire which was distributed to a selection of inmates (see article in Chapter 3, *Increased isolation and stricter conditions in prison during the COVID-19 pandemic*).

Infection control measures have affected daily life in various institutions and many have experienced restrictions as a result of this. Information from several sources indicated that persons in care homes for elderly and persons with intellectual disabilities who live in their own home with assistance from the municipality, were subjected to intrusive restrictions during the pandemic. The NPM has therefore spent a great deal of time this year preparing visits to care homes and housing facilities for persons with intellectual disabilities.

Neither patients in care homes nor persons with intellectual disabilities that receive assistance from the municipality have in principle been deprived of their liberty. However, there may be cases where these persons and their situations fall within our mandate. At care homes, in some cases, administrative decisions may be made concerning admission or detention against the resident's will.[2] Patients in care homes can also be subjected to extensive restrictions, such as locked doors and other measures preventing freedom of movement without administrative decisions being passed.[3] We are also aware that persons with intellectual disabilities who receive health and care services in their own home can be subjected to extensive restrictions that can amount to a de facto deprivation of liberty.[4]

The European Court of Human Rights has established that if an institution exercises complete and effective control of care and freedom of movement of a person, this can constitute deprivation of liberty despite the fact that their presence there is voluntary.[5] The Subcommittee for the Prevention of Torture points out that any place that a person cannot leave of their own free will, or places where there is a suspicion that persons can be subjected to such restrictions on freedom of movement, fall within the mandate of the NPM, insofar as the state has, or must be expected to have, a "regulatory function'.[6] During the ongoing pandemic there are many residents in both housing facilities for persons with intellectual disabilities and in care homes that fall within these categories. Even under normal circumstances, there will be persons within both sectors who experience restrictions so severe that they in sum represent a deprivation of liberty according to the definition of the Optional Protocol.

2 Patient and Service User Rights Act chapter 4A.

3 See also NOU 2019: 14 Restrictions on the Use of Coercion Act, chapter 6.5, page 150 et. seq.

4 NOU 2019: 14, chapter 24.6.2, page 494 et. seq.

5 See e.g. H. L. v. United Kingdom, application no. 45508/99, judgement of 5 October 2004.

6 Subcommittee on the Prevention of Torture (SPT), Response to the New Zealand Human Rights Commission's request for interpretative guidance on Article 4.2 of the OPCAT (2015).

National and international dialogue
Sharing information about the situation for those who have been deprived of their liberty in Norway is a key part off our preventive work. We therefore work strategically through knowledge-sharing and advocacy. We do this via seminars, lectures, education and dialogue with relevant institutions (see *Activities in 2020*).

International dialogue and cooperation have been particularly important in 2020. The pandemic has created new challenges and we have greatly benefited from holding ongoing discussions with other national preventive mechanisms and with international organisations and human rights agencies. The exchange of knowledge and ideas on new ways of working has taken place via various digital platforms. Cooperation between the national preventive mechanisms in the Nordic countries has similarly been productive (see Chapter 6 *International Cooperation*).

National Preventive Mechanism staff
The NPM has an interdisciplinary composition and includes staff with degrees in law, police studies, criminology, sociology, and psychology, as well as employees with interdisciplinary educational backgrounds.

The NPM is organised as a separate department under the Parliamentary Ombudsman. The NPM does not consider individual complaints.

External experts
The NPM has the possibility to call in external expertise if this is considered necessary. External experts can be assigned to the NPM's visit team during the preparation and execution of one or more visits. They can also assist in writing the visit report and provide professional advice and expertise to the visit team. In 2020, expertise and training were requested from several experts within geriatric health and conditions for persons with intellectual disabilities. This included expertise in relation to housing conditions, medical issues, regulations and methods for obtaining information and conducting interviews.

The NPM has created guidelines on how to safely conduct visits during the COVID-19 pandemic. In this particular work we have had dialogue with the Norwegian Institute of Public Health on infection control measures (see Chapter 5 *National Dialogue*).

The NPM's employees as of 31 December 2020. From left: Jonina Hermansdottir, Johannes Flisnes Nilsen, Silje Sønsterudbråten, Jannicke Godø, Mari Dahl Schlanbusch, Helga Fastrup Ervik, Mette Jansen Wannerstedt, Helen Håkonsholm, Aruna Eide Skingen. Center: Parliamentary Ombudsman Hanne Harlem.
Photo: Mona Ødegård.

Selected topics from 2020

Increased Isolation and Stricter Conditions in Prison During the COVID-19 Pandemic

In the spring of 2020, the Ombudsman's Preventive Mechanism (NPM) has investigated the consequences of the pandemic on inmates in several prisons. The investigation concluded that many inmates experienced their imprisonment as more difficult during the initial phase of the pandemic, due to restrictions imposed for infection control.

Intrusive infection control measures in prisons
Conditions in prisons make it difficult for inmates to protect themselves against infection, and inmates also have a higher rate of ill-health than the general population. Therefore, many inmates are at risk of developing serious illness from the coronavirus. In addition to this, prison inmates are particularly at risk of human rights violations as a result of measures imposed to control the pandemic.

The Ombudsman's previous visits to prisons have documented extensive use of solitary confinement, even during normal operations. The Ombudsman was concerned about how the pandemic would affect imprisonment conditions as intrusive measures were introduced quickly to prevent outbreaks in prisons.

Front page of the report "Investigation under the OPCAT mandate: Protecting prison inmates during the COVID-19 pandemic".

Corridor in a prison visited by the NPM.

In the spring of 2020, the Ombudsman therefore conducted an investigation of how inmates were safeguarded in Norwegian prisons during the initial period after the outbreak of the COVID-19 pandemic. The investigation was based on information we obtained covering the period from 12 March to 14 May 2020.

Methodological limitations and consequences for the investigation

The NPM's work was also affected by the pandemic. On 11 March 2020, we decided to temporarily suspend our visits to avoid exposing anyone to increased risk of infection. At the same time, it was essential to still be able to safeguard our mandate, even in a situation where physical visits could not be conducted.

Physical visits permit us to observe conditions at the places we visit and give us the opportunity to gain the confidence of those we speak to through direct conversations. We thus gain a better insight into both formal and informal rules and routines. As this was no longer an option, we had to develop new methods and utilise sources other than observations and interviews for the investigation.

We carried out a survey that was distributed to a sample of inmates in four prisons. A survey cannot replace the interviews that we normally conduct with inmates; however, it did present an opportunity to include inmates' perspectives when physical visits were not possible. In the survey, we asked how the inmates had experienced the infection control measures; what kind of compensating initiatives they had been offered, and whether they had been placed in quarantine due to the coronavirus.

Other sources included written information from relevant authorities, including dialogue with the Norwegian Correctional Service.[1] We carried out telephone interviews with prison authorities in ten prisons, analysed written information and procedures from these prisons and from the prison health services in eight of the ten prisons. We spoke to the heads of the Supervisory Boards in the Correctional Service's five regions and consulted voluntary organisations and members of the NPM's Advisory Committee

The sample size of the survey limited the opportunity to establish decisive findings concerning local practices in each prison. The recommendations given in the report were therefore primarily addressed to the relevant central authorities and not to the individual prisons.

To ensure the findings were as representative as possible, we obtained information from both high and lower security sections, from female and male inmates and from prisons in all five Correctional Service's regions.

1 See the response from the Ministry of Health and Care Services to the written enquiry from the Ombudsman here: https://www.sivilombudsmannen.no/aktuelt/tortur-forebygging/om-konsekvensene-av-covid-19-for-frihetsberovede-svarbrev-fra-tre-departementer/

Measures designed to protect inmates from infection

In the period after 12 March, the number of inmates in prisons was reduced via initiatives such as early release, suspended sentences and transfer to home detention. This made it possible to avoid inmates having to share a cell; it also made it easier to maintain physical distancing and to safeguard hygiene requirements. This is assumed to have been important measures to limit the risk of infection.

The Correctional Service also introduced measures to ensure that inmates received information about the COVID-19 pandemic. The Correctional Service cooperated with voluntary agencies in drafting information materials and in setting up information channels to assist next of kin.

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The officers organised various games, contests, outdoor exercise, bingo, quizzes etc. Very pleased !

Inmate

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Infection control measures led to significant restrictions on inmates' daily lives

In the spring of 2020, a number of restrictions were placed on the daily lives of prisoners, brought about by infection control measures. For example, activities and work programmes were discontinued or reduced considerably. Education programmes were largely cancelled, as it was not considered possible to adapt to digital education, as was the case in schools elsewhere in the country. Visits were no longer permitted; however, arrangements were made for inmates to remain in contact with their lawyer in a way that safeguarded infection control, for example by telephone or through a glass screen. To reduce the adverse effects of these restrictions, several compensatory measures were introduced.

Inmates were given access to tablet computers to keep in contact with friends and family who could no longer visit, and the call time for ordinary telephone calls was extended. Several prisons also continued certain work and activity sessions that were consistent with infection control rules. Various activities were organised, such as quizzes, games, extended TV channel access and outdoor training. The survey indicated that significant creativity had been applied in several prisons, regarding compensatory activities.

Despite the compensatory measures that were introduced, the impression was that many inmates felt that they spent much more time locked in their cells during a 24-hour period than they would under normal circumstances. Consequently, many of the inmates experienced serving during this period as challenging. Several inmates also reported that they were not given the opportunity to make use of the compensatory measures.

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There was a lot of alone time and long days since the work activities were stopped. There was a sense of isolation since the visits were cancelled.

Inmate

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Routine solitary confinement of new inmates

One of the most intrusive infection control measures was the implementation of routines for exclusion of inmates from the community (solitary confinement). The Ombudsman considered whether this was in accordance with human rights standards. In particular, the Ombudsman examined the introduction of routine solitary confinement of new inmates by the imposition of fourteen days quarantine.

Exclusion and solitary confinement

The Execution of Sentences Act Section 37 permits a prison to determine that an inmate, wholly or partially shall be "excluded from the company" of other inmates. This can be imposed if it is deemed necessary to prevent inmates from continuing to influence the environment in the prison in a particularly negative manner, to prevent inmates from harming themselves, acting violently, threatening others, to prevent significant material damage, to prevent criminal acts or to maintain peace, order and security in the prison.

During the pandemic it was decided that all new inmates should be "wholly excluded" from the company of other inmates for fourteen days. According to the Correctional Service's guidelines, "wholly excluded" from other inmates means that the inmate shall not be in the company of other inmates at all. Complete exclusion under normal circumstances thereby represents solitary confinement as defined in the Mandela Rules. In this article the term "solitary confinement" therefore refers to this form of exclusion.

As a consequence of the measure that was introduced on the national level via a Circular from the Correctional Service on 3 April 2020, a large number of inmates were placed in quarantine without symptoms of COVID-19 and without confirmed exposure to a possible infection situation.

In the view of the Ombudsman, which is further substantiated in the report[2] from the investigation, infection control considerations do not provide sufficient grounds for solitary confinement insofar as the measure is not related to the inmate's conduct.

Moreover, the Ombudsman examined whether the measure was in accordance with human rights requirements with respect to proportionality and necessity. In the Circular from the Correctional Service, no instruction to consider less intrusive measures was given, such as health assessment procedures or testing. The Directorate of Health had not found that exclusion from the prison community was necessary to maintain infection control standards. In the Ombudsman's view, it is problematic that the Correctional Service chose to act against the advice of health professionals in this case. Solitary confinement imposed due to infection control considerations should always be based upon medical necessity.

New inmates are in a particularly vulnerable situation and have among other things, an increased risk of suicide. Therefore, it is concerning that many of the respondents in our survey stated that they had limited access to compensatory initiatives, for example virtual visits, during the time they were placed in quarantine.

In the survey, only around half of the respondents who stated they had been placed in solitary

2 Read the full report here: https://www.sivilombudsmannen.no/wp-content/uploads/2020/09/Norwegian-NPM-report-on-Covid-19_revised-versjon_2.pdf

Exercise yard in a prison visited by the NPM.

confinement replied "yes" to the question about whether they had been given extra telephone time and video conversations via tablet computers. Several of the respondents also stated that they had little access to the outdoors during the period. In the investigation we pointed out that inmates who were placed in solitary confinement due to confirmed or suspected infection, should be offered daily outdoor time in line with the Correctional Service's memorandum. At the same time, we found that the Directorate of Health had apparently given directions to the prison health services that inmates placed in solitary confinement due to infection, should not leave their cells. This illustrates the importance of close coordination and dialogue between the Correctional Service and the health authorities.

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Isolation was incredibly difficult and painful. I considered [...] taking my own life [...] I have never been in prison before, so this transition was crazy [...] I would not wish this on anyone.

Inmate

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Inmate's right to healthcare during a pandemic

The prison healthcare services play an essential role in safeguarding the health of inmates, also during a pandemic. The Ombudsman has repeatedly noted that the capacity of the prison healthcare services is inadequate.[3] The investigation showed that the challenges in regard to the general capacity of the healthcare services were exacerbated during the pandemic. Inmates experienced greater difficulty in contacting healthcare services during the COVID-19 pandemic than under normal circumstances, as the healthcare services had to prioritise emergency care.

«[...] had a conversation lasting three minutes with the healthcare services on the day of arrival, but no further contact.»

Inmate

It also appears that adverse effects from solitary confinement and psychological strain as a result of quarantine and solitary confinement have not been given adequate attention. The Ombudsman notes that inmates in quarantine and solitary confinement are deprived of their liberty and cannot safeguard their own interests. Therefore it is unfortunate that inmates who have been placed in quarantine and solitary confinement have not received necessary supervision from prison healthcare services. Of the fifty respondents who stated that they had been placed in quarantine or solitary confinement, only one stated that they had received daily visits by the healthcare services. This is in breach of the Mandela Rules and the WHO's provisional guidelines on COVID-19 in prisons, which determine that inmates placed in solitary confinement must be supervised daily, respectively once or twice per day.[4]

Doctor's office in a prison visited by the NPM.

3 See also The Parliamentary Ombudsman's Special Report to the Storting on Solitary Confinement and Lack of Human Contact in Norwegian Prisons, Document 4:3 (2018/19), chap.10; Parliamentary Ombudsman's report from visit to Oslo Prison, 1922 November 2018; Arendal Prison 68 February 2018; Åna Prison, 1315 November 2017; Ullersmo Prison, 2931 August 2017; Bergen Prison 46 November 2014.

4 Mandela Rules, rule 46 no. 1; (WHO) Europe, "Preparedness, prevention and control of COVID-19 in prisons and other places of detention: interim guidance», 15 March 2020, p. 21.

Legal safeguards

Even though central authorities have maintained an ongoing dialogue during the pandemic, findings from the investigation suggests that the Correctional Service has found it challenging to adapt the health authorities' general infection control advice to the prison sector. We also found examples of the introduction of intrusive emergency infection control measures by some municipalities, before central guidelines had been drawn up. Lack of clarity regarding statutory authority and absence of national guidelines adapted to the prison context increase the risk that intrusive measures are introduced locally without an adequate evaluation of proportionality.

The Supervisory Boards for the correctional services did not conduct physical supervision during the period of investigation; however, they had largely continued the processing of individual enquiries from inmates. Alternative methods of supervision had been considered to some degree, but these had not yet been implemented. The restrictions that were imposed upon inmates indicated that arrangements should have been in place for effectively working supervisory bodies, also during the pandemic.

Conclusion

The pandemic created an ambiguous situation, particularly in its initial phase. The measures that were implemented must be considered in light of the available information about the virus and level of infection in the community at the time when the measures were introduced. The Correctional Service succeeded in avoiding major infection outbreaks in prisons and introduced a broad spectrum of measures to protect the rights of inmates during the pandemic. At the same time, the Ombudsman's investigation concluded that there had been major variations in the inmates' access to compensatory measures during this difficult period. The investigation indicated that many inmates experienced a high degree of isolation during the period.

It is particularly concerning that intrusive measures such as quarantine and solitary confinement were introduced based on unclear statutory regulations, and that inmates in quarantine and solitary confinement did not receive adequate supervision from the healthcare services.

The purpose of the investigation was to contribute to a reduction in the risk of inhuman and degrading treatment in case of a possible new pandemic outbreak. In the report, feedback regarding eight central issues was given to the responsible authorities. These concerned, inter alia, the need for close coordination and dialogue between the Correctional Service and the health authorities. The report from the investigation was distributed to the Ministry of Justice and Public Security, the Ministry of Health and Care Services, the Correctional Service and the Directorate of Health. It was also made available to all prisons and transitional houses in all five regions of the Correctional Service. In addition, findings from the investigation were shared with national preventive mechanism agencies in other countries. The report is also available on the Parliamentary Ombudsman's website.[5]

5 https://www.sivilombudsmannen.no/en/torturforebygging/

Children's Rights in Mental Healthcare Should Be Better Safeguarded

During the year, the Parliamentary Ombudsman published three reports from visits to hospital departments where children and adolescents can be admitted without their consent.[1] The visit reports show that legal safeguards for children admitted to psychiatric hospital departments should be strengthened.

The human rights of children and adolescents when they are admitted without consent

When children are admitted to institutions without their consent, this places restrictions on their freedom and opportunity to decide for themselves. Nevertheless, all children who are admitted to a health institution have the right to be heard in respect of matters that concern them.[2] Children's opinions must be given emphasis in accordance with their age and maturity. The child's best interest must be a primary consideration in all actions and decisions affecting children.[3]

Children and youth who are deprived of their liberty are additionally vulnerable to violations of their integrity and therefore have a right to special protection. According to the UN Convention on the Rights of the Child, children who have been deprived of their liberty must be treated with humanity and respect for their inherent dignity.[4] Deprivation of liberty must take into consideration the child's needs in relation to his/her age. Children are more vulnerable than adults and are therefore granted greater protection in respect of their personal integrity.[5] There is a much lower threshold before the prohibition against torture and inhuman or degrading treatment is breached in regard to children.[6]

The UN has established special regulations for the protection of children that have been deprived of their liberty; these are known as the Havana Rules.[7] The rules establish that children should have a physical environment that makes due regard to the need for privacy, sensory stimuli, opportunity for association with peers and participation in physical exercise and leisure-time activities. Children deprived of their freedom has the right to compulsory education. This must be adapted to children with disabilities. Children must also have the opportunity to spend time outdoors every

1 One of the visits was conducted in October 2019; however, the visit report was published in 2020.

2 Constitution Section 104 par. 1 and the UN Convention on the Rights of the Child article 12.

3 Constitution Section 104 par. 2 and the UN Convention on the Rights of the Child article 3 no. 1.

4 UN Convention on the Rights of the Child article 37 (c).

5 Constitution Section 104 par. 3.

6 UN Special Rapporteur on torture, report to the UN General Assembly, 5 March 2015, A/HRC/28/68, section31–33.

7 UN Regulations for the Protection of Juveniles Deprived of their Liberty (Havana Rules), adopted by General Assembly resolution 45/113 of 14 December 1990.

day, with provisions for physical activity and other recreational activity. Children's right to healthcare must be safeguarded, and medical treatment should, in principle, only be given on the basis of informed consent from the child. Children must also have the opportunity to stay in contact with family, friends and relevant organisations, through visits or by telephone. The use of intrusive coercion and force must only take place in extraordinary circumstances after other measures have been tried, and only within what is permitted by law.

The Mental Health Care Act provides few regulations that are adapted to children who have been deprived of their liberty. The challenges this represents will be further examined in the final part of the article.

Visits indicate that children need better protection against intrusive coercion

Intrusive force and coercion measures must only be used on children if there is an immediate risk that they can harm themselves or others, as a last resort and for the shortest time necessary.[8] It must only be used in cases that are clearly warranted by laws and regulations, and there are strict requirements in respect of documentation. Several human rights agencies have recommended a prohibition of coercive measures, solitary confinement and similar measures imposed on children.[9] The European Committee for the Prevention of Torture has stated that it is only acceptable to restrain children until the risk of injury has passed.[10]

The NPM conducting an inspection during a visit to a "mental healthcare section for children and adolescents.

However, the Mental Health Care Act allows for administration of strong medication without the consent of the child in emergency situations.[11] Children over 16 years of age can also be restrained with straps or isolated in a room. It is additionally problematic that Norwegian law permits the use of particularly intrusive coercion methods, such as straps, to prevent damage to objects. Human rights considerations indicate that such intrusive measures are only permitted to prevent immediate risk of injury to persons.[12]

Findings from our visits indicate that children admitted to mental healthcare institutions can be subjected to very intrusive forms of coercion. During one of our visits, we found that children under 16 years old had been subjected to unlawful use of restraint belts and segregation.[13] We also found that an adolescent over 16 years old had been brought to the hospital by the police wearing

8 ECHR judgement of 19 Feb 2015 MS v. Croatia (no. 2), application no. 75450/12, section 104; Havana Rules, rule 64 and UN Special Rapporteur on torture, Annual Report to the UN General Assembly 2015, A/HRC/28/68, section 86 (f).

9 UN Special Rapporteur on torture, Annual Report to the UN General Assembly for 2013, A/HRC/22/53, page 14–15, section 63 and page 23, section 89 (b), and for 2015, A/HRC/28/68, section 84 (d). See also UN Committee Against Torture, recommendations to New Zealand, 2 June 2015, CAT/C/NZL/CO/6, section 15 (b).

10 See Committee on the Prevention of Torture (CPT) report after a visit to Poland in 2017 CPT/Inf/ (2018) 39, section 134.

11 Mental Health Care Act Section 4–8.

12 In appeal cases against the use of restraint straps on adult patients, ECHR has stated that: "... such measures be employed as a matter of last resort and when their application is the only means to prevent immediate or imminent harm to the patient or to others." (M.S. v. Croatia (no. 2), complaint no. 75450/12, judgement of 19 February 2015, section 104. See also Council of Europe Committee of Ministers recommendation Rec (2004) article 27 no. (1).

13 The Parliamentary Ombudsman's report after the visit to Helse Stavanger HF, Section for children and adolescent mental health care. 8–10 and 29–30 October 2019. The unlawful circumstances had ended at the time of the visit.

A segregation room used for children at one of the places we have visited.

a spit hood, and was later placed in restraint belts. The adolescent was restrained for five hours and fifteen minutes. It was not sufficiently documented as to why it had been necessary to keep the adolescent restrained for four and a half hours after the adolescent had fallen asleep. This type of situation could potentially amount to a violation of the prohibition against inhuman treatment.[14]

The use of segregation is another intrusive measure used in child and adolescent psychiatry. Some adolescents are subjected to segregation for long periods, with repeated measures and a great deal of coercion. At two of the three places we visited, we criticised the use of segregation. The segregation zones at one of the places was designed in such a way that it appeared threatening and frightening.[15] We were particularly critical of some segregation rooms that resembled isolation cells. The Ombudsman stated that long-term placement in such rooms was unacceptable and represented a risk of inhuman treatment. The hospital has subsequently improved the segregation zones and changed segregation routines.

What is segregation?

Segregation in Norwegian mental healthcare means that the patient is fully or partially segregated from other patients and only has contact with health personnel. The measure can be introduced without the consent of the patient, in the patient's room or in a segregation zone. A segregation zone is an area with one or several beds that is separated from other parts of the institution, normally with a lockable door. Patients that are admitted to a segregation zone can be refused access to common rooms in the ordinary part of the section and will normally be unable to have social contact with other patients and personnel.

Norway is one of few countries that has a distinct set of enforcement regulations related to segregation. Segregation is used both as a control measure to protect patients or others against aggressive behaviour, and as a treatment measure with the idea that reduced sensory impressions will provide calm for the patient.

Our findings also showed that children are subjected to intrusive treatment measures without their consent, such as force-feeding where the patient suffers from a serious eating disorder. For treatment not to violate the child's right to personal integrity, the treatment must be *necessary to prevent serious harm to health*. The method of how treatment is carried out must also be proportional.[16] In two of our visits we found examples of situations that gave grounds for concern that force-feeding was carried out without the measure

14 See ECHR judgement Bures v. Czech Republic, application no. 37679/08, judgement of 18 October2012, section 102–104 and Aggerholm v. Denmark, application no 45439/18, 1 September 2020, section 95–115.

15 The Parliamentary Ombudsman's report after the visit to Helse Stavanger HF, Section for children and adolescent mental health care, 8–10 and 29–30 October 2019.

16 Forcibly administered treatment can be in violation of the European Convention on Human Rights article 3, see ECHR judgement in Herczegfalvy v. Austria, application no. 10533/83, 24 September 1992, section 82. Enforce treatment may also breach European Convention on Human Rights article 8 no. 2. See ECHR judgement X v. Finland, 3 July 2012, application no. 34806/04.

being strictly necessary. In some cases, significant physical coercion was applied to carry out the force-feeding.

One of the visits gave particular grounds for concern. The concern was in relation to the sum of intrusive measures as part of treatment for eating disorders.[17] The Ombudsman pointed out the fact that staff did not feel they had adequate competence in the methods on which the treatment measures were based. The institute's methods also included other treatment measures with a questionable or absent statutory basis. Among other things, some activities were made reliant on patients completing meals without this having any medical foundation. It is problematic if the course of treatment is organised in a way that undermines children and adolescents' right to activities.[18] In some cases, adolescents' bathrooms were locked and they had to ask staff for permission to go to the toilet. Both the professional grounds and statutory basis for this practice were unclear.

Children have the right to protection against serious abuse such as violence, neglect and sexual abuse.[19] Places where children are admitted against their consent have the responsibility to protect children against such violations.[20] Our findings from visits indicate that there is a need to do more to protect children and adolescents against such incidents whilst they are admitted to a ward. The Ombudsman has requested clear routines to prevent violence and abuse. We have highlighted the need to ensure that staff feel free to speak to one another regarding how they should act in relation to vulnerable children and adolescents.

Good practices for safeguarding the needs of children

The Ombudsman's findings this year have also shown examples of institutions that have been successful in offering treatment to children and adolescents that safeguards fundamental rights. During one visit, we found that the ward had created safe and caring frameworks for children.[21] The ward's decision not to be approved for enforced admissions had had several positive consequences for how children and adolescents were safeguarded. Major emphasis was placed on creating a situation in which the children themselves would wish to accept treatment. Activities organised by the ward were good and varied. The ward organised regular activities such as gym sessions and various voluntary activities – the adolescents were given the opportunity to influence in these. The exit doors were unlocked. The ward had made a

The common area at the children and youth ward, Levanger Hospital.

17 The Parliamentary Ombudsman's report after the visit to St. Olav's Hospital, Children and adolescent psychiatric clinic, Lian, 25–27 February 2020, chapter 12.

18 UN Convention on the Rights of the Child article 31.

19 See report by UN independent expert Manfred Nowak on children who are deprived of their liberty, A/74/136, Report to UN General Assembly 11 June 2019, section 102.

20 UN Havana Rules, rule 87 (c) and (e), Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, adopted October 2007 (Norway became a signatory to the convention on 1 October 2018). See also Specialist Health Service Act Section 2–1 (f), which stipulates that "Regional health services shall ensure that specialist health services are capable of precluding, uncovering and preventing violence and sexual abuse".

21 The Parliamentary Ombudsman's report after the visit to the children and youth ward, Levanger hospital, 10–12 February 2020.

great deal of effort to avoid physical confines with a strict security character, sterile surroundings and locked doors. The premises were well maintained, with appealing colours, very pleasant furnishings, and a homely atmosphere.

The ward worked effectively on providing children and adolescents with detailed information about their rights, daily routines and the health treatment offered. The findings indicated that children and adolescents, to a significant degree, were listened to and allowed to participate in deciding on matters important to them. Strengthening the child's right to be heard and to take part in decisions affecting it, is an important measure to ensure that children's rights are safeguarded.

Complaints and supervision mechanisms that safeguard children

Effective complaint and supervision mechanisms are important in safeguarding children and adolescents' legal protections and to prevent violations of their integrity .[22] The Parliamentary Ombudsman's findings have shown that the local control commissions, whose purpose is to ensure children's legal safeguards in mental healthcare, lack a common approach to children admitted to institutions, and that the practices of some commissions are problematic in relation to children's legal protection. The findings indicate that several control commissions have not established practices for visiting the wards where the patients are staying. This is problematic as it implies that the commissions are not in direct contact with the patients. It also increases the risk that the commissions overlook deplorable conditions that can only be discovered through physical inspections. The Ombudsman has concluded that some control commissions have interpreted their role too narrowly. For example, some commissions have understood that it is outside of their scope of work to criticise challenges related to the physical construction of the hospital buildings.

Children under 16 years of age have weaker complaint rights than adults; however, children over 12 years of age who disagree with their admission, can complain to the Control Commission. Our findings indicate that some institutions and control commissions lack routines to establish whether children agree or disagree with their admission.

At the same time, we have found examples of supervisory mechanisms carrying out effective supervision of the circumstances pertaining to children. For example, a County Governor's office had for some time followed up one of the institution's practices for application of coercive measures and segregation of children. A local Control Commission had organised its work in a way that made it easily accessible to children and adapted to children's needs. The Control Commission had also contributed to positive changes in the ward's general routines.

The need for legislation that provides better safeguards for children in mental healthcare

The Ombudsman's findings from visits within mental healthcare for children and adolescents indicate that legislation relating to mental healthcare does not provide adequate protection of children's personal integrity and legal security. It is unclear as to how certain regulations should be applied to children, and overall, the regulations provide inadequate protection against violations of the integrity of the patient. The fundamental rights in the UN Convention on the Rights of the Child pertaining to the best interest of the child and the right of the child to be heard in all matters affecting the child, and the child's right to development are not incorporated in the law.[23] All hospitals are obliged to ensure that childrens' human rights are

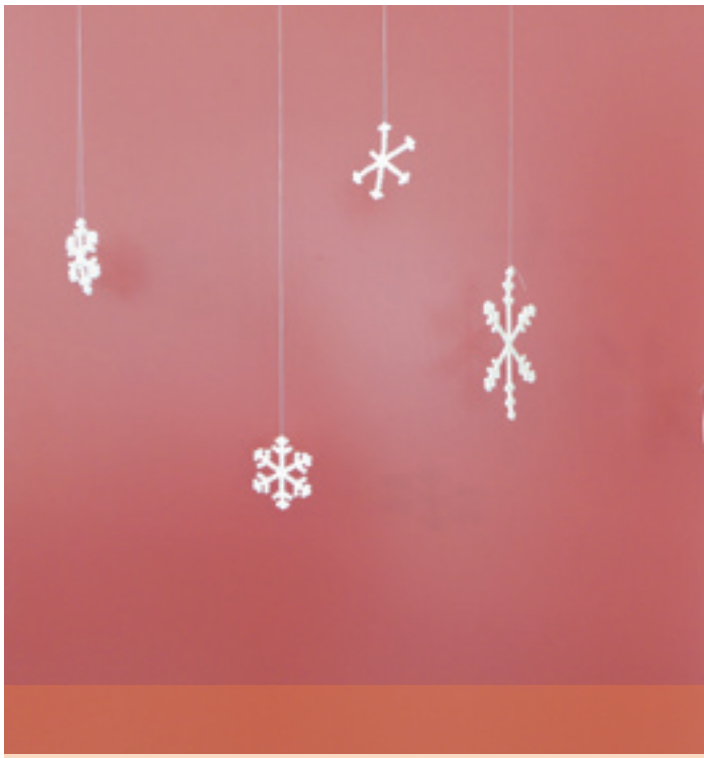
22 Havana Rules, rule 72–78, CPT, Enforced admission to a psychiatric institution, CPT/Inf (98) 12-part, section 53 and CPT, Complaints procedures, CPT/Inf (2018) 4-part.

23 The Ombudsperson for Children, in a report from 2015, has criticised the fact that the legislation reflects children's special needs and rights to a limited degree: Ombudsperson for Children, Grenseløs omsorg *[Care without boundaries]* expert report 2015, page 21.

upheld, even if the rights are not directly incorporated in the Mental Health Care Act.[24] However, it can be challenging for health personnel to understand how this law is to be applied so that children's human rights are fully respected.

A general issue relating to the legal safeguard of children in mental healthcare is that coercion involving children under 16 years of age is not legally considered coercion. When a child is under 16 years old, they are admitted to hospital on the parents' consent regardless of whether the admission is based on the consent of the child. The admission is therefore not covered by the strict legal conditions that regulate enforced admissions of adults.[25] This weakens the legal protection of children. It also makes it difficult to maintain an overview of the numbers regarding use of coercive measures against children under 16 years of age.

Additionally, intrusive treatment measures such as segregation, force-feeding or enforced medication are not legally considered coercion in relation to children under 16 years of age. These are measures dependent upon consent from parents or others with parental responsibility. Consequently, decisions regarding the use of these types of coercion are not formally recorded as an administrative decision that otherwise would provide the basis for the right to submit a complaint. During our visits we have found that an overview of measures implemented without the consent of the youngest children, are lacking, both in the wards and in the control commissions. This is unacceptable. Children are more vulnerable than adults, and



Bead decoration made by children admitted to one of the children and adolescent psychiatric wards we have visited.

deficiencies in legislation generate an increased risk of children being subjected to human rights violations. In July 2019, a legal review committee proposed changes to the regulations concerning the use of coercion and children in healthcare services.[26] Though the proposed amendments also present some challenges, they will, if adopted, strengthen the rights of children in several areas. In a consultation submission, the Ombudsman highlighted the need to strenghten the legal safeguards and protection of children.[27]

24 This is in accordance with the Constitution Section 92 and Human Rights Act Sections 2 and 3.

25 Mental Health Care Act Section 2–1 cf. Patient and User's Rights Act Section 4–4.

26 NOU 2019: 14 Act relating to the use of coercion.

27 The Parliamentary Ombudsman's submission on NOU 2019: 14 Act relating to the use of coerion, 30 December 2019.

When Children Live Alone With Adults in a Child Welfare Institution

Since 2016, the Parliamentary Ombudsman's Preventive Mechanism (NPM) has visited 21 children's welfare institutions. On several occasions we have met adolescents who live alone together with staff – without other children or adolescents. In this article, we look closer at our provisional findings concerning the risk of violation of children's rights in situations where children live alone with adult staff, without choosing to do so.

Various reasons why adolescents live alone with adults

Some adolescents live alone as a voluntary solution based on dialogue between the adolescent and the staff of the institution. These are children who tell us that they need a more calm and structured environment than what they get from living together with other children. They experience that school and other activities provide them with the contact with peers that they need. We do not further examine these situations here.

However, the Ombudsman is concerned about situations where adolescents live alone with staff on an involuntary basis, regardless of whether an administrative decision has been made to place them separate from other childern or not.[1]

In some cases, it is difficult to obtain a solid explanation from the institution as to why the adolescent lives alone. At some institutions we

View from a child welfare institution visited by the NPM.

1 We will not address particular problem issues concerning the use of so-called "motivational trips" at drug and alcohol dependency treatment institutions, that was thoroughly covered in the reports after the visit to Klokkegårdenkollektivet and Skjerfheimkollektivet and the follow-up from these visits. See reports and follow-up here: https://www.sivilombudsmannen.no/en/visit-reports/

have seen that adolescents who are struggling psychologically, have a high level of conflict with staff or other children, or have extensive drug or alcohol problems, are placed alone because the institution finds it difficult to work out good solutions in the proximity of other adolescents.

In other cases, adolescents have lived alone for several months, because the institution is waiting for the arrival of an adolescent who can be a good match with the person already living in the institution. In several cases, and without being planned for, this situation has been the reality over longer periods of time. There is no assessment as to whether the adolescent should, or wishes to, live alone at the institution and no evaluation of to what extent the situation is in the best interest of the child.

Prohibition against isolation at child welfare institutions

Interaction with children of the same age is important for a child's normal development. The brain develops until well into the twenties, and normal development is dependent on adequate relational assurance, social contact and model learning.[2]

Isolation is not permitted at child welfare institutions – neither as punishment or treatment, nor as a form of upbringing.[3] It is important to note that child welfare legislation defines isolation as a child being "kept apart from their peers at the institution, with contact with staff only".[4] This definition deviates from how isolation is generally perceived,[5] and lowers the threshold for when one can say that a young person is segregated.[6]

The prohibition against isolation also applies when an administrative decision has been passed to place a child separate from other adolecents. This means that children and adolescents placed alone with adults according to an administrative decision have the same right as other children not to be put in isolation. They shall have contact with other children and adolescents at school and during recreational activities and must be able to accept visits and move around freely.[7] The same applies to children and adolescents who in reality live alone with adults without this being specifically stated in the administrative decision. However, our findings indicate that many situations where children are placed alone with adults contravene the prohibition against isolation; these adolescents can in reality have little or no contact with other young people.

The use of coercive measures can intensify isolation

Several of the adolescents we have met or that have lived alone at an institution in the period we have examined have been subjected to a number of administrative decisions that allow for coercive measures to be used. Many of these decisions concern restrictions on the freedom of movement and restrictions on the use of electronic communi-

2 See for example Tetzchner, S. v. (2012). Developmental Psychology. Oslo: Gyldendal Akademisk.

3 The Rights Regulation § 13.

4 An exception from the general prohibition against segregation of adolescents at child welfare institutions may be when the conditions in the Rights Regulation section 14 concerning coercion in acute risk situations are met. This regulation requires an emergency or justifiable protection situation, and describes segregation as a situation in which the young person is kept separated from others while at least one member of staff is always present with the young person or in an adjacent room with an unlocked door.

5 For example, in mental healthcare and correctional services, where isolation refers to situations where the person is locked alone in a room or a cell.

6 See further information in Ministry for Children and Families 2000-11-22. 6621/1997. Reference to the use of "segregation" and the Directorate for Children and Families 2019-03-31. -3/2018. Interpretation statement – use of in voluntary trips as therapeutic measure in treatment at children's welfare institutions.

7 See also Directorate for Children, Youth and Family Affairs reference to "enetiltak', https://bufdir.no/Barnevern/Tiltak_i_barnevernet/Barnevernsinstitusjoner/

cations.[8] When children have their mobile phones taken from them and are not permitted to move freely, this can result in institutionalization with only minimal contact with peers.

The isolation-like conditions that these children experience are in some cases explained by the institution as a strategy of "warming up" or "containing" the individual adolescent so that staff can be in a better position to provide help. In the Ombudsman's experience, it is difficult to see that this has been a successful strategy in relation to the adolescents involved.[9]

On the contrary, we have been concerned that such circumstances can lead to the the adolescents feeling isolated and abandoned, resulting in feelings of powerlessness, disruptive behaviour and an escalation of behaviour characterised by a distrust of adults. In some cases, we have seen situations involving the extensive use of physical coercion as a response to this type of escalating behaviour. Such incidents only increase mistrust and insecurity for both the child and the staff. Despite the fact that the particular situation where physical coercion is used can be well founded in the administrative decision, it is therefore important to examine the child's situation in more detail, in a longer and more holistic perspective. Acute incidents can be caused by strain experienced by the young person over time.[10]

These circumstances give rise to concern as to whether children live in situations that involve a violation of the prohibition against isolation according to national regulations. The European

Common area in a child welfare institution visited by the NPM, in which only one adolescent lived.

Convention on Human Rights (ECHR) article 8 stipulates that restrictions on private life may only be imposed if in accordance with the law and must be necessary and proportional in each individual case. In cases where a person's freedom is already restricted as they have been forcibly placed, the European Court of Human Rights has a strict view regarding measures that limit the person's freedom even further.[11]

Organising schooling and activities can take too long

Children and adolescents who reside at child welfare institutions have the same right to schooling as other children.[12] UN guidelines for alternative care for children point out that those who are responsible for children under alternative care, must "take steps to promote and protect all rights that are particularly relevant the children without parental care, including among other things access to education [...]".[13]

8 Ref. Rights regulations Sections 22 and 24.

9 See The Parliamentary Ombudsman's report after visit to Stendi AS, Nymogården child welfare institution, 12–14 November 2019, page 31.

10 This is a correlation that is also highlighted in the County Governors of Hordaland, Rogaland and Troms (2016). "Dei forsto meg ikkje" *["They did not understand me"]*. Supervisory report, 19 September 2016.

11 Munjaz v. United Kingdom, application no. 2913/06, 17 July 2012, section 80: "... when a person's personal autonomy is already restricted, greater scrutiny [will] be given to measures which remove the little personal autonomy that is left.»

12 UN Convention on the Rights of the Child article 28, UN rules for protection of minors deprived of their liberty (Havana Rules) section 38, Education Act Sections 2–1 and 3–1, rights regulations Section 1.

13 United Nations, General Assembly (2010). A/RES/64/142. Guidelines for alternative care of children, article 16.

During some of our visits, we have seen that considerable time has passed before schooling has been organised, or that the education offer has been extremely limited. The same applies to recreational activities and contact with peers outside of school hours.[14] This has been exacerbated when in addition, the adolescent does not live with other young people at the institution.

Everyone has a need for friends, for a sense of belonging and community and social interaction.[15] Good relations and the ability to master situations outside of the institution are important factors to ensure that adolescents thrive and succeed after they move away from the institution. Many young people struggle to find friends when they live at an institution and those who relocate frequently, lose contact with friends.[16] Adolescents at child welfare institutions and those subject to individual initiatives are particularly vulnerable as it is often a goal to break contact with old networks and to form new ones.

In addition to professional education, the school shall help students to develop social skills. Children also have a right to leisure time and recreational activities.[17] This is important for a good childhood and for the child's right to development.[18] These rights also apply to adolescents who are placed in an institution without their consent and can be important to make their stay a the institution meaningful, and to help them develop.

Stability and safety can be impacted by too many staff

The institution will be the child's home during the period they are placed there.[19] Stability and continuity in the staff group is an important factor for ensuring the safety and confidence of the children. Frequently, part of the reasons for relocating the child to a separate placement is the need for stable and close follow-up.

However, we have experienced that there can be a high level of staff turnover, also at institutions where children live alone with staff, and despite the fact that staff are on live-in rotas. At one institution, an adolescent had to relate to thirty one staff members on live-in rotas for the four to five months the adolescents had been placed there alone. At another institution, an adolescent had met twenty one members of staff on live-in rotas during a period of four months.[20] At both of the institutions a large number of temporary staff were used that were not part of the regular team nor permanently employed at the institution. Numerous shifts also meant that staff members had little time to become acquainted with the adolescents or to plan activities with them.

Routinely being overseen by new and unknown staff can lead to insecurity, loneliness and difficulty in establishing trust and relations for the child. Without trust between the staff and the child, it is difficult to

14 Several bodies have a role and a responsibility in arranging schooling for adolescents that are placed in a child welfare institution.

15 Report Storting 28 (2015–2016) "Fag–Fordypning–Forståelse", page 22.

16 Ombudsperson for Children (2020) "De tror vi er shitkids *[They call us shitkids"]*. Report on children who live in child welfare institutions – 2020" page 50.

17 UN Convention on the Rights of the Child article 31.

18 UN Committee on the Rights of the Child: General commentary no. 17 (2013) CRC/C/GC/17, section 8.

19 Ministry of Children, Equality and Social Inclusion, Guidelines to regulations 15 November 2011 concerning rights and the use of coercion during stays at child welfare institutions, Q-2012-19, page 14.

20 See report after the Parliamentary Ombudsman's visit to Stendi AS, Nymogården child welfare institution, 12–14 November 2019, page 6: "A large number of temporary staff were used that were not part of the regular shift team or permanently employed at sheltered accommodation. Live-in rotas presented additional challenges when there were numerous changes in shift teams. Numerous shifts also meant that staff members had little time to become acquainted with the adolescents, or plan activities with them."

On the way to a child welfare institution visited by the NPM.

establish a foundation for good treatment.[21] When adolescents live alone with staff, they have no one else who can help them experience stability and security in their daily lives. The adolescents we spoke to told us about situations where they felt like outsiders and alone. This was particularly applicable for children who had few daily activities, children who did not have access to their own telephone and children who had been relocated far away from parents, siblings or other family or social network.

Being relocated far away

Sometimes adolescents who are placed alone, are relocated far away from their home. This is sometimes done to remove the young person from a social environment considered destructive, often due to drug or alcohol abuse. To be relocated to a remote institution, in some cases to a small house in a completely different part of the country, can be a dramatic and frightening experience. Adolescents we have met have informed us that it was a huge shock and a frightening experience to be forcibly brought to an unknown part of the country. In some cases, relocation had taken place with police transport for several hours or they had been accompanied by police on flights. The experience can be even more traumatic if it takes place suddenly and without involvement of the adolescent in question.

This relocation process is a poor starting point for establishing a sense of safety and good relations. If the adolescent is also placed in a remote location with conditions or circumstances that are completely unknown, it can lead to a feeling of abandonment and loss of their right to self-determination. This will be exacerbated if the adolescent in addition is subjected to a range of restrictions and has inadequate access to activity and school. These circumstances can make it difficult to achieve the changes desired when an adolescent is placed under institutional care without their consent for a longer period of time.[22]

Adolescents with mental health challenges

We have seen on several visits that adolescents who live alone with staff face mental health challenges. Staff in child welfare do not necessarily have the competence required to safeguard the mental health of adolescents who struggle with

21 See report from Norwegian Board of Health Supervision (9/2019). "Omsorg og rammer. Når barn trenger mer *[Care and frameworks. When children need more]* , page 11: "Several children also stated that they wished to have a few and caring adults to look after them. In some of the cases instead they felt they were surrounded by many untrained, temporary staff and a large number of shifting staff."

22 See e.g. A summary of the significance of autonomy in psychotherapy in Jung, H. T. and Vollestad, V. (2018). "Autonomi i psykoterapi – mer enn en etisk forpliktelse? [Autonomy in psychotherapy – more than an ethical obligation? A qualitative study of psychotherapists' perception of the concept "Client's autonomy" and reflections concerning safeguarding of autonomy in therapy. Thesis, Institute of psychology, Oslo University, page 6.

serious mental health challenges. At the same time, it is not always the case that admission to mental healthcare is the better solution for adolescents. A stay at a child welfare institution with secure frameworks and stable personnel *can* be better than a brief admission to hospital where personnel work a three-shift pattern.

However, this requires active follow-up from specialist health services with outpatient and advisory functions to ensure correct evaluation, treatment and optimal care for the adolescent. Specialist health services may experience that the needs of the young person are safeguarded by the child welfare services; however, they may not be aware that this is often with the use of intrusive coercion and control. They can also be unaware of other aspects of adolescent's stay at the institution, for instance that the adolescent may live isolated from their peers or that a lack of stability among personnel can lead to insecurity. In some cases, a long time has passed without any initiation of cooperation between the institution and specialist health services.[23]

Weak legal safeguards for children who live alone

In total, our findings indicate that children and adolescents who were placed alone in an institution with staff only, can be subjected to intrusive interventions that in some cases can amount to violations of their rights.

In a report concerning children who live in child welfare institutions, the Ombudsperson for Children describes many of the same risk factors we have observed during our visits, and recommends improved analysis and evaluation of children's needs, in advance of their placement in an institution.[24] In a survey carried out by the Office of the Auditor General of Norway, one of the principal findings was that the needs of several children were not adequately evaluated when selecting an institution.[25] The Norwegian Board of Health Supervision's report "Omsorg og rammer. Når barn trenger mer *[Care and frameworks. When children need more]* highlights some of the problematic aspects of separate placements of children.[26]

When children and adolescents live alone with staff, they become dependent on them in a way that can present challenges to legal safeguards. An example from one of our visits illustrates this: An adolescent was placed alone in a remote institution; a mobile telephone had been confiscated and no schooling arrangements had yet been made. The adolescent therefore had extremely limited opportunity to contact others. If the adolescent wished to speak to a legal representative or to supervisory bodies such as the County Governor or The Parliamentary Ombudsman, a member of staff would hold the telephone while the adolescent was using it.[27] This situation removed most opportunities from the adolescent to report unlawful issues or risk of violations.

On the basis of the challenges that the Parliamentary Ombudsman has thus far found in relation to children who live alone with staff in child welfare institutions, the Ombudsman believes it is likely that there will be a need to carry out several more visits to this type of institution.

23 See report from Norwegian Board of Health Supervision (9/2019). "Omsorg og rammer. Når barn trenger mer», where similar findings are also described in a review of cases with extremely serious consequences. See page 13.

24 Ombudsperson for Children (2020). "De tror vi er shitkids." *[They call us shitkids]* Report on children who live in child welfare institutions.

25 Office of the Auditor General of Norway (2020). Document 3:7 (2019–2020). "Investigation into whether state child welfare authorities ensure the best for children in child welfare institutions" page 52.

26 Report from Norwegian Board of Health Supervision (9/2019). "Omsorg og rammer. Når barn trenger mer *[Care and frameworks. When children need more]"*

27 See the Parliamentary Ombudsman's report after visit to Stendi Nymogården, 12–14 November 2019.

Visits, Follow-ups and Results in 2020

In spring 2020, we decided to suspend all visits. Work relating to visits was nevertheless continued throughout the year. Before the pandemic caused a lockdown, we had already completed five visits, and during the year, three reports were published based on these visits. In the autumn, five visits were conducted within two new sectors. We also followed up twelve institutions visited in 2018 and 2019.

VISITS IN 2020

During 2020, visits were conducted to ten institutions.[1] The number of visits was somewhat reduced due to the pandemic.

In January and February 2020, the Ombudsman's NPM visited a long-term section and an emergency section at the child welfare institution Olivia Solhaugen in Hadeland, two child and adolescent psychiatry units at St. Olav's hospital, under the children and adolescent psychiatric clinic, Lian, and a child and adolescent psychiatry ward at Levanger Hospital.

In the autumn, we conducted visits to two care homes for elderly, Høyås residential and rehabilitation centre in Nedre Follo municipality and Åsgårdstrand care home in Horten municipality.

At Høyås, we visited a section for persons with dementia with thirty one beds and at Åsgårdstrand care home we visited three wards with twenty six residents in total.[2]

We also conducted three visits to three shared housing facilities for persons with intellectual disabilities in Drammen municipality.

After each visit, the Ombudsman publishes a report that presents findings and recommendations to prevent torture, inhuman and degrading treatment. Below are summaries from the visit reports published after the visits conducted in the spring of 2020. Reports from visits carried out during autumn will be published in 2021.

1 In regard to visits to institutions that had sections, subunits or accommodation units that in reality functioned as differing units, the findings will often be collated into one report. This allows us to analyse findings related to management, and ensures anonymity for those we have spoken to. The 10 visits in 2020 will therefore result in six visit reports.

2 Wards 1a, 1b and 2d.

VISIT REPORTS PUBLISHED IN 2020

Olivia Solhaugen, Hadeland

The Ombudsman's NPM visited Olivia Solhaugen's child welfare sections in Hadeland in January 2020. Separate visits were carried out to the sections Myrheim and Storetjern. Myrheim is a long-term section where adolescents can be placed for a period up to one year, with the possibility of an extension. Storetjern is an emergency section where adolescents, in principle, should not stay longer than six weeks. Both sections accept adolescents between the ages of 13 and 18 who have been placed without their consent.

During the visit, the Ombudsman's general impression was that both sections had accessible and clear management. At the time of the visit, both sections had stability and continuity of staff.

The institution promoted systematic training of staff members. The training was carried out in accordance with semi-annual plans; it was mandatory to attend and well recognised among staff. The institution had its own professionally responsible manager, appointed to ensure continous professional development. A review of documents in connection with the visit showed that this structure allowed the institution to acquire new knowledge and to embed it within the organisation relatively quickly.

One of the buildings of the child welfare institution Olivia Solhaugen, Hadeland.

Olivia Solhaugen has previously been criticised by Bufetat and the County Governor for a lack of competence regarding adolescents with substance abuse problems. Even if the sections did not have adolescents suffering from drug or alcohol addiction as a primary target group, all child welfare institutions should have basic competence in identifying risk factors for development of drug and alcohol related problems. At the time of the visit, all staff had received relevant training on these topics.

There are strict requirements regarding documentation of the use of coercion in child welfare institutions. Decisions that involve the use of coercion are individual decisions according to the Public Administration Act. These decisions must be registered in an official protocol and sent to the supervisory authorities. Olivia Solhaugen had developed their own template for registering the use of coercion. The template was approved by the County Governor; however, in our view it had several deficiencies. Among other things, it did not ensure that signatures were dated, nor that the date and time for when the decision on the use of coercion was reviewed with the adolescent, were inserted. The template did not allow for proper registration of the duration of the use of coercion and did not have a heading where the date of placement could be registered, which made it impossible to see at what point during the stay at the institution the coercion had been applied.

We found coercion protocols where it was not substantiated that the conditions necessary for the application of physical coercion were present. The protocols also lacked documentation as to why coercion was considered necessary. Some protocols contained inadequate information to document why staff had intervened in a specific situation. In some of these cases, the actions of the staff appeared instead to have escalated the situation.

Olivia Solhaugen did not have specific procedures for preventing unnecessary use of coercion. However, it was clear from other routines that the institution did work actively to prevent coercion. In the sections we visited, it was evident that staff spoke to the adolescents about how they could seek help if they experienced difficulties, circumstances that could make them unhappy, stressed or angry, and what could be done to assist in these situations. Such information is important to avoid unnecessary use of coercion. However, this information was not systematised and easily accessible to all staff.

The Ombudsman's impression of the institution's cooperation with other agencies, such as healthcare services, police, and school, was good. Cooperation appeared to be characterised by dialogue and systematic work. There were nevertheless some exceptions. Some adolescents had not been offered a satisfactory school programme. We also heard about situations where adolescents had not been positively received and treated at the emergency clinic.

Levanger Hospital, Department of Child and Adolescent Psychiatry

The Ombudsman's NPM visited the child and adolescent psychiatry ward (BUP) at Levanger Hospital, in February 2020. The most important finding was that the ward provided a safe and caring framework for treatment of vulnerable children and adolescents. The institutional culture was characterised by a high degree of openness, respect and care. The way the children was cared for stood out as an example to be followed by other providers of mental healthcare.

The ward had decided not to be authorised for enforced admissions. This had had several positive implications for how the children and adolescents were safeguarded. The ward had made great effort to avoid a strict environment characterized primarily by security concerns, sterile surroundings and locked doors. The premises were well maintained with appealing colours, pleasant furnishings and a homely atmosphere. Several of the adolescents stated that they never thought that a mental health ward could be so welcoming. It became evident that it was a conscious decision by management to improve well-being with pleasant surroundings. The exit doors were not locked.

Major emphasis was placed on creating an environment in which the children would wish to accept treatment. Activities organised by the ward were good and varied. The ward organised regular activities such as gym sessions and various

The child and adolescent psychiatry ward, Levanger Hospital.

voluntary activities, which the youth could exert some influence on.

The ward worked well on providing children and adolescents with information about their rights, daily routines and their ongoing health treatment. The findings indicated that children and adolescents, to a significant degree, were heard and allowed to decide on matters important to them. Children who wished to do so, could give feedback about their experience at the institution. This was good practice for learning about children's experience of being admitted to hospital.

There were inadequate guidelines concerning how maltreatment and abuse can be prevented and how suspicion of such incidents should be followed up. The staff's experience was that these issues were not spoken about to any great extent, even though the ward had some routines for preventing maltreatment and abuse. No findings were made during the visit that gave rise to any suspicion about such incidents.

In exceptional cases, disruptive adolescents were forcibly admitted to an adult ward with locked doors. The clinic was within walking distance of the BUP ward. In the last three years, a total of eighteen adolescents under 18 years old had been admitted to the adult ward. Four of these were under 16 years old. A review of these cases indicated that the children had been closely followed up by staff from the child and adolescent psychiatry ward. Most of the admissions were of short duration.

Placement of adolescents together with adults in detention settings is problematic. The UN Convention on the Rights of the Child demands that children shall be separated from adults, unless the opposite is in the child's best interests. Children and adolescents who were involuntarily admitted to the adult mental health emergency section, were placed in a segregation unit but separated from adult patients. The segregation unit appeared to be new and its design adapted to vulnerable patients. However, several children had had stressful experiences after being admitted to the same section as adult patients. It is also unfortunate that children are prevented from having contact with their peers. The Ombudsman highlighted that the child's best interest must be assessed individually in each case; however, the opportunity to have contact with their peers is important for all children and adolescents. In exceptional cases where this is not a viable alternative, it should take place only in extraordinary cases and for as short a time as possible.

During the years 2017–2019, the child and adolescent psychiatry ward had made no administrative decisions related to the use of mechanical coercive means, segregation or short-term-effect medications. The ward did not have mechanical coercive means or isolation rooms. There were no administrative decisions regarding segregation even though they had areas that could be used for this. None of the children we spoke to had experienced enforced measures, and there were no administrative decisions concerning coercive measures in 2019. Together, the low coercion incident figures and our findings indicate that the ward is successful in preventing the use of coercion within the ward.

A good system for complaints and oversight adapted to children's needs had been established within the ward. Both the ward and the Control Commission had routines to ensure that children's potential resistance to admission were quickly identified. This is in accordance with human rights standards. The Controll Commission carried out active oversight of the children and adolescents' legal safeguards and was characterised by a proactive and child-friendly approach.

One of the buildings of St. Olav's hospital, child and adolescent psychiatric clinic, Lian.

St. Olav's Hospital, Child and Adolescent Psychiatric Clinic, Lian

In February 2020, the Ombudsman's NPM visited St. Olav's Hospital, Child and Adolescent Psychiatric Clinic, Lian 24-hour units. This psychiatric clinic had two 24-hour units: one emergency unit with six beds and one assessment and treatment unit with eight beds.

There was a limited range of activities for patients at the emergency unit, and the unit was generally structured to accommodate shorter stays. We did, however, find several instances of patients who had been at the emergency unit for a longer period. At both units, children were normally admitted together with their parents. Consequently, the premises and patient rooms appeared cramped.

The emergency unit had its own segregation zone. This had a stark and sterile appearance. We found instances of segregation for prolonged periods, and some of the patients were simultaneously subjected to other restrictions. In total, these interventions represented major intrusions into the private lives of these patients and their opportunities for self-determination. Some were also subjected to a significant degree of physical coercion.

One of the bedrooms in the segregation zone contained a restraint bed. The restraint bed had not been used in recent years. The Ombudsman recommended that the hospital removes the restraint straps from the bed.

The adolescents' bathrooms and cupboards for storing luggage were locked for the first 24-hour period after their arrival. This was justified by safety concerns, and therapists were required to conduct an assessment of the adolescent before bathrooms and cupboards could be unlocked. The Ombudsman finds it questionable whether the Mental Health Care Act permits routine locking away of personal possessions and limitation of access to toilets during the first 24 hours for all patients.

Several adolescents we spoke to stated that they found the staff to be attentive and interested in their opinions. However, at the time of the visit, there were few systematic efforts to ensure active participation of the adolescents, particularly in the emergency unit.

Some of the adolescents felt that they had not received sufficient information about their rights and opportunities for appeal. It was also noted that adolescents did not receive written copies of the decisions concerning coercive measures. Nor did their parents, in many cases. At the time of our visit, we also found that the institution had no routines for ensuring systematic evaluation interviews with patients who had been subjected to intrusive coercive measures, as required by law.

There was no common approach to manage escalating situations between adolescents and staff members. At the time of our visit, there was no systematic evaluation or follow-up of staff members who had been involved in the use of coercion.

The hospital had started a new form of treatment for eating disorders, known as "family-based treatment". Many staff members said that they did not feel competent in carrying out the tasks they had been assigned in respect of these patients. Several staff members also believed that the new treatment would involve greater use of forced tube feeding. They felt it was difficult to carry out treatment with such a strong element of coercion. In summary, our findings gave cause for concern, as the treatment methods at the time of our visit

did not appear to be sufficiently rooted in professional practice among staff members. There were also several elements that were problematic with respect to children's rights under the UN Convention on the Rights of the Child. This is particularly concerning, considering that some highly intrusive treatment methods had been employed.

It appeared as if cases where children had been admitted for long periods or been subjected to extensive coercion did not lead to more systematic reviews by the Control Commission. The local Control Commission had not met with patients during 2019, nor had they conducted welfare checks at the units. No adequate system had been established to detect and ensure that the Control Commission received questions for consideration, regarding the hospitalisation of children under the age of 16 who had been opposed to hospital admission or wished to discharge themselves later during their stay. There was no overview of the number of adolescents under the age of 16 who had not agreed to hospitalisation, neither at the emergency unit nor at the assessment and treatment unit. We found cases of adolescents under the age of 16 who had clearly been opposed to hospital admission, yet there had been no attempts to contact the Control Commission. Several factors appeared to contribute to a high threshold for complaints, which made the adolescents reluctant to make a complaint, even if they initially had wished to do so.

Stavanger Hospital, Section for Mental Health Care, Children and Adolescents

In October 2019, the Ombudsman's NPM visited Helse Stavanger HF, Section for Children and Adolescents. This is a 24-hour section within mental healthcare for children and adolescents, consisting of three wards. One ward is for children aged up to 13 years, and two wards are for adolescents aged between 13 and 18 years. The Ombudsman visited all three wards.

The Ombudsman was particularly critical of the design of the segregation zones. The premises were designed in a manner that could appear frightening and threatening to vulnerable adolescents. The premises were comprised of a patient room with a toilet, a corridor, an interim area between the patient room and a room that was called a reinforced segregation room. There was no access to a lounge or common room.

The reinforced segregation rooms had the appearance of holding cells and were completely devoid of furniture apart from a fixed bed with a plastic mattress. Frosted windows made it impossible to see outside. The doors had two round inspection windows. This type of window may give a feeling of being surveilled and can increase the risk of the room being used for isolation. The stark, featureless character of the room meant that the demarcation between segregation and coercion became blurred. A review of documents showed that several young people had experienced this room as extremely unpleasant and frightening.

Findings indicated that most of the adolescents who had been segregated, were allowed influence on activities and their treatment, and individual needs were given due consideration. In certain cases, the adolescents did not feel safe or they felt that they were not being treated with respect during segregation. Some adolescents had experienced particularly prolonged segregation with repeated administrative decisions. Some adolescents were subjected to a great deal of other coercion measures and had spent part of the segregation period in one of the reinforced segregation rooms, in some cases for several weeks at a time. This is unacceptable and represents a risk of inhuman or degrading treatment.

Main entrance to the mental healthcare facility for children and adolescents, Stavanger HF.

The County Governor in Rogaland has previously concluded that it is unlawful to use reinforced segregation rooms as general day rooms. The County Governor has instructed that the rooms shall be made into ordinary rooms and that segregation rooms otherwise should be given a more appropriate design.

Findings from the visit indicated that there had been a positive development with increased involvement of children and adolescents in recent years. However, some of the adolescents felt they had limited opportunities to influence their treatment, and several staff members believed there was room to improve children's participation. The wards did not have proper written information concerning children's and adolescents' rights, and several youths were uncertain about their rights. In the children's ward activities were part of the treatment. The activities were organised by environmental therapists and were well adapted to the children's needs. In the adolescents' wards, the range of activities was limited and largely left to be organised by the families. The lack of recreational opportunities will in particular affect adolescents who lack contact with family or those who are admitted long-term.

According to the clinic statistics, the use of coercive means and segregation has been significantly reduced in recent years. Despite the fact that the figures appear to be partially unreliable, they overall pointed in a positive direction. The adolescent wards had previously applied more segregation measures than many adult psychiatric wards, and it was therefore important that the use of segregation was significantly reduced in 2019.

The County Governor has previously highlighted that the use of segregation and mechanical coercion means against a child under 16 years of age, constituted a breach of the law. The section had carried out several measures to follow up the issue, including additional training of staff. There were no findings of further cases of unlawful use of coercive means against children under 16 years of age.

During the visit we discovered that the police, in certain cases, had applied intrusive use of coercion in connection with admission to the section. Several members of staff also experienced that the police had a low threshold for the use of handcuffs and had seen several young people with sore wrists after handcuffs. The police, on at least two occasions, had used a spit hood on adolescents who were brought to the section. The use of spit hoods on children is humiliating and can lead to anxiety and panic, particularly in vulnerable children. This type of coercive action creates a high risk of inhuman and degrading treatment. In one of these cases, the hospital had complained to the police. At the time of the visit, no formal cooperation agreement was in place between the section and the local police. Several of the management acknowledged the need for closer dialogue with the police.

It also became evident that the Control Commission did not visit the children and adolescent wards themselves or speak to the patients directly. The regular routine was that the commission was notified by staff if children and adolescents wished to speak to them. Talking directly to patients is a key element of a supervisory visit. Failing to do so increases the risk that serious issues within the ward go undiscovered.

Stendi Nymogården

In November, the Ombudsman visited six sections within the Stendi Nymogården child welfare institution. The sections are long-term sections within child welfare and accept adolescents from all over the country. Two of the sections are authorised for accepting adolescents that are placed without their consent.

At the time of the visit, only one adolescent was staying in four of the six sections visited. Some of the adolescents we met had minimal contact with their peers and were offered little or no schooling or activities. In total, there was reason for concern that Nymogården at the time of the visit, did not manage to eliminate the isolation-like conditions in which the adolescents under enforced placement lived, nor did they manage to encourage a positive development in the adolescents that had been placed there. Such conditions can lead to breaches of a child's rights according to the Convention on the Rights of the Child, and lead to a risk of inhuman and degrading treatment.

Despite the fact that the staff were trained to prevent and handle escalating situations, several members of staff expressed that they were not confident to use physical coercion on adolescents in acute situations.

Our findings revealed a risk that adolescents placed under enforced terms at Nymogården were not met with the same trauma awareness and competence as children voluntarily placed there. Adolescents with complex challenges appeared to have been placed in sections that were not properly prepared for – or had the competence to meet their needs. Findings from the visit led to particular concern that adolescents placed under enforced terms experienced that they only to a limited degree were allowed to influence small and major decisions affecting them, and it appeared that staff members had great difficulty in establishing cooperation with the adolescents.

There was a high rate of staff turnover and a lack of stability in the shift teams in several sections. This created a risk of not being able to get to know the adolescents or to plan activities. The instability also led to a lack of continuity in the environmental therapy treatment and reduced the institution's ability to work on preventing coercion. A lack of competence and instability in personnel groups led to further vulnerability for adolescents who live alone with adults.

The adolescents appeared to be aware of their right to appeal to the County Governor, both regarding the use of coercion and other issues at the institution. However, during the visit it became apparent that one of the adolescents was refused private communication with a legal representative, the County Governor and the Ombudsman. Depriving adolescents of confidential contact with legal representatives and appeal bodies is a serious breach of the adolescents' legal safeguards. It is particularly concerning that adolescents placed under coercion, that are also subject to restrictions on freedom of movement, are exposed to such intrusive control and practice.

In connection with the visit, it became evident that adolescents in two situations in 2019, had been placed in the prone position. This form of physical force is particularly high-risk. The grounds for two of the administrative decisions were inadequate. In both situations, the accounts indicated that staff had contributed to escalate the situation. One of the administrative decisions was overruled by the County Governor. This incident had been thoroughly reviewed with most of the staff, and the adolescent involved had received an apology. However, it was worrying that a staff member who had been involved in both situations had not

One of the buildings of the child welfare institution Nymogården.

received any feedback or taken part in the subsequent review process. This absence of follow-up increases the risk of future infringements. We also found two examples that adolescents, within the last year, had been injured in connection with coercive measures at Nymogården. There were no routines for reporting injuries to adolescents in the institution's non-conformance system.

We met adolescents that had been subjected to continuous and extensive restrictions for several months. A review of the administrative decisions concerning restrictions on freedom of movement in 2019, revealed that many of the decisions were well-founded; however, some did not contain documentation as to why the restrictions were necessary.

An administrative decision to confiscate a youth's mobile telephone was substantiated in that the individual had used it to make recordings without the consent of the staff. These are not grounds that comply with the requirements that a restriction must be "necessary out of consideration for the course of treatment or the purpose of the placement".

FOLLOW-UP AFTER VISITS

An important part of the preventive work of the NPM takes place after the report has been published. The institutions visited are asked to provide written feedback regarding how our recommendations have been followed up within three months after the publication of the visit report.[3] On the basis of the written report, we evaluate whether the measures implemented by the institutions are satisfactory. If necessary, we request supplementary information. All correspondence with institutions is public and published on our website.[4] During the year, the Ombudsman has had dialogue with a number of institutions previously visited.

Some recommendations require limited effort from the institutions, whilst others are more challenging. This means that in some cases, the NPM's work after visits can take some time, whilst in other cases it is concluded relatively quickly.

Throughout 2020, we have had dialogue with twelve institutions visited in 2018, 2019 and 2020. Four of these were not concluded at the end of the year.

The feedback we have received during 2020 indicates in general that the institutions followed up on recommendations in a thorough manner. A number of measures have been implemented to reduce the risk of inhuman and degrading treatment. In some cases, institutions have been surprised by our findings; however, in many cases the institutions recognised the issues we raised. This forms the basis for constructive dialogue about risks and the need for change. At the same time, it emphasizes the importance of visits by the NPM. Challenges may be evident, but there can still be a need for an external driver to ensure changes.

Follow-up concluded in 2020

Child Welfare

- Buskerud and Vestfold Emergency Youth Centre, Barkåker
- Stendi Nymogården
- Olivia Solhaugen
- Humana East, Jessheim and Hol

Mental Healthcare

- Levanger Hospital, Department of Child and Adolescent Psychiatry
- Psychiatric Clinic, Sandviken Hospital
- St. Olav's Hospital, Child and Adolescent Psychiatric Clinic, Lian

Prisons

- Oslo Prison

Follow-up not concluded at the end of 2020

Child Welfare

- Jong Youth Centre

Mental Healthcare

- Stavanger Hospital, Section for Mental Health Care, Children and Adolescent
- Østfold Hospital, where visits were conducted at two security sections and the Section for Geriatric Psychiatry

3 The follow-up letters from the institutions and subsequent correspondence with the Ombudsman is published on the Ombudsman's website. See: https://www.sivilombudsmannen.no/en/visit-reports/

4 The letters are published via the link "Follow-up" of each individual visit: https://www.sivilombudsmannen.no/en/visit-reports/

SOME RESULTS IN 2020

Changes to physical circumstances

The child welfare institution Buskerud and Vestfold emergency youth centre, Barkåker, had a separate room that was known as the "segregation room". The room was similar to a holding cell; it was frightening and unsuitable for safeguarding the integrity and dignity of children and adolescents. The room was only to be used in acute situations; however, during the visit we discovered that the room had also been used for body searches. The NPM also criticised the fact that the institution had locked external doors.

Subsequent to the visit report, the institution had carried out a thorough follow-up process in line with recommendations. Among other things, the "segregation room" was eliminated, the lock mechanism on the main door was changed to enable opening from the inside, and all door handles that were spherical and difficult to open were replaced.

Improvements in documentation of the use of coercion

Thorough documentation of the use of coercion is decisive for legal protection of persons who are deprived of their liberty. Administrative decisions must be recorded in a manner that enable the person they apply to, supervisory authorities and others, to understand why coercion has been used and if the required conditions are met.

After the visit to the child welfare institution Olivia Solhaugen, the institution amended its procedures for completing coercion protocols. The new procedures make it clear that coercion protocols must be reviewed with the child as soon as possible after the use of coercion, and that the protocol must be reviewed with the child prior to them moving out. If a review cannot be carried out before the child moves out, the institution must ensure that the coercion protocol is sent to the child's new residential address.

The so-called "isolation room" at Barkåker. A white room with two frosted windows and a single mattress on the floor in an otherwise bare room.

After the visit to the child welfare institution Humana East, section Jessheim and Hol, the institution improved training, for instance by engaging a staff member in a full-time position to work systematically on training. As a part of this effort, a new training was introduced on how administrative decisions and protocols are to be documented.

Improvements in access to appeals and control
Persons who are deprived of their liberty have the right to receive information about their right of appeal, including details of how the appeals system functions in practice. The information should be made available in a language that is easy to understand and staff members should provide guidance. The appeal system must be made accessible to persons with particular need for adaptation, such as children and adolescents.

The visit to the section for mental healthcare for children and adolescents at Stavanger University Hospital revealed that wards did not provide sufficient written information on the rights of children and adolescents. Several admitted children and adolescents were uncertain about their rights. It also became evident that the Control Commission did not visit the children and adolescent wards to speak to them directly. When control agencies do not visit wards and patients, it increases the risk that serious issues remain undiscovered.

After the visit, the hospital drew up a new introduction brochure in cooperation with the clinic's expert resources. The brochure provided information about topics such as user participation, information for next of kin, activity plans, and contact information for genreal enquiries or for complains about the conditions at the ward. Based on the visit, the Directorate of Health required the Control Commission to visit wards monthly. In a response letter from the hospital, the Ombudsman has received confirmation that the Control Commission now visits all children and adolescents admitted to wards and offers consultations.

Visit to a mental healthcare institution for children and adolescents.

Recommendations that require additional resources
Some of the NPM's recommendations cannot be resolved solely by the institutions but are dependent on framework conditions that are not determined by the institutions.

Follow-up after the visit to Oslo Prison in November 2018 showed that the prison and health section had implemented a number of measures, both immediate measures and more comprehensive long-term efforts to improve conditions at the prison. At the same time, the prison and health section notified that they had been unable to implement several of the recommendations due to staffing, building and financial limitations.

According to the prison administration it was for instance not possible to improve the shower facilities that the Ombudsman had criticized. The Ombudsman concluded the visit emphasizing that shower facilities were untenable, and that the ongoing pandemic heightened the seriousness of the situation.

Oslo Prison located in Grønland, Oslo.

Follow-up over an extended time period
Occasionally, the Ombudsman's follow-up of institutions extends over a longer period of time. This may be due to the fact that some recommendations involve changes that require more time to implement. The Ombudsman wants to be kept informed also of more extensive changes and will therefore wait in some cases to conclude the visit. In other cases, the dialogue may be prolonged because the institution has provided insufficient information on their follow-up of recommendations. The reason may also be disagreement concerning the actual circumstances or a lack of willingness to change established practices.

As a consequence, the Ombudsman's work on visits can in some cases prolong for more than a year after the visit has been conducted. All letters exchanged between the Ombudsman and the institution in this follow-up process are public and published on our website.[5]

During 2020, five visits have led to a need for such prolonged dialogue: the visit to the child welfare institutions Stendi Nymogården and Jong Youth Centre, section for children and adolescents at Helse Stavanger HF, and the security sections and section for geriatric psychiatry at Østfold Hospital, Kalnes.

5 The letters are published via the link "Follow-up" of each individual visit: https://www.sivilombudsmannen.no/en/visit-reports/

National Dialogue

Despite the sudden halt to physical meetings in 2020, the Parliamentary Ombudsman's Preventive Mechanism (NPM) has continued its dialogue with civil society actors and authorities, primarily digitally. Throughout the year, our national network has contributed significantly to our work, providing us with updated information about how infection control measures have been implemented, and the consequences they have had for those who have been deprived of their liberty. We have also improved our dissemination of knowledge and have continuously published relevant information concerning COVID-19 and deprivation of liberty on our website.

The Advisory Committee

The Advisory Committee of the National Preventive Mechanism (NPM) consists of seventeen members from organisations with expertise in areas of importance to our mandate. The Advisory Committee members contribute with knowledge and advice, and provide input on the preventive work.

In 2020, the Advisory Committee has met three times; the last two meetings were held digitally. We have also maintained ongoing dialogue with members when necessary.

The meetings of the Advisory Committee have addressed a number of thematic areas. The Committee's input and advice have been particularly useful in our work of strengthening the use of next of kin as information sources and in providing updated information about the situation for those deprived of their liberty during the Corona pandemic. It has also been a forum for presenting input from hearings and published reports, and for discussing and developing our methodology. Members have also used the forum to present their work relevant to the NPM mandate.

A digital meeting with the NPM Advisory Committee.

In 2020, the Advisory Committee comprised representatives from the following organisations:

- The Norwegian Bar Association´s Human Rights Committee
- Amnesty International Norway
- The Ombudsperson for Children
- Norwegian Helsinki Committee (NHC)
- Jussbuss (Free legal aid service run by law students)
- Norwegian Organization for Children in Care
- Norwegian Medical Association, represented by Norwegian Psychiatric Association
- The Equality and Anti-Discrimination Ombud
- The Norwegian Association of Youth Mental Health
- Norwegian National Human Rights Institution
- Norwegian Research Network on Coercion in Mental Health Care (TvangsForsk)
- The Norwegian Association for Persons with Intellectual Disabilities (NFU)
- The Norwegian Organisation for Asylum Seekers (NOAS)
- The Norwegian Psychological Association's Human Rights Committee
- Norwegian Alliance for Informal Carers
- Wayback – Foundation for the Rehabilitation of prisoners
- We Shall Overcome

Other formal cooperation

The Parliamentary Ombudsman is also represented on the Advisory Committee of the Norwegian National Human Rights Institution (NIM), which regularly discusses topics of general interest to the Ombudsman and of special interest to the prevention mandate. The NPM maintains ongoing contact with the Ombudsperson for Children and the Equality and Anti-Discrimination Ombud.

A new development this year has been the establishment of regular meetings and closer contact between the NPM and the Red Cross volunteer visitor service at the Police Immigration Detention Centre at Trandum. The aim has been to secure a constructive dialogue on various issues concerning the immigration detention centre. In 2020 we have also had contact with the supervisory board for the police immigration detention centre, concerning the supervisory board's work and the situation at Trandum.

Senior Adviser Johannes Flisnes Nilsen gives a talk during the panel debate "Body searches in Norwegian prisons – where should the line be drawn?" at the House of Literature in Oslo.

Additionally, the NPM has provided input to ongoing research and evaluation projects. We have participated in a reference group as part of a research project on so-called "enetiltak" where children are placed to live alone with adult staff, and substance abuse treatment in child welfare, under direction of Oslo Metropolitan University and Østfold University College, and a research project on women inmates in need of healthcare, under direction of the Department of Criminology and Sociology of Law, University of Oslo.

Information work, knowledge dissemination and teaching in 2020

The Ombudsman and the NPM staff have contributed with presentations at several events throughout the year. The NPM took part in a debate on body searches in prisons organised by Jussbuss. The debate was set up in the wake of a judgement at Gulating Court of Appeal. In the judgement, it was determined that Bergen Prison had subjected a person remanded in custody to degrading treatment in violation of the European Convention on Human Rights article 3, by carrying out routine naked body searches in a humiliating manner. Findings from the Ombudsman's visits to prisons over several years indicate that a large number of inmates are subjected to this type of body search.

For an exhaustive list of seminars and webinars, see *Activities 2020*.

The NPM has also been involved in teaching of Bachelor degree students at the University College of Norwegian Correctional Service (KRUS) concerning solitary confinement and the mental health of inmates, and in connection with supplementary education for psychology specialists, concerning human rights, coercion in mental healthcare and on the work of the NPM.

Selected presentations:

- Panel debate on body searches, organised by Jussbuss
- Lecture on the prohibition of torture, for law students at the University of Oslo, organised by Amnesty law group
- Control Commission conference, webinar organised by the Directorate of Health
- Norwegian Correctional Service's isolation conference

The Minister of Health and Care Services, Bent Høye, and the Minister of Justice and Public Security, Jøran Kallmyr, during the public hearing in the Standing Committee on Scrutiny and Constitutional Affairs concerning the Parliamentary Ombudsman's Special Report to the Storting on Solitary confinement and lack of human contact in Norwegian prisons.

Organisations that participated at the hearing:

- Red Cross
- Council for Mental Health
- Norwegian Human Rights Institution
- WayBack
- Equality and Anti-Discrimination Ombud
- Norwegian Prison and Probation Officer's Union
- Union of Norwegian Correctional Services Employees
- Norwegian Bar Association

Dialogue with the authorities

Throughout the year, the NPM has held both digital and physical meetings with Norwegian authorities pertaining to a range of themes (for an exhaustive list of meetings, see *Activities 2020*). An important part of our dialogue with the authorities relates to how the institutions work to follow up on recommendations after visits.

In January 2020, the Storting's Standing Committee on Scrutiny and Constitutional Affairs held a public hearing concerning the Parliamentary Ombudsman's Special Report to the Storting on solitary confinement and lack of human contact in Norwegian prisons.[1] The report is based on findings from the NPM's visits to nineteen Norwegian prisons over five years. The findings, which revealed extensive and harmful use of solitary confinement, were so grave that we chose to compile them in a Special Report, which is the Parliamentary Ombudsman's most powerful instrument, and present the report to the Storting.

The report highlighted a number of critical issues. Among other things, the Ombudsman pointed out several weaknesses in the authorities' control of the use of solitary confinement, including weaknesses in regulations, procedures, documentation and base data. The report also reviewed the extensive knowledge basis concerning physical and mental harm to health caused by solitary confinement.

The objective of the report was to make the Storting aware of the risk of inhuman or degrading treatment, which solitary confinement in prison represents. The fact that the report resulted in a public hearing in the Standing Committee on Scrutiny and Constitutional Affairs shows the Committee's emphasis on the seriousness of the situation described in the report.

At the hearing, the Minister of Justice and Public Security, Jøran Kallmyr, acknowledged that the findings in the report were serious and would be followed up. The Minister of Health and Care

1 The Parliamentary Ombudsman's Special Report to the Storting on solitary confinement and lack of human contact in Norwegian prisons, Document 4:3 (2018-2019). See also https://www.sivilombudsmannen.no/wp-content/uploads/2019/08/SOM_S%C3%A6rskilt-melding_ENG_WEB.pdf

Services, Bent Høie, stressed that community and human contact are crucial elements to reduce the need for health assistance. The Committee on Scrutiny and Constitutional Affairs also put questions to the directors of the Directorate of Health, Bjørn Guldvog, and the Norwegian Correctional Service, Lise Sannerud.

A number of organisations participated during the hearing and these confirmed the report's serious findings (see box on page 56).

Following a judgement at Gulating Court of Appeal from July 2020 (see fact box), the Ombudsman addressed the practice of body searches with the Norwegian Correctional Service.

In the period that followed, the Ombudsman received information that several prisons were still carrying out routine body searches in a degrading manner. The Parliamentary Ombudsman therefore found it necessary to remind key authorities of their responsibility to ensure that human rights violations cease immediately.

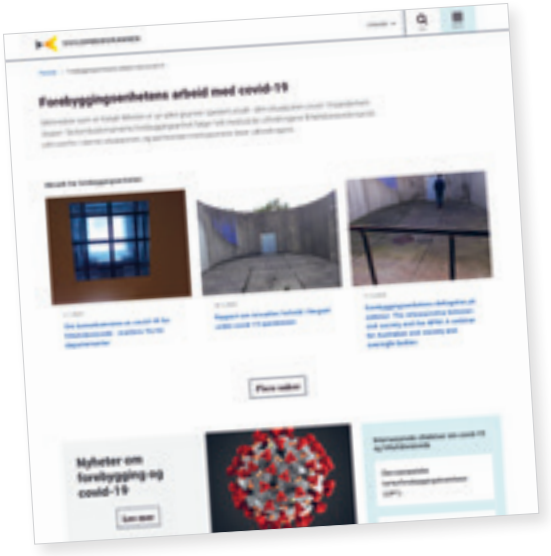
Court decision regarding body searches

In July 2020, Gulating Court of Appeal ruled that Bergen Prison had subjected an inmate remanded in custody to degrading treatment in violation of the European Convention on Human Rights article 3. The judgement was unanimous.

The inmate was subjected to body searches a number of times, fully naked while required to adopt a deep squatting position, so that the genitals could be examined visually. According to the judgement, the body searches were conducted routinely without carrying out individual risk and proportionality assessments.

Findings from the Ombudsman's prison visits over several years indicate that similar body search practices are widespread in Norwegian prisons and affect a large number of inmates. After visits to high security prisons, the Ombudsman's NPM has several times criticised the fact that body searches requiring inmates to be fully naked are routinely conducted without individual risk assessments. The Ombudsman has recommended that fully naked body searches should take place in stages, so that the inmate is given upper body clothing before clothing on the lower body is removed, to conduct the body search in the least intrusive manner possible.

The thematic report "Use of restraint beds in Norwegian prisons".



Excerpt from NPM's new website on deprivation of liberty and COVID-19.

The Correctional Service confirmed that provisional guidelines had been sent to prisons and KRUS regarding compliance with the judgement, pending changes to regulations. The provisional guidelines included important changes to body search practices. The Ombudsman will follow this issue in the coming year, both in respect of the development of new regulations as well as local practices.

The thematic report on the use of restraint beds in Norwegian prisons was published digitally and followed up in various ways. Among other things, a joint meeting was held with the Correctional Service and the Directorate of Health, to present the findings of the report. One objective of the meeting was to improve knowledge among key health authorities on the health challenges of inmates subject to use of intrusive coercion measures such as restraint beds. The report was also sent to the relevant Standing Committees in the Storting.

In November, the government sent a proposal for comments concerning a new national supervisory system for prisons. The background for the proposal is the Parliamentary Ombudsman's findings from prison visits, which have clearly documented a need to grant more authority to supervisory boards. The Ombudsman's special report to the Storting on solitary confinement and lack of human contact in Norwegian prisons pointed out, among other things, that the present supervisory board has an unclear mandate, that there are unintended differences in how the various supervisory boards operate and how effective they are in safeguarding the rights and welfare of inmates. The proposal has a deadline for comments in February 2021.

Dialogue with civil society and authorities during the pandemic

As the NPM decided to suspend all visits from 11 March, we implemented systematic efforts to explore new ways of working within our mandate. Many of those deprived of their liberty are in high-risk groups and are more vulnerable to infection. The prohibition against inhuman and degrading treatment is absolute and applies at all times, even during acute crisis situations. It was essential to uphold and further develop dialogue with key national bodies to safeguard our mandate during this period.

It was important for the Parliamentary Ombudsman to acquire

- an overview of implemented and planned infection control measures applicable to those deprived of their liberty during the COVID-19 pandemic
- information about the consequences of temporary legislation adopted during the COVID-19 pandemic
- knowledge of the consequences of infection control measures for the human rights situation of those deprived of their liberty

In March, we contacted a number of civil society agencies and authority bodies, including supervisory authorities. This was mainly carried out by telephone; however, letters were sent to the Ministry of Justice, the Ministry of Health and Care Services and the Ministry of Children and Families. It was important for the Parliamentary Ombudsman to acquire an overview of implemented and planned infection control measures for those deprived of their liberty during the COVID-19 pandemic, information on any temporary changes to regulations, and knowledge of the consequences of infection control measures for those deprived of their liberty.

In parallel we worked on disseminating information. In May, we set up an information page on our website about our work and COVID-19. The page contained information about the NPM's efforts during the pandemic, national and international resources, and news from international human rights bodies, among them the European Committee for the Prevention of Torture and the UN Subcommittee on Prevention of Torture.

As we temporarily suspended visits in March, it was important for us to develop a methodology that would enable us to resume visits to places of deprivation of liberty in line with infection control guidelines. To this end we had a constructive dialogue with the Norwegian Institute of Public Health.

Competence development via external experts

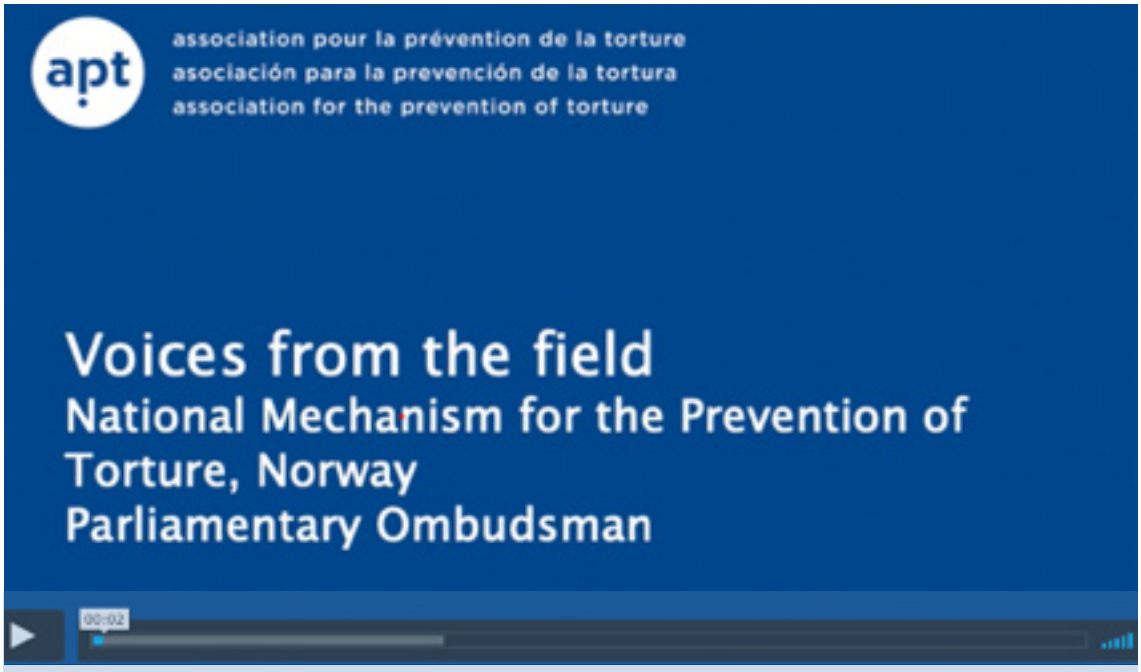
In the autumn of 2020, we developed internal competence concerning risk issues and regulations within the two new sectors in which we conducted visits. This concerned care homes for elderly in which residents in some cases can be admitted without their consent, or de facto be held back involuntarily. Additionally, it was necessary to enhance the NPM's competence on legislation and conditions for persons with intellectual disabilities who receive municipal health and care services in their own homes. Some of those who receive these services experience circumstances similar to an institution, including practices that are so intrusive that the NPM considers them to be covered by the OPCAT mandate. External experts with a high level of expertise were engaged to hold five lectures for the NPM staff (for an exhaustive list of lectures, see *Activities 2020*).

International Cooperation

The COVID-19 pandemic also affected the international aspects of prevention efforts in 2020. Physical meetings with international bodies were few, and at the same time the new challenges highlighted the importance of dialogue across land borders. The Parliamentary Ombudsman provided input to international human rights bodies concerning the administration of preventive tasks during the COVID-19 pandemic. We also shared findings and experiences in international digital forums and continued our cooperation with a number of international bodies.

International cooperation

2020 has confirmed the need for international dialogue and exchange of experiences. The COVID-19 pandemic led to additional restrictions for those deprived of their liberty all over the world, and national preventive bodies were faced with completely new problem issues in carrying out their mandate. In 2020, the Parliamentary Ombudsman participated in several international digital seminars at which challenges in connection with COVID-19



NPM participated in APT's international newsletter “Voices from the field” where it shared the unit's experiences during the COVID-19 pandemic.

The second meeting of the Nordic Prevention Network in 2020 was held digitally.

have been a consistent theme. In the spring of 2020, we contributed with input to the European Committee on the Prevention of Torture (CPT) and the Association for the Prevention of Torture (APT) regarding the pandemic's consequences for conducting visits to institutions where persons are deprived of their liberty.

However, there have also been opportunities to explore other topics, and in June 2020, Head of NPM Unit Helga Fastrup Ervik shared Norwegian perspectives and experiences during talks at two digital seminars arranged by the organisations Irish Penal Reform Trust and Zahid Mubarek Trust, and the Australian OPCAT network concerning the relationship between civil society and national preventive bodies. The main objective was to inform of our Advisory Committee and other cooperation with civil society, and how this work contributes to strengthening preventive efforts.

The NPM contributes regularly with input to the European newsletter for preventive bodies, published by the Council of Europe. In 2020, we also contributed an article to a special edition of the periodic newsletter published by the Expert Network on External Prison Oversight and Human Rights. The purpose of the network is to promote openness and responsibility among prison authorities internationally. The special edition addressed the use of solitary confinement in prisons during the COVID-19 pandemic, and the NPM article described experiences with mandatory 14-day quarantine for all new inmates as one of the infection control measures introduced in Norwegian prisons.[1]

For the last two years, the NPM has participated in an editorial board established by APT with the aim of developing a practical, Internet-based manual for preventive efforts under the Optional Protocol to the UN Convention against Torture (OPCAT). APT is

1 See https://icpa.org/wp-content/uploads/2020/10/Expert-Network-Newsletter-_Special-Issue-6-CORRECTED_.pdf

an important resource for preventive mechanisms all over the world and contributes to international knowledge exchange concerning prevention of torture, degrading and inhuman treatment. In 2020, the result of the work was published on APT's website.[2] The digital manual addresses themes such as institution development, activities, models for preventive work and cooperation with other bodies.

Nordic NPM Network

The Nordic NPM Network held three meetings during the year. The network is composed of representatives from all the national preventive mechanisms in the Nordic countries with equivalent mandates to the Parliamentary Ombudsman under OPCAT. The Nordic networking meetings are important forums for exchanging knowledge, experience and practice among the Nordic countries. Therefore, the network decided to hold an additional digital meeting in 2020 on the background of the special challenges during the COVID-19 pandemic.

The first meeting of the year took place in Oslo in January 2020. The main theme was the rights of children deprived of their liberty and the use of coercive means in relation to children. The research network Nordic Network on Restrictive Measures, comprised of researchers from Norway, Sweden, Denmark and Finland, was invited to participate in the first session. The second session of the meeting was reserved for internal discussion in the prevention network, which addressed themes such as deportation of asylum seekers and the presence of national preventive mechanisms during enforced returns.

The other network meeting was arranged digitally by the Folketing Ombudsman in Denmark in August 2020. The agenda included COVID-19 and the exchange of experiences concerning the work of the Nordic NPMs thus far through the pandemic. In particular, preventive methods adapted to circumstances during the pandemic were discussed. The Parliamentary Ombudsman also presented findings from the report on inmates' circumstances in prison during the COVID-19 pandemic.

The exchange of experiences continued at a digital follow-up meeting that was held in November 2020. The Nordic cooperation has been particularly useful in a time when all prevention bodies have faced many of the same challenges during the COVID-19 pandemic.

Reports in English

In order to share experiences and information with international bodies within the prevention field, thematic reports, summaries and recommendations from visit reports are published in English on the Parliamentary Ombudsman's website. This helps us gain useful input from colleagues in other countries and makes it possible to reach parts of the Norwegian population that do not speak Norwegian.

Report on prison inmates and the COVID-19 pandemic, translated into English.

2 See https://www.apt.ch/en/knowledge-hub/npm-toolkit

Statistics

Number of visits in 2020, per sector

SECTOR	NO.
Mental healthcare	3
Child welfare institutions	2
Care homes for elderly	2
Accommodation for persons with developmental disabilities	3
Total	**10**

External activities

7 lecture and talks

37 meetings with national stakeholders

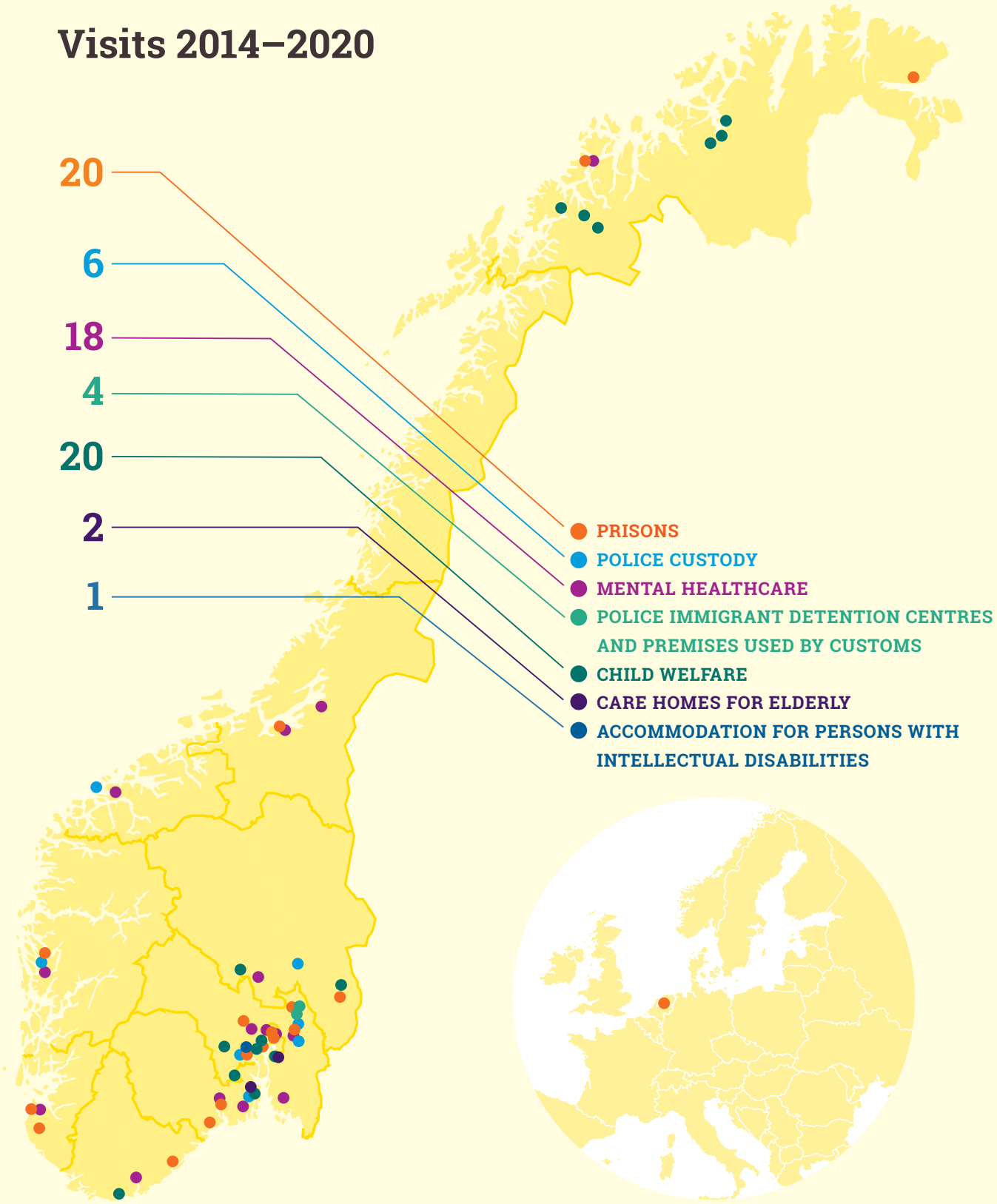
8 meetings with international partners

Number of places visited since start-up, per year:

Visits in 2020

	DATE OF VISIT	PLACE	SECTOR	DATE OF PUBLICATION OF VISIT REPORT
1	15–17 January	Olivia Solhaugen	Child welfare	11.05.2020
2	10–12 February	Levanger Hospital, Department of Child and Adolescent Psychiatry	Mental healthcare	19.05.2020
3	25–27 February	Visit to St. Olav's Hospital, Child and Adolescent Psychiatric Clinic, Lian	Mental healthcare	02.09.2020
4	20–22 October	Høyås Residential and Rehabilitation Centre, Nordre Follo municipality	Care home	Available in 2021
5	3–5 November 16–20 November 23–27 November	Accommodation for persons with intellectual disabilities in Drammen municipality	Accommodation for persons with intellectual disabilities	Available in 2021
6	1–3 December	Åsgårdstrand care home, Horten municipality	Care home	Available in 2021

Visits 2014–2020



2014

PRISONS
Bergen Prison

Tromsø Prison

POLICE CUSTODY
Drammen Police Custody

Tønsberg Police Custody

2015

PRISONS
Bjørgvin Prison's Juvenile Unit

Kongsvinger Prison

Ringerike Prison

Telemark Prison, Skien Branch

Trondheim Prison

POLICE CUSTODY
Lillestrøm Police Custody

Ålesund Police Custody

POLICE IMMIGRANT DETENTION CENTRES AND PREMISES USED BY CUSTOMS
Trandum Immigration Detention Centre

Places of detention at Gardermoen

MENTAL HEALTHCARE
Diakonhjemmet Hospital

Sørlandet Hospital, Kristiansand

Telemark Hospital

2016

PRISONS
Bredtveit Detention and Security Prison

Drammen Prison

Norgerhaven Prison

Stavanger Prison

Telemark Prison

Vadsø Prison

POLICE CUSTODY
Bergen Police Custody

MENTAL HEALTHCARE
Akershus University Hospital, Adolescent Psychiatric Clinic

University Hospital of Northern Norway Health Trust (UNN)

CHILD WELFARE
Akershus Youth and Family Centre, Sole Department

The Child Welfare Service's Emergency Institution for Young People

2017

PRISONS
Ila Detention and Security Prison

Ullersmo Prison

Ullersmo Prison, Juvenile Unit East

Åna Prison

POLICE IMMIGRANT DETENTION CENTRES AND PREMISES USED BY CUSTOMS
Trandum Immigration Detention Centre

MENTAL HEALTHCARE
Akershus University Hospital, Emergency Psychiatric Department

Oslo University Hopital, Psychosis Treatment Unit, Gaustad

Stavanger University Hospital's Special Unit for Adults

Ålesund Hospital, Psychiatry Department

CHILD WELFARE
Aleris Alta

Alta Youth Centre

Hedmark Youth and Family Centre

The Klokkergården Collective

2018

PRISONS
Arendal Prison

Bergen Prison

Oslo Prison

MENTAL HEALTHCARE
Reinsvoll Psychiatric Hospital

The County Psychiatric Department, Vestfold Hospital

Østfold Hospital, Secure Psychiatric Sections and Geriatric Psychiatric Section

CHILD WELFARE
Agder Institution for Adolescents, Furuly department

Kvammen Emergency Institution

The Skjerfheim Collective

2019

MENTAL HEALTHCARE
Stavanger University Hospital, Child and Adolescent Psychiatry Units

BARNEVERN
Buskerud and Vestfold Emergency Youth Centre, Barkåker

Humana Child Welfare Service East

Jong Youth Centre

Stendi Region North

2020

MENTAL HEALTHCARE
Levanger Hospital, Department of Child and Adolescent Psychiatry

St. Olav's Hospital, Child and Adolescent Psychiatric Clinic, Lian

CHILD WELFARE
Olivia Solhaugen

CARE HOMES FOR ELDERLY
Høyås Residential and Rehabilitation Centre

Åsgårdstrand care home

ACCOMMODATION FOR PERSONS WITH INTELLECTUAL DISABILITIES
Accommodation for persons with intellectual disabilities in Drammen municipality

Activities in 2020

Talks, lectures and participation on panels in Norway

WHEN	ACTIVITY
11 March	Lecture for bachelor's degree students at the University College of Norwegian Correctional Service (KRUS) on solitary confinement and inmates' mental health.
28 August	Talk at the meeting of the Norwegian Correctional Service, Region East, on the Correctional Service's proposed measures for reducing and preventing solitary confinement.
11 September	Lecture for students on supplementary education for psychology specialists, on human rights, coercion in mental healthcare and the work of NPM.
6 October	Participation in a panel debate at the House of Literature in Oslo organised by Jussbuss: Body searches in Norwegian prisons.
16 November	Lecture on the prohibition of torture for law students at the University of Oslo, organised by Amnesty law group.
20 November	Talk as part of a webinar for the control commissions in mental healthcare concerning findings and recommendations after visits to three mental healthcare institutions for children and adolescents.
16 December	Norwegian Correctional Service's conference on solitary confinement, talk on the follow-up of the Ombudsman's Special Report to the Storting on solitary confinement in Norwegian prisons, and on reports pertaining to COVID-19 measures and the use of restraint beds in Norwegian prisons.

Meetings, visits and participation at seminars in Norway (including national webinars)

WHEN	ACTIVITY
14 January	Public hearing in the Standing Committee on Scrutiny and Constitutional Affairs, on the Parliamentary Ombudsman's Special Report to the Storting concerning solitary confinement and lack of human contact in Norwegian prisons.
17 January	Publication of the Ombudsperson for Children's report "De tror vi er shitkids" [*They call us shitkids*] on children who live in child welfare institutions.
21 January	Publication of the book "Isolasjon – et fengsel i fengselet" [*Solitary confinement – a prison within the prison*] by Marthe Rua and Peter Scharff Smith (Ed.).
3–4 February	Conference "Vondt inni seg" [*The pain inside*] organised by Forandringsfabrikken, on mental health assistance for children and adolescents.
7 February	Meeting with Bufetat Region East concerning the authorisation and control of child welfare institutions, and principal challenges in institutionalised child welfare.
27 February	Publication of the Red Cross report "Torturert og glemt? Identifisering og rehabilitering av torturofre i Norge" [*Tortured and forgotten? The identification and rehabilitation of torture victims in Norway*]

WHEN	ACTIVITY
2 March	Meeting the Advisory Committee with a focus on the significance of families and carers in preventive work. The Ombudsperson for Children presented the report "De tror vi er shitkids" [*They call us shitkids*]
14 May	Meeting with the Norwegian Correctional Service and the Norwegian Institution for Human Rights on the handling of the COVID-19 pandemic within the correctional services.
8 June	Meeting with the Advisory Committee concerning the consequences of the COVID-19 pandemic for preventive work. The NPM presented its report on the use of restraint beds in Norwegian prisons.
17 June	Meeting of NIM Advisory Committee with a focus on institutional racism and NIM's role within the legal system.
19 June	Meeting with Forandringsfabrikken and the head of the Control Commission, Levanger Hospital, Grethe Gilstad, concerning children's legal protection.
10 August	Lecture on treatment of persons with eating disorders, by psychology specialist Maria Øverås.
20 August	Meeting with the Childrens House Oslo concerning conversation methodology and interviews with persons with intellectual disabilities.
21 August	Meeting with the Norwegian Correctional Service and the Directorate of Health concerning the Ombudsman's thematic report on the use of restraint beds in Norwegian prisons.
3 September	Digital meeting with the Norwegian Board of Health Supervision on methodology when conducting supervision of segregation practices in mental healthcare.
8 September	Meeting with the Norwegian Association for Persons with Intellectual Disabilities concerning the Ombudsman's visit to shared accommodation for persons with intellectual disabilities.
9 September	Digital meeting of NIM Advisory Committee on the role of the committee, safeguarding of human rights during Corona, and international reporting.
10 September	Webinar arranged by the Equality and Anti-Discrimination Ombud concerning the living situation for persons with intellectual disabilities.
14 September	Meeting with the habilitation services at Oslo University Hospital concerning interview methodology and interviews with persons with intellectual disabilities.
16 September	Meeting with the Red Cross' visitation programme to the police immigration detention centre at Trandum, concerning the situation at Trandum and Haraldvangen detention centres.
17 September	Lecture on conversation methodology and persons with dementia, by Kari Lislerud Smebye, Associate Professor at Lovisenberg Diaconal University College.

WHEN	ACTIVITY
22 September	Meeting with the Norwegian Institute of Public Health concerning infection control standards for visits under the prevention mandate.
25 September	Lecture concerning living conditions for persons with intellectual disabilities in Norway, by Jan Tøssebro, Professor of Social Research at NTNU.
6 October	Lecture concerning conversation methodology and interviews with persons with intellectual disabilities, by the habilitation services at OUS.
12 October	Meeting with the Advisory Committee concerning the NPM's visits to care homes and housing facilities for persons with intellectual disabilities.
13 October	Lecture concerning systematic reviews, supervision and supervision methodology in connection with chapter 9 decisions in municipal health and care services, by legal professional Liv-Sara Birkeland.
15 October	Conference on geriatric care and COVID-19, organised by the Norwegian Hospital and Health Service Association.
29 October	Idea exchange meeting on NOU 2020: 5 Equality under the law – the law concerning support for legal assistance. Digital meeting organised by NIM.
2 November	Meeting with Jussbuss on free legal assistance and de facto solitary confinement.
9 November	Experience exchange with the Norwegian Directorate for Children, Youth and Family Affairs (Bufdir) on the consequences of the COVID-19 pandemic for persons with intellectual disabilities.
10 November	Meeting with the Norwegian Board of Health Supervision on supervision methodology for care homes and housing for persons with intellectual disabilities.
11 November	Digital meeting in NIM Advisory Committee concerning climate changes and human rights, and lectures on freedom of expression.
16 November	Lecture on the prohibition of torture for law students at the University of Oslo, organised by Amnesty law group.
18 November	Meeting with the supervisory board for the police immigration detention centre at Trandum, concerning the supervisory board's work and the situation at Trandum.
18 November	Internal lecture by Kirsten Sandberg on rulings by the Supreme Court and Grand Chamber of the European Court of Human Rights relating to Norwegian child welfare.
19 November	Meeting with the Ministry for Children and Families concerning the NPM's work in the child welfare sector and findings in other sectors affecting children and adolescents.
19 November	TryggEst conference 2020 on the results of the pilot project TryggEst – a holistic model for prevention, uncovering and management of violence and abuse of vulnerable adults.

Meetings and visits from overseas (including international webinars)

WHEN	ACTIVITY
24 January	Meeting of the Nordic NPM network in Oslo Norway, with a thematic focus on Children who are deprived of their liberty; rights and use of intrusive measures.
5 May	Participation in the video conference “Monitoring Places of Detention and the “Do No Harm” Principle: From Theory to Practice», organised by the Association for the prevention of torture (APT).
13 May	Participation in the video conference relating to experiences with preventive work during the COVID-19 pandemic, organised by the European Committee for the Prevention of Torture (CPT).
9 June	Talk at the webinar “The relationship between civil society and the NPM: A webinar for Australian civil society and oversight bodies», organised by the Australian OPCAT network.
18 June	Participation in the webinar “The monitoring of psychiatric institutions in times of COVID-19: challenges and good practices», organised by Association for the prevention of torture (APT).
25 June	Participation in the video conference “Global Perspectives on Human Rights and Torture in the Era of COVID-19», organised by the International Rehabilitation Council for Torture Victims (IRCT).
28 August	Digital meeting in the Nordic NPM network concerning the challenges and opportunities for national preventive mechanisms during COVID-19.
20 November	Digital meeting in the Nordic NPM network concerning the challenges and opportunities for national preventive mechanisms during COVID-19.

Budget and Accounts 2020

CATEGORY	BUDGET 2020	ACCOUNTS 2020
SALARIES	8 555 000	8 448 515
OPERATING EXPENSES		
Production and printing of visit reports, annual report and information material	500 000	307 533
Purchase of external services (including translation and interpreting services)	225 000	160 497
Travel (visits and meetings)	470 000	104 545
Other operating expenses	490 000	395 566
Share of the Parliamentary Ombudsman's joint expenses (incl. rent, electricity, IT services, security, cleaning etc.)	2 000 000	1 974 678
Total NOK	**12 240 000**	**11 391 334**

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ANNUAL REPORT 2020
NORWEGIAN PARLIAMENTARY OMBUDSMAN
NATIONAL PREVENTIVE MECHANISM

National Preventive Mechanism against Torture and Other Cruel,
Inhuman or Degrading Treatment or Punishment