



**SIVILOMBUDSMANNEN**

Norwegian Parliamentary Ombudsman  
National Preventive Mechanism

# ANNUAL REPORT 2015

DOCUMENT 4:1 (2015–2016)



National Preventive Mechanism against  
Torture and Ill-Treatment

## Which sectors are covered by the NPM's mandate?

**64**

Prisons and  
transitional housing

**1**

The police immigration  
detention centre  
(Trandum)

**9**

The Norwegian  
Armed Forces'  
custody facilities

approx.

**210**

Police custody  
facilities

approx.

**120**

Mental health care  
institutions

**1**

Involuntary  
institutional treatment  
(Brøset)

approx.

**1,000**

Nursing homes

\*

Housing for people with  
developmental disabilities

approx.

**150**

Child welfare institutions

approx.

**20**

Customs and Excise's  
detention premises

Institutions for involuntary treatment  
of people with substance abuse problems

**17**

\* With respect to places of detention for people with developmental disabilities, this figure is uncertain, among other things because many of them live in their own homes and in sheltered housing. The NPM has yet to carry out visits to such places and has therefore not finished mapping this sector.

National Preventive Mechanism against  
Torture and Ill-Treatment

## **ANNUAL REPORT 2015**

DOCUMENT 4:1 (2015–2016)



## Foreword

2015 was the second year in which the Parliamentary Ombudsman served as a national preventive mechanism pursuant to the Optional Protocol to the Convention against Torture (OPCAT). During the year, we have increased our level of activity – we have both increased the number of visits to places where people are deprived of their liberty and expanded our visit field to include the police immigration detention centre at Trandum and mental health care institutions, in addition to police custody facilities and prisons.

In this work, we have identified several challenges that are found across the sectors, whether this be prisons, police custody facilities, mental health care institutions or the police immigration detention centre. We have also found that the places of detention visited seem to follow up the Parliamentary Ombudsman's recommendations in a thorough manner.

Regular visits to places where people are deprived of their liberty is the main tool in the work to prevent torture and other cruel, inhuman or degrading treatment or punishment. Both announced and unannounced visits are made, and they provide a thorough insight into the conditions for those deprived of their liberty and the vulnerable situation they find themselves in.

The work in 2015 was not limited to carrying out visits, however. Broad preventive efforts have been made, which have included dialogue with the authorities, civil society, supervisory and appeal bodies, teaching and lectures, exchange of information, participation in consultation rounds and cooperation with international human rights bodies.

In autumn 2014, the national preventive mechanism (NPM) started visiting prisons and police custody facilities, and it continued to visit these sectors in 2015. The NPM has also carried out visits to the police immigration detention centre at Trandum and to three mental health care institutions during the course of the year. A visit to the Norwegian Customs and Excise's premises for detention at Oslo Airport Gardermoen was also conducted. In total, 15 visits were conducted in 2015.

The visits to the police immigration detention centre and the mental health care institutions have resulted in recommendations being made in new areas. At the same time, there are many similarities between the different places of detention visited and the challenges they face, including across sectors.

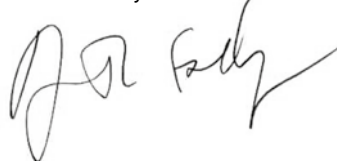
In the annual report you now hold in your hand, you can read three articles that give an in-depth description of findings and recommendations in areas in which we have identified similar challenges and problems across several sectors in 2015. This

concerns the use of coercive measures during the deprivation of liberty, activity programmes and measures to combat isolation, and the role of health personnel who treat people deprived of their liberty.

In 2016, the NPM will continue to focus on further developing its work methods. It has gained additional specialist expertise during the past year and regularly makes use of external experts and obtains information from its advisory committee, among others.

I look forward to further building on the solid foundation we have laid in 2015, and taking the NPM into new sectors within the mandate laid out in the Optional Protocol to the Convention against Torture. The Optional Protocol celebrates its tenth anniversary in June 2016, and the Parliamentary Ombudsman will, through its mandate as the national preventive mechanism, help to ensure that this important area of work is further advanced in Norway.

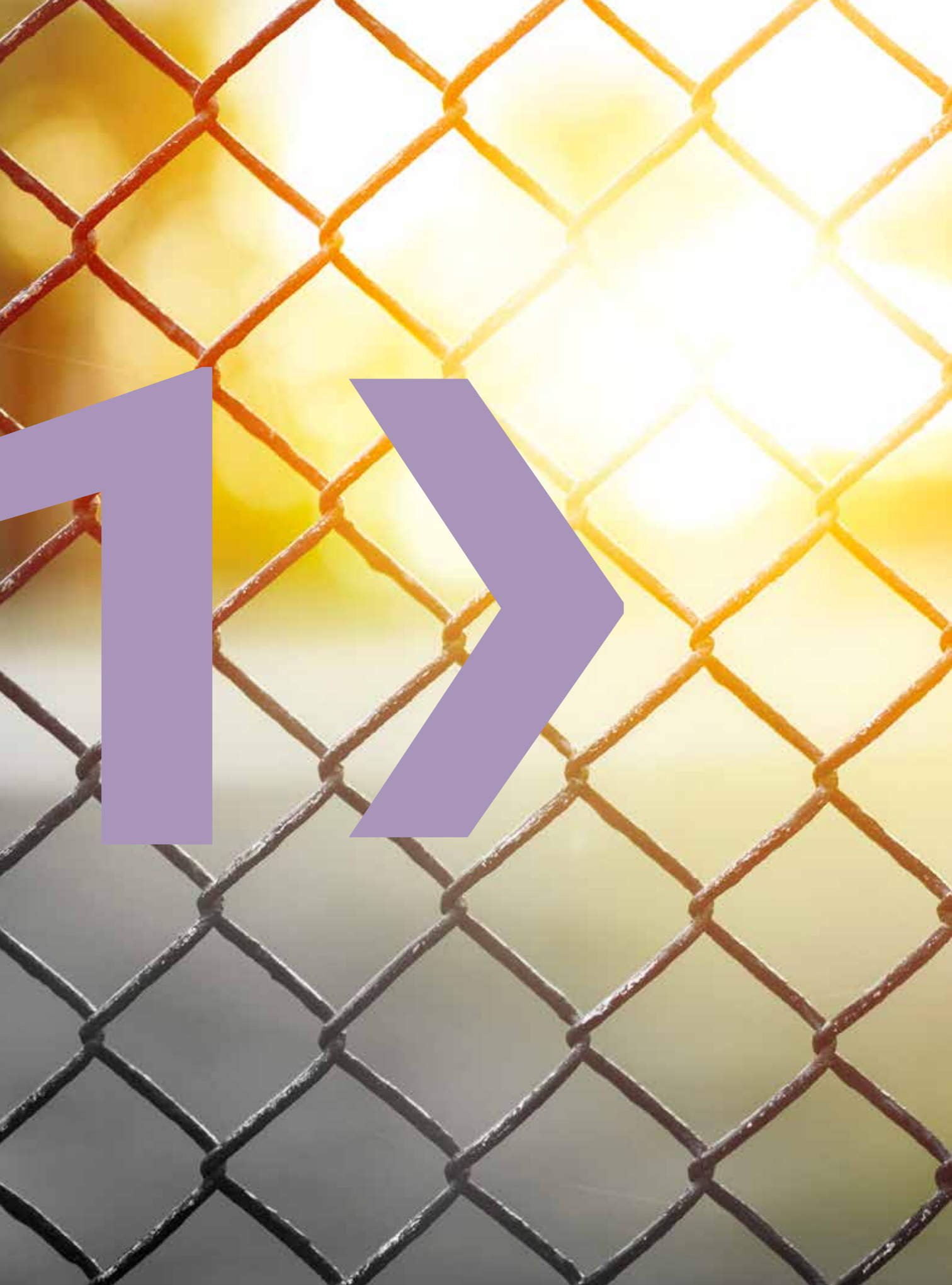
**Aage Thor Falkanger**  
Parliamentary Ombudsman





# Table of contents

<b>Foreword</b> .....	2
<b>1 &gt; Background</b> .....	7
<b>2 &gt; Working method and organisation</b> .....	11
<b>3 &gt; Selected topics from 2015</b>	
> Coercive measures during deprivation of liberty .....	17
> Activity programme and measures to combat isolation .....	20
> The role of health personnel in treating people who are deprived of their liberty .....	23
> Execution of sentences in the Netherlands and Norway's commitments pursuant to the UN Convention against Torture .....	26
<b>4 &gt; Visits in 2015</b>	
> Prisons .....	31
> Police custody facilities .....	37
> Mental health care institutions .....	40
> The immigration detention centre at Trandum .....	45
> Visit covering several places of detention .....	46
<b>5 &gt; Results in 2015</b> .....	49
<b>6 &gt; Statistics</b> .....	55
<b>7 &gt; National dialogue</b> .....	59
<b>8 &gt; International cooperation</b> .....	63
<b>Activities in 2015</b> .....	66
<b>Budget and accounts in 2015</b> .....	71
<b>Texts of acts</b>	
> The UN Convention against Torture .....	72
> The Optional Protocol to the Convention against Torture (OPCAT) .....	74
> The Parliamentary Ombudsman Act .....	78
> Instructions for the Parliamentary Ombudsman .....	80



15



# Background

## The Optional Protocol to the Convention against Torture (OPCAT)

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. The Optional Protocol to the Convention against Torture, OPCAT, is an international human rights agreement that seeks to protect people deprived of their liberty. The Optional Protocol was adopted by the UN General Assembly in 2002, and it entered into force in 2006.

### Definitions<sup>1</sup>:

#### **Cruel, inhuman or degrading treatment**

When severe pain or suffering, whether physical or mental, is inflicted by a public official, or by a private individual acting on behalf of a public official, it is deemed to constitute cruel, inhuman or degrading treatment.

#### **Torture**

If, in addition, the act is committed in order to obtain information or a confession, or to punish, intimidate, threaten or force the subject into submission, it is deemed to be torture.

The UN Convention against Torture states that torture and ill-treatment are strictly prohibited and that this prohibition can never be violated. The Optional Protocol is based on the UN Convention against Torture, and does not therefore establish a new norm. The background for the Optional Protocol was a wish to increase efforts to combat and prevent torture and ill-treatment, and it therefore proposes new work methods to strengthen this work.

States that endorse the Optional Protocol are obliged to establish or appoint one or several national preventive mechanisms that regularly carry out visits to places where people are, or may be, deprived of their liberty, in order to strengthen the protection of these people against torture and ill-treatment.<sup>2</sup>

### Definition<sup>3</sup>:

#### **Deprivation of liberty**

Any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

The national preventive mechanisms have the possibility to make recommendations that highlight risk factors for violations of personal integrity. They can also submit proposals and comments concerning existing or draft legislation.

In order to effectively exercise their mandate, the preventive mechanisms must be independent of the authorities and places of detention, have the resources they require at their disposal and have employees with the necessary competence and expertise.

On 14 May 2013, the Storting voted in favour of Norway ratifying the Optional Protocol.

As of 31 December 2015, 80 states had ratified the Optional Protocol and 64 states had established or appointed national preventive mechanisms.

*" Torture and ill-treatment are strictly prohibited and this prohibition can never be violated "*

1 The UN Convention against Torture Article 1.

2 The national preventive mechanisms' tasks are described in Article 19 of the Optional Protocol.

3 The Optional Protocol to the Convention against Torture (OPCAT) Article 4



## The Subcommittee on Prevention of Torture

The Optional Protocol also established an international preventive committee that works in parallel with the national preventive mechanisms, the UN Subcommittee on Prevention of Torture (SPT). It comprises 25 independent experts.

The SPT can visit all places of detention in the states that have endorsed the Optional Protocol, both announced and unannounced visits. The SPT also provides advice and guidance to the national preventive mechanisms, and coordinates its work with international and regional human rights mechanisms, such as the European Committee for the Prevention of Torture (CPT), the UN Committee against Torture (CAT) and the UN Special Rapporteur on Torture.

### Definition<sup>4</sup>:

#### **Place of detention**

Any place under (the State's) jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence.

## The Parliamentary Ombudsman's preventive mandate

The Parliamentary Ombudsman's national preventive mechanism (NPM) was established when the Storting awarded the task of exercising the mandate set out in OPCAT to the Parliamentary Ombudsman.

The Parliamentary Ombudsman, represented by the NPM, has right of access to all places of detention and the right to speak privately with people who have been deprived of their liberty. The NPM also has right of access to all essential information relating to detention conditions. During its visits, the NPM endeavours to identify risks of violations by making its own observations and through interviews with the people involved. Interviews with people deprived of their liberty are given special priority.

The visits and all other work must have a preventive focus. The NPM therefore pays particular attention to general conditions that may have an impact on, or in the longer-term lead to, the risk of torture and ill-treatment. It also looks in detail at areas that are generally associated with the greatest risk of serious violations of integrity.

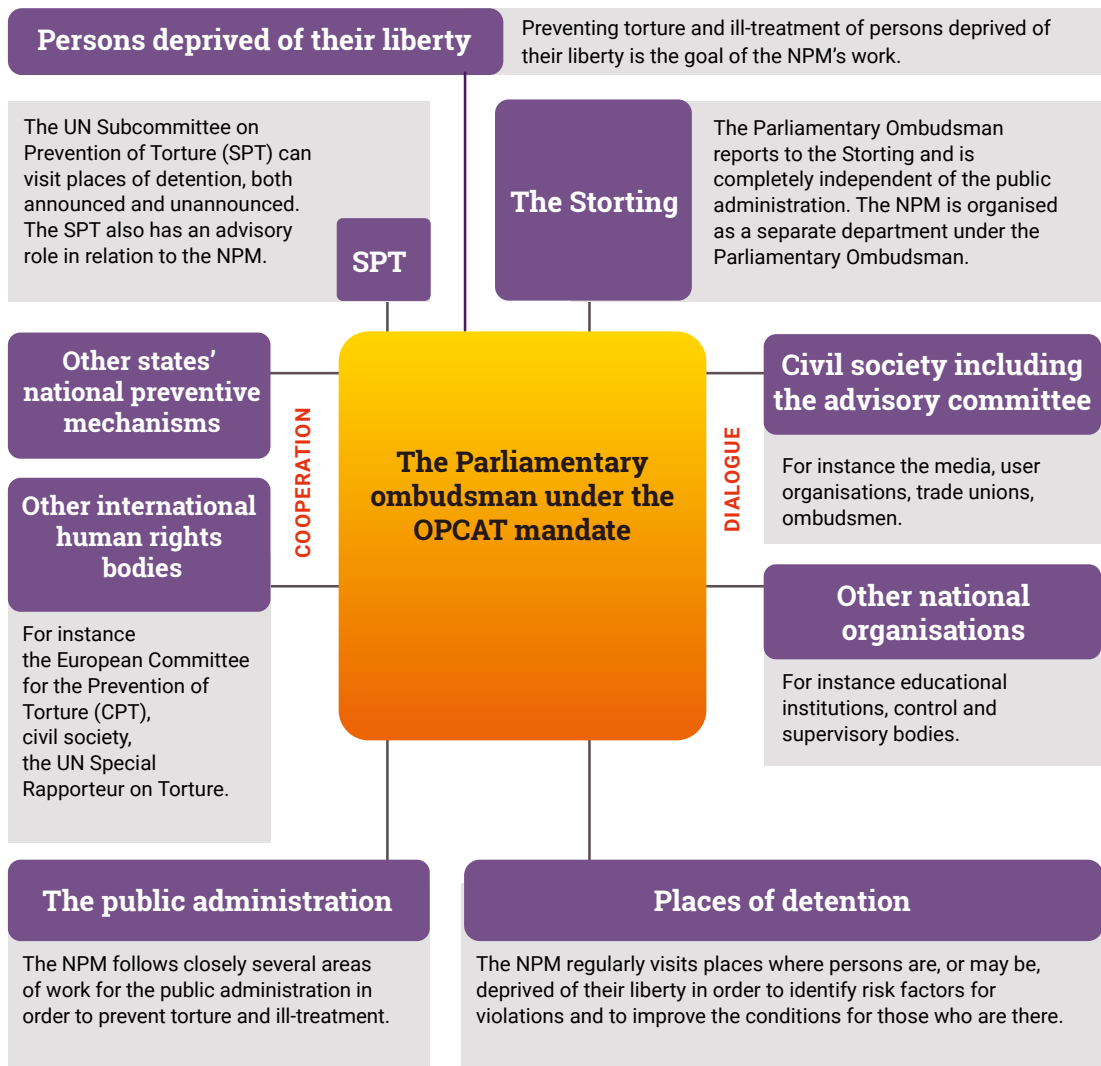
The Parliamentary Ombudsman engages in extensive dialogue with national authorities, control and supervisory bodies in the public administration, other ombudsmen, civil society, preventive mechanisms in other countries and international human rights bodies.

An advisory committee has been established that contributes expertise, information, advice and input to the NPM's work. The advisory committee ensures that different voices are heard and provides important expertise to the NPM to enable it to exercise its mandate.

*" During its visits, the NPM endeavours to identify risks of violations by making its own observations and through interviews with the people involved "*



**The NPM's most important relations**





2»

# Working method and organisation

## Establishment of the national preventive mechanism (NPM)

The NPM started its work in spring 2014. During the establishment phase, it mapped the sectors under its mandate, devised working methods and focused on competence building and information work. This formed the basis for a document outlining the NPM's priorities and a visit schedule.<sup>1</sup>

In autumn 2014, the NPM began to make visits to places of detention, and visits were made to two prisons and two police custody facilities in 2014. During 2015, the NPM has carried out 15 visits to 14 places of detention and expanded its visit field to include two new sectors: mental health care institutions and the police immigration detention centre at Trandum.<sup>2</sup>

## Holistic approach to prevention

Effective preventive work requires a holistic approach. The scope of torture and ill-treatment can be affected by many different factors, including national and international legislation, the organisation of institutions, control and supervisory bodies and their practices, the general attitudes of society, social inequality, the level of knowledge and financial resources. They all have consequences for the work of the NPM.

Regular visits to places of detention are a key element of the NPM's work, but other work methods are also employed. The NPM maintains a continuous dialogue with the public administration and official bodies at different levels, as well as supervisory authorities and civil society. It also cooperates and exchanges experience with many international human rights bodies. Information work is also given priority in order

to give the public greater insight into the conditions for people deprived of their liberty and to provide information about findings and recommendations. This is described in more detail in this annual report in the sections on national dialogue (section 7) and international cooperation (section 8).

## Announcement of visits

The NPM makes both announced and unannounced visits. In 2015, five announced visits, seven unannounced visits and three partly announced visits were made. An unannounced visit means that the NPM visits a place without giving prior notice, and an announced visit means that the NPM informs the place of detention's management about the visit roughly four weeks in advance. For partly announced visits, the NPM informs the place of detention's management of the month the visit will be made, but not the date. This work method makes it possible to obtain relevant information before a visit, while also enabling the NPM to gain a realistic impression of the conditions at the place of detention.

The practice of combining different types of visits is set to continue in 2016.

## Execution of visits

Each visit starts by obtaining information from a number of sources. This includes relevant national and international legislation and concrete information about the conditions for the people detained at the place of detention.

If the visit is announced or partly announced, the place of detention receives a letter about the forthcoming visit, in which it is also requested to provide

<sup>1</sup> See the NPM's annual report 2014 for a detailed description of the work carried out during the establishment phase.

<sup>2</sup> The visits made in 2015 are discussed in section 4 of this annual report.

the NPM with specified information ahead of or during the visit. The NPM obtains reports from relevant supervisory authorities and other sources, and the advisory committee is asked to share information and provide input. In connection with unannounced visits, information is primarily obtained by reviewing openly available sources, but also through other sources such as complaints to the Parliamentary Ombudsman and tip-offs. The duration of the visits depend primarily on the size of the place visited. In 2015, the NPM made visits lasting from one to three days.

#### The visits have the following main components:

- › Inspection of the place of detention
- › Meeting with the management
- › Private interviews with detainees
- › Interviews with staff, health care personnel, safety representatives, trade union representatives, next of kin, experience consultants and other affected parties.
- › Review of documentation
- › Concluding meeting with the management

The sequence and scope of these components can vary, depending on whether the visit is announced or not, the time of day, the size and organisation of the place of detention, logistics and other factors. Some of these components can also be carried out simultaneously by the visit team splitting into smaller groups for parts of the visit.

*" The NPM never uses other detainees or staff as interpreters during private conversations "*

When necessary, the visit team uses an interpreter during interviews with persons deprived of their liberty. The NPM tries, as far as possible, to use interpreters who can meet in person at the place of detention, but it has also used telephone and video interpreters when this has been the only alternative. It never uses other detainees or staff as interpreters during private conversations.

The NPM is subject to a duty of confidentiality. Information that can identify a person deprived of his/her liberty must be treated confidentially and not be used in a way that can reveal the person's identity without first obtaining his/her consent.

During the visits, the conditions are documented using the NPM's own camera. It also has other equipment at its disposal, such as measurement tools for measuring the size of cells and rooms.

#### Follow-up of visits

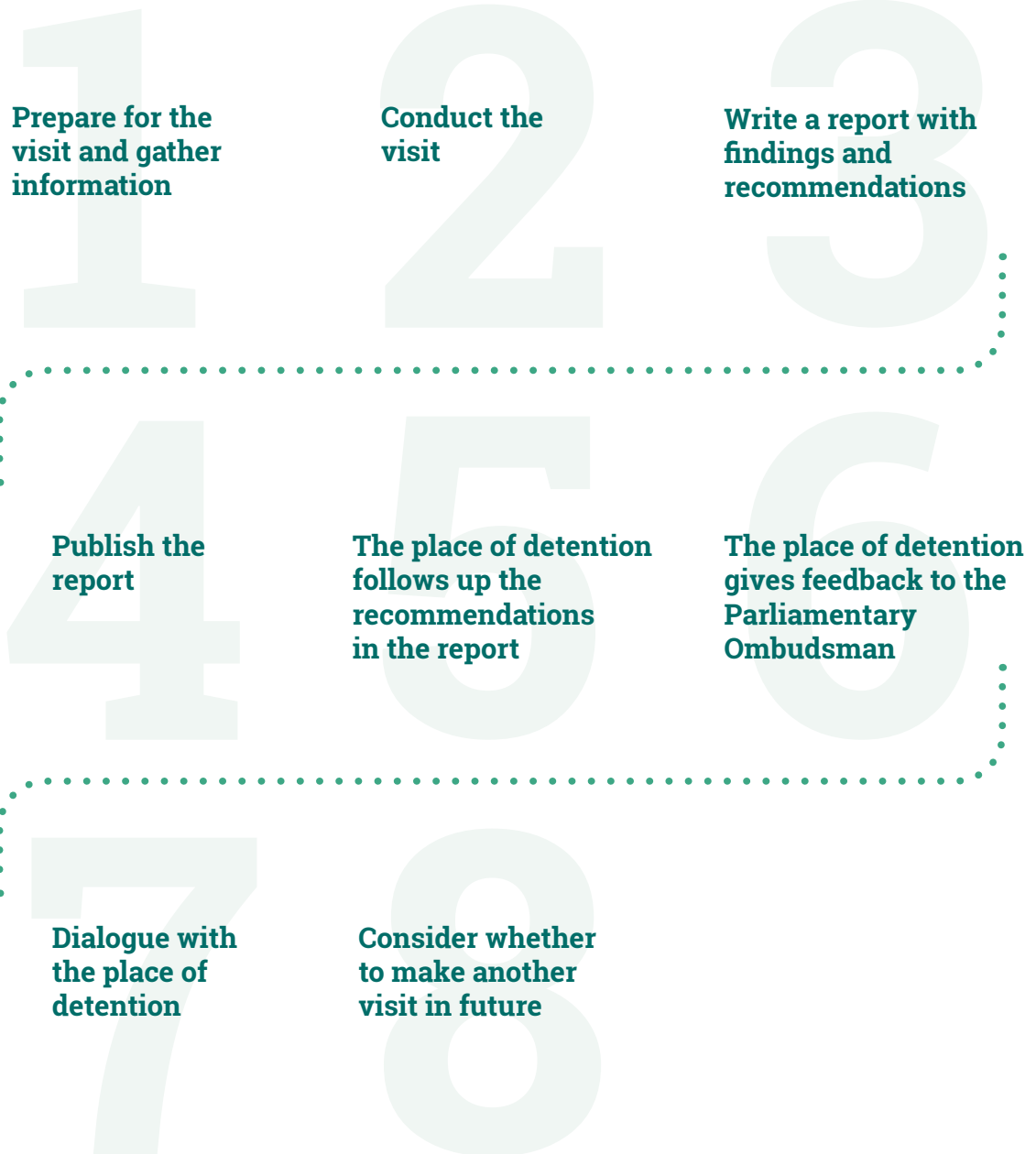
The NPM writes a visit report after it has conducted a visit. It describes findings and risk factors identified during the visit. The report also contains the Parliamentary Ombudsman's recommendations on how to reduce the risk of people deprived of their liberty being subjected to torture and ill-treatment.

In accordance with Article 22 of the Optional Protocol and Section 10 of the Act relating to the Parliamentary Ombudsman, the authorities are obliged to consider the recommendations and initiate dialogue on possible implementation measures. The places visited by the NPM are given a deadline for informing the Parliamentary Ombudsman about their follow-up of the recommendations. Maintaining a dialogue with the places visited about their follow-up of the visit report and its recommendations is a very important aspect of the NPM's preventive work (see section 5).



---

How a visit is carried out



## The NPM's employees

The NPM has an interdisciplinary composition, and its employees have different vocational backgrounds and types of expertise. It is organised as a separate

department under the Parliamentary Ombudsman. The NPM does not consider individual complaints. If the NPM receives individual complaints during a visit, they are passed on to the Ombudsman's complaints departments.



The NPM's employees as of 1 February 2016.

From the left: senior adviser Jonina Hermannsdóttir, adviser Johannes Flisnes Nilsen, senior adviser Mette Jansen Wannerstedt, adviser Caroline Klæth Eriksen, senior adviser Aina Holmén and head of the NPM Helga Fastrup Ervik.



## External experts

The NPM has the possibility to engage external expertise for individual visits. External experts are temporarily assigned to the NPM's visit team during the preparation for and execution of one or more

visits. They also assist in writing the visit report and contribute professional advice and competence building to the visit team.

In 2015, the NPM was assisted by external experts in five of its 15 visits.

PLACE VISITED	EXTERNAL EXPERT
Trondheim Prison	Joar Øveraas Halvorsen, psychologist, PhD in clinical adult psychology  Marit Lomundal Sæther, assistant advocate at Advokatfirmaet Hestenes og Dramer & co
Telemark Prison, Skien branch	Georg Høyer, Prof. Dr. Med., University of Tromsø, and Norwegian member of the European Committee for the Prevention of Torture (CPT)
Police immigration detention centre at Trandum	Birgit Lie, Dr. Med., head of department at the specialised outpatient clinic for psychosomatics and trauma, Department of Mental Health and Substance Abuse Services, Sørlandet Hospital, Kristiansand. Former Norwegian member of the European Committee for the Prevention of Torture (CPT)
Kongsvinger Prison	Marit Lomundal Sæther, assistant advocate at Advokatfirmaet Hestenes og Dramer & co
Sørlandet Hospital, Kristiansand	Ragnfrid Kogstad, professor of mental health care at Hedmark University College

*" External experts are temporarily assigned to the NPM's visit team during the preparation for and execution of one or more visits "*



3 >



## Selected topics from 2015

# The use of coercive measures during deprivation of liberty

All of the sectors that were visited in 2015 had the right to use coercive measures. However, the use of such measures is subject to strict conditions. In the course of 2015, the NPM identified several challenges found across sectors, and some that were specific to particular types of institutions.

The most commonly used coercive measures were security cells and restraint beds in prisons, handcuffs (during arrest and until detention) in police custody facilities; security cells, handcuffs and the restraining system known as BodyCuff at the police immigration detention centre at Trandum, and restraint beds and injections of short-acting medication in mental health care institutions.

***" Coercive measures are never to be used as treatment or punishment "***

### **Strict conditions**

According to human rights standards, encroachments on personal integrity must comply with legality, necessity and proportionality requirements. Coercive measures can be used to prevent an acute and serious situation that endangers the life and health of the person subject to coercive measures or persons nearby. In some cases, it is also possible to use coercive measures to prevent significant material damage. Coercive measures are never to be used as treatment or punishment. The strict conditions reflect that coercive measures represent a major encroachment on an individual's personal integrity.


From a preventive perspective, the use of coercive measures entails a clear risk of violating the prohibition against torture and ill-treatment. The NPM therefore always investigates what coercive measures are available at each place of detention, what the practice is for their use, for how long and how often are they used, how their use is documented, the possibility to file complaints, and how those deprived of their liberty feel about being subjected to coercive measures.

***" From a preventive perspective, the use of coercive measures entails a clear risk of violating the prohibition against torture and ill-treatment "***

### **Security cells**

Security cells are used both in prisons and at the immigration detention centre at Trandum. The security cells are usually the same size as a police custody cell, but are slightly smaller at Trandum. Apart from a squat toilet in the floor and a mattress, the security cells have no furniture etc. Food and drinks are often inserted through a hatch by the floor. The Parliamentary Ombudsman expressed concern about, among

other things, the length of stays in the security cells and that, in some cases, inadequate administrative decisions had been made. Some prisons have now obtained clothing that should not be possible to use for self-harm by twisting or tearing. This is an important measure to ensure that inmates do not have to be naked in the security cell. At the same time, these clothes can be perceived as stigmatising, unpleasant and an encroachment in itself, and they should therefore only be used in situations involving a concrete suicide risk. Apart from in this type of situation, inmates should have their own or other ordinary clothes from the institution.



***" It is also emphasised in several of the Parliamentary Ombudsman's reports that stays in security cells constitute a particularly invasive form of solitary confinement "***

Regular supervision and regular conversations that prevent people deprived of their liberty from feeling isolated and helpless are important measures to reduce the risk of suicide and of aggravating mental illness. It is also emphasised in several of the Parliamentary Ombudsman's reports that stays in security cells constitute a particularly invasive form of solitary confinement. Reference was made to existing knowledge that isolation can increase the risk of suicide, self-harm and the development of serious mental illness. The NPM's experience to date indicates that the risk of serious self-harm and suicide is among the most commonly cited grounds for administrative decisions placing someone in a security cell. This gives cause for concern, given the negative effect of solitary confinement on inmates'

mental health. A review of supervision logs kept for security cells revealed instances in several prisons whereby inmates reacted to the situation by becoming apathetic, by undressing, by urinating on the floor and walls or by attempting to self-harm.

#### **Using a restraint bed**

Using a restraint bed is one of the most invasive measures that can be legally used on someone. Like other coercive measures, this measure is intended to prevent an acute situation and is never to be used in connection with treatment or as punishment. In contrast to the correctional services, where health personnel are not to be involved in decisions to use a restraint bed, in mental health care it is health personnel who decide and implement the use of a restraint bed for committed patients. The unique aspects of the role of health personnel in relation to people deprived of their liberty are discussed in a separate article (see page 23). The fact that health personnel both treat and implement the use of coercive measures creates special challenges for relations with people deprived of their liberty and reinforces the need for control mechanisms. Supervisory commissions have been appointed for mental health care institutions to review the use-of-force records, which include the use of restraint beds, and to check that the use of such measures has a legal basis and is properly documented.

Hospitals are urged to ensure that administrative decisions to use restraint beds apply for the shortest possible time. In mental health care, people who are restrained using a restraint bed can also be forced to take short-acting medication. The review of use-of-force records during visits to mental health care institutions revealed that the use of restraint beds is often combined with injections of short-acting medication.

People restrained in a restraint bed must be under constant supervision. The NPM also found that some prison inmates had been so affected by solitary confinement that they had asked to be restrained in a restraint bed so that they would not be left on their own. This is a serious indication of what it feels like to be in solitary confinement in a security cell.

The police custody facilities are no longer allowed to use restraint beds, but the custody facilities and immigration detention centre at Trandum is authorised to use the BodyCuff. This is a type of transport restraint system that is fastened around the wrists (with handcuffs), ankles and stomach and where straps between the hands and feet can be tightened to pull the hands and feet towards the stomach or back, respectively. This coercive measure is primarily used in connection with people being escorted out of the country, on planes etc. The NPM found no instances of non-regulated use of the BodyCuff during its visits in 2015, but did call for systematic registration of its use and the use of other coercive measures when escorting foreign nationals out of Norway.

### **Handcuffs**

Some police custody facilities were found during visits to have hooks to which detainees could be handcuffed to the wall above a bench in the waiting room ('the registration room'). This is a practice that has previously been criticised by the European Committee for the Prevention of Torture (CPT), and the NPM recommends that these hooks be removed. The recommendation was, in most cases, speedily followed up by the custody facilities in question.

During visits to prisons, inmates on remand were found to have missed appointments with the specialist health service because they were wearing handcuffs and health personnel concluded that the

examination could not be carried out with the inmate in handcuffs. This could constitute ill-treatment, and the NPM recommends a change in practice.

### **Documentation of the use of coercive measures**

The use of coercive measures must be documented through written administrative decisions and by logging the sequence of events. This is important because it provides a basis for expedient internal control and ensures a real possibility to file a complaint. Documentation is also crucial for ensuring that the supervisory authorities are able to control the use of coercive measures. The different supervisory councils, supervisory commissions and the County Governor carry out important preventive work and must be able to check compliance with laws and regulations and that proper conditions are ensured for the people concerned.

During the visits, some major differences were found in practice and in the quality of documentation in administrative decisions and supervision logs. These factors should be rectified through clear internal guidelines and regular training of employees. The NPM made several recommendations to that effect and also made a recommendation concerning patients' right of access to use-of-force records and the opportunity to enclose their own comments to the records.

# Activity programme and measures to combat isolation

People who are deprived of their liberty are entitled to participate in meaningful activities such as work, education, recreational pursuits, physical activity and social interaction. At the same time, they have far less control over their own day-to-day lives. Closed institutions therefore have an important responsibility to ensure that people deprived of their liberty are offered a satisfactory activity programme.

The European Committee for the Prevention of Torture (CPT) recommends that prison inmates get to spend at least eight hours a day out of their cells, engaged in meaningful activities.<sup>1</sup> The NPM's visits in 2015 have shown that several places of detention have not adequately succeeded in this respect. The NPM has found that some of the detainees in prisons, police custody facilities, at Trandum and mental health care institutions have such a low level of stimuli and human contact at times that it constitutes isolation or a state approaching it.

## **Activity programme and solitary confinement in prison**

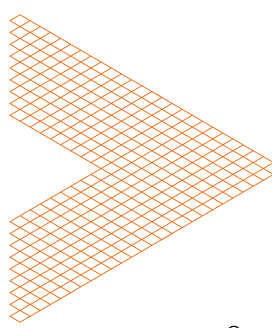
The NPM's visits to five prisons in 2015 have shown that providing a satisfactory activity programme for all inmates poses significant challenges for the prisons. A lack of activity and human contact constitutes a clear risk of negative health and welfare consequences, and it can also negatively affect the inmates' personal progression. This is a loss for the individual as well as for us all, because all inmates will one day return to society.

Some inmates experience the arrival phase in particular as being so restricted that it constitutes isolation. This form of isolation is often not due to the inmates' behaviour, but to the fact that the prison's premises are not adapted for communal use. The very high occupancy rate, which delays the transfer of inmates from the admission section to the communal section, compounds the problem. This is a concern, and, in its reports, the Parliamentary Ombudsman has emphasised the importance of new prisons having suitable premises for communal activities in all its sections, including the admission or remand sections.

Inmates who are locked in their cells for 22 hours or more a day without meaningful human contact experience solitary confinement.<sup>2</sup> Such a low level of meaningful social contact can have serious consequences for the detainees' mental health and it increases the risk of suicide. Based on knowledge about its harmful effects, the CPT has recommended that solitary confinement should only be used as a last resort and for the shortest possible time. The European Court of Human Rights (ECtHR) and the UN

1 The European Committee for the Prevention of Torture (CPT), CPT Standards, CPT/Inf/E (2002) 1 – Rev. 2015 page 17 paragraph 47.

2 The Mandela Rules, rule 44.



***" The NPM's visits to five prisons in 2015 have shown that providing a satisfactory activity programme for all inmates poses significant challenges for the prisons "***

Special Rapporteur on Torture have also expressed grave concern about the harmful effects of solitary confinement.

With respect to short-term use of solitary confinement, the ECtHR and the CPT both strongly emphasise that the competent authorities implement measures to compensate for the negative effects of solitary confinement. The CPT has recommended that concrete measures be implemented in instances of long-term solitary confinement in order to change the situation that led to the solitary confinement. During its prison visits, the NPM has found that the prisons have implemented certain activation measures for people in solitary confinement. Several of the prisons have employed activity staff with responsibility for one-to-one follow-up of inmates in solitary confinement. Unfortunately, the measures often appear to be rather unsystematic and are vulnerable to budget cuts.

The use of long-term solitary confinement as a control measure has been strongly criticised in international law, and the UN Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules) state that solitary confinement in excess of 15 days is prohibited. However, Norwegian legislation currently allows complete exclusion from the company of others for up to one year at a time.<sup>3</sup> Although such long-term exclusion is very uncommon, the NPM found during its visits in 2015 some cases of exclusion exceeding 14 days and in individual cases even months and years. This gives cause for concern, and it is important that the legal basis for solitary confinement in the Execution of Sentences Act is assessed in light of the provisions on solitary confinement set out in the Mandela Rules.

**Activity programme and solitary confinement at the police immigration detention centre**

Similar challenges were also identified during last year's visit to the police immigration detention centre at Trandum. The main finding was that the overall level of control at the detention centre was perceived as being too invasive, and measures were recommended to ensure compliance with human rights requirements for necessity and proportionality. Among other things, measures were needed to strengthen the organised activity programme at the detention centre, particularly for long-term detainees. At the detention centre, solitary confinement took place in cells that had less furnishings than prison cells. Some detainees were held in solitary confinement for a long time, especially following a rebellion in March 2015. As many as 24 administrative decisions involved exclusion from company for more than four days. The longest stay in solitary confinement lasted 23.5 days. The administrative decisions in these cases did not include information about why solitary confinement was to be upheld or whether less invasive measures for maintaining safety had been assessed.

**Activity programmes and conditions similar to solitary confinement at mental health care institutions**

During visits to three mental health care institutions in 2015, challenges were also identified in relation to activity programmes and conditions similar to solitary confinement. During its visits, the NPM reviewed the hospitals' activity programmes. Examples of activities included trips outside the hospital, film nights, music group, cooking, arts and crafts, communal meetings on current affairs topics and organised workout sessions. During its visits, the

NPM nonetheless found that the range of activities offered at several of the hospitals was so limited as to give cause for concern. Many patients wanted the opportunity to spend more time outside in the fresh air and in physical activity, and to have more active staff who could organise indoor activities.

***" The European Court of Human Rights (ECtHR) and the UN Special Rapporteur on Torture have also expressed grave concern about the harmful effects of solitary confinement "***

Under the Mental Health Care Act, patients who are committed can be subjected to many invasive treatment and control measures, including segregation. Segregation entails that the patient is kept in a room that is almost devoid of furnishings. Like solitary confinement in prison, this limits the patient's sensory impressions and largely cuts off his/her contact with other people. Segregation can also be used as a treatment measure or out of consideration for other patients, but never as punishment or out of consideration for the staff. Because we have relatively limited knowledge about the effects of segregation and because segregation infringes on the patient's liberty, the NPM is investigating various segregation measures. One visit revealed that patients subject to segregation spent most of the day alone and without direct supervision in the segregation unit. The practice was therefore similar to solitary confinement. The NPM pointed out to the same hospital that it was unfortunate to place a restraint bed in the segregation units because it did not help to calm down the patients and increased the risk of restraints being used before less invasive measures were tried. It was also a concern that patients who had been committed, who already had limited contact with other people before segregation commenced and were therefore particularly vulnerable, had their contact with the outside world reduced in other ways.

**Unauthorised solitary confinement in police custody facilities, and remedial measures**

A stay in a police custody facility is meant to be short; the detainee must either be released or transferred to a prison within 48 hours. For many years, the Parliamentary Ombudsman has expressed concern about the high number of breaches of the holding period. In July 2014, Oslo District Court found that the State had violated ECHR Article 8 concerning the right to respect for private and family life and the prohibition on discrimination in Article 14 in a case concerning solitary confinement in a police custody facility. The judgment confirms that the police and prosecuting authority is obliged to do what is possible within the confines of the existing premises to prevent isolation, by facilitating extended contact with a lawyer, time outdoors with others and external visits. Solitary confinement is not legal unless there is a risk of evidence being tampered with.

During visits to police custody facilities in 2015, the NPM investigated what the police do to ensure that the need for solitary confinement is assessed in each individual case and that remedial measures against solitary confinement are implemented. Stays in police custody cells often cause great mental distress to people in crisis situations and remedial measures are essential. The NPM has found that several custody facilities have not documented that an assessment has been made of whether solitary confinement is needed. Findings so far indicate that the police, in some cases, implement some remedial measures, such as more frequent stays in the exercise yard with other detainees. The Parliamentary Ombudsman has recommended, among other things, that the police facilitate external visits. A major challenge is that the custody facilities consist of custody cells without communal areas. It has yet to be clarified whether further measures, such as adaptations to buildings, are being planned to bring the Norwegian practice more in line with Norway's human rights commitments.



# The role of health personnel in treating people who are deprived of their liberty

The treatment of people who are deprived of their liberty can create particular challenges for doctors and other health personnel. This article discusses medical ethics, dual loyalty and the vulnerable doctor-patient relationship during deprivation of liberty.

People who are deprived of their liberty have the same rights to physical and mental health care as the rest of the population. In some cases, however, they may have special health care needs. The deprivation of liberty in itself and the health services provided can represent risk factors for ill-treatment. In order to ensure a good health care basis for the NPM's work, the interdisciplinary visiting team includes a doctor, and, from 2016, a psychologist. Every visit report includes a section on health care, with findings and recommendations aimed at both the health authorities and the detaining authority. Reports from visits to mental health care institutions also look at what effect it has on the conditions for those deprived of their liberty that the detaining authority is also the health authority.

## Medical ethics

Ethical rules for doctors derive from the Hippocratic Oath, and are incorporated in Norwegian legislation and international human rights conventions. These ethical principles are based on the idea that a doctor primarily has a responsibility to his/her patients (from the Hippocratic Oath), but also to the general welfare of society, to other health personnel and to him/her self. Medical ethics are based on values such as autonomy (the patient has the right to choose or refuse treatment), beneficence (the doctor should have the patient's best interests in mind), non-maleficence (based on the principle 'first, do not harm') and justice (fairness and equal treatment in the allocation of limited resources).

***" The deprivation of liberty in itself and the health services provided can represent risk factors for ill-treatment "***



***" The patient is entitled to be informed when the doctor is acting in the role of expert "***

Doctors shall seek to establish trust, protect integrity, respect privacy and the duty of confidentiality, promote welfare and provide treatment based on the patient's informed consent. A doctor may also serve in a role as expert, however. In this role, the doctor acts on behalf of the state, not the patient. The two contradictory roles, so-called 'dual loyalty', can challenge each other, and handling these roles requires clarity and transparency in relation to the patient. The patient is entitled to be informed when the doctor is acting in the role of expert.

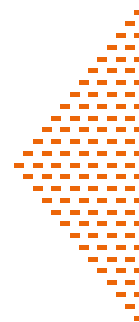
**Health personnel's relationship to detainees in police custody**

Detainees are often escorted to municipal accident and emergency units by the police. This may be due to alcohol and drug problems or other health matters that it may be important to investigate. As the detainee will continue to be deprived of his/her liberty during the medical examination, the accident and emergency unit becomes a temporary place of detention. This is why the NPM conducts visits to the municipal accident and emergency unit during visits to police custody facilities. During these visits, the NPM has found that some doctors at accident and emergency units perform their professional role in relation to detainees in an unclear, and, in part, unfortunate manner. If, for example, a detainee is brought to the accident and emergency unit after being arrested for driving under the influence, the doctor at the accident and emergency unit performs work as an expert on behalf of the police when he/she collects blood and urine samples. In this type of situation, the patient's right to privacy and the duty of confidentiality will not be upheld in the same manner as when the doctor is working for the patient, because, among other things, the police are generally

present. In such case, it is important that the doctor informs the detainee about his/her role as expert. The same detainee may also have sustained an injury or have health issues that require medical treatment. When the doctor treats the detainee for an injury, he or she acts in their capacity as health personnel and is then obliged to safeguard the doctor-patient relationship, which includes protecting the patient's right to privacy and respecting the duty of confidentiality. The patient is entitled to speak alone and in confidence with the doctor, unless the doctor for security reasons asks for the police to be present.

The NPM has visited police custody facilities where detainees have been brought to the accident and emergency unit to be 'cleared for remanding in custody'. In several custody logs, wording has been used describing the detainee as having been 'cleared' or 'approved' for custody by the doctor, and 'clearance for remanding in custody' has even been documented in patient records at the accident and emergency unit. This is problematic. The doctor's role is to assess a patient's health status and provide treatment, not to give his or her seal of approval to the detention. If a patient's health is such that it will deteriorate significantly as a result of deprivation of liberty, the doctor has a responsibility to protect the patient's welfare. However, a doctor should never contribute to a decision to approve depriving a person of his/her liberty. This could potentially destroy confidence in the doctor-patient relationship.

***" The doctor's role is to assess a patient's health status and provide treatment, not to give his or her seal of approval to the detention "***



### **Health personnel's relationship to inmates**

Health personnel in the prison health service are generally aware of the risk of dual loyalty, and are aware of the need to put the patients' needs and interests first. Nonetheless, the health personnel – whether they are organised as municipal health services or specialist health services – have to act efficiently within the prison walls. They must cooperate with the correctional services with respect to making appointments, arranging admission interviews, patient transport, the health department's physical location, HSE measures, suicide prevention and health-promotion work, among other things.

One particularly challenging aspect of the work of health personnel is the medical supervision of inmates who have been placed in security cells or restraint beds by the correctional services. These inmates are entitled, by law, to be seen by health personnel at least once a day. On the one hand, this supervision is important because the inmates are in a vulnerable situation in which they have very limited opportunity to control their own access to health services. On the other hand, inmates in a security cell or restraint bed can perceive regular visits from health personnel as implicit approval of the use of coercive measures, which can harm the doctor-patient relationship. Health personnel are therefore urged in such circumstances to state their role and specify their duty.

### **Health personnel's relationship to detainees at the police immigration detention centre**

The Parliamentary Ombudsman has also expressed concern relating to dual loyalty issues at the police immigration detention centre at Trandum. The doctors and nurses at Trandum work for the National Police Immigration Service (NPIS), which means that they are not employed by the health authorities as is the case in other places of detention in Norway. Since the health service at Trandum is not independent of the detaining authority, prioritising the detainees' medical needs and interests can be challenging. The doctors at Trandum provide medical help to the detainees, but they also

prepare fit-to-fly declarations for enforced deportation of detainees out of Norway. The nurses at Trandum are the same nurses that accompany the detainees when they are deported from Norway by plane. The health service at Trandum's lack of independence creates a grave risk of harming the doctor-patient relationship and compromising patient care. The NPM therefore recommends that the NPIS organises independent health services for the detainees.

### **Health personnel's relationship to patients in mental health care**

In contrast to other places of detention the NPM has visited, where there is – or should be – a clear distinction between the detaining authority and the health authorities, the health authorities are the detaining authority for patients in mental health care. The doctor has the power and authority to admit patients to involuntary mental health care institutions, shield them from other patients and practitioners, use means of restraint and other coercive measures and administer medication without the patient's consent. The NPM is closely following national and international developments with respect to health care for people with psychosocial disabilities.

### **Crucial to focus on the role of health personnel**

In its endeavours to fulfil its mandate, the NPM continues to focus on health during deprivation of liberty. On each visit to a place of detention, the health care services provided are thoroughly assessed, including a review of the role of health personnel. Health services for people who have been deprived of their liberty are an important part of any society's overall public health services, as most of them will eventually return to their local community, bringing with them their health issues and their experience of the health service from their period of detention. It is therefore crucial that everyone involved recognises and addresses the challenges health personnel can experience while fulfilling their different roles at places of detention. This will have a health-promoting effect, not only for the people deprived of their liberty, but also for society as a whole.

# Execution of sentences in the Netherlands and Norway's commitments pursuant to the UN Convention against Torture

The rental of places for Norwegian inmates in a Dutch prison in 2015 raised a number of issues concerning the safeguarding of the inmates and their rights as well as Norway's commitment to preventing, prohibiting and punishing torture and ill-treatment of people subject to Norwegian jurisdiction.

An important part of the Parliamentary Ombudsman's prevention mandate is the opportunity to submit proposals and comments to existing legislation or draft legislation with a view to improving the treatment of and conditions for people who are deprived of their liberty.<sup>1</sup>

On 30 January 2015, the Ministry of Justice and Public Security distributed proposed amendments to the Execution of Sentences Act for consultation, intended to provide legal authority for prison sentences being served in another state.<sup>2</sup> In order to reduce the number of people waiting to serve their sentence and

increase the capacity of the correctional services to execute custodial sentences and remand people in custody, it was proposed to rent prison places abroad.

The Norwegian authorities entered into negotiations with the Dutch authorities and reached an agreement whereby Norway was to rent places for 242 inmates in Norderhaven prison in the Netherlands. The agreement stated, among other things, that most of the employees of the prison should be Dutch, that there should be a Norwegian prison manager and that the health services in the prison were to be provided by the Dutch health authorities.

1 The Optional Protocol (OPCAT) Article 19.

2 Consultation - Amendments to the Execution of Sentences Act. 30 January 2015  
<https://www.regjeringen.no/no/dokumenter/horing--endring-i-straffegjennomforingsloven/id2363989/>.

On 27 February, the Parliamentary Ombudsman submitted a consultation response to the proposal. In the response, the Ombudsman pointed out a number of factors that should be looked at in more detail, including how this arrangement addresses Norwegian human rights commitments, language and communication between employees and inmates, and access to health care services.<sup>3</sup> The Ombudsman also deemed the short consultation deadline to be unfortunate.

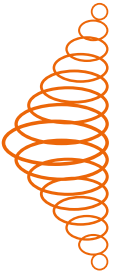
#### **In line with Norway's commitments?**

Following the consultation, the Ministry submitted a proposition to the Storting<sup>4</sup> for it to give its consent to the proposed amendments to the Execution of Sentences Act and to enter into the agreement with the Netherlands on renting places in Norgerhaven prison for three years from 1 September 2015. The Parliamentary Ombudsman, represented by the NPM, attended the Standing Committee on Justice's open hearing on 28 April and pointed out, among other things, that no reference is made in the proposition to how Norway aims to honour its commitments under the UN Convention against Torture in relation to inmates serving their sentences in the Netherlands. After the hearing, the Parliamentary Ombudsman outlined this matter in more detail in a letter to the committee.<sup>5</sup>

The proposition states that inmates serving sentences in another state will be under Norwegian jurisdiction. Articles 14 and 17 of Norway's agreement with the Netherlands of 2 March 2015, states however that Dutch criminal law will apply to criminal offences

committed in the prison and that the Dutch authorities are responsible for investigating and prosecuting criminal offences and deaths in the prison.

***" It is the state's responsibility to prevent, prohibit and punish torture and ill-treatment 'in any territory under its jurisdiction "***



Under the agreement, the Norwegian authorities have no authority to investigate criminal offences committed in Norgerhaven prison. The Norwegian authorities will thereby not be able to implement measures to investigate or prosecute matters that could fall under the prohibition on torture and ill-treatment of the inmates. This will apply both to incidents caused by Dutch employees in the prison and by the employees' passivity in the event of violence committed by other inmates. The UN's Committee against Torture (CAT) has stated that it is the state's responsibility to prevent, prohibit and punish torture and ill-treatment *in any territory under its jurisdiction*<sup>6</sup>. The Ombudsman therefore found grounds to question whether this type of limitation on the Norwegian authorities' capacity is in line with Norway's commitments under the UN Convention against Torture.

#### **The state's responsibility outside its own borders**

The UN Special Rapporteur on Torture Juan E. Méndez presented a report in October 2015, in which he reminded the states about their responsibility and commitments under the UN Convention against

3 The Parliamentary Ombudsman, consultation submission on amendments to the Execution of Sentences Act (execution of sentences in another state etc.), 27 February 2015.

4 Prop. 92 LS (2014-2015) Endringer i straffegjennomføringsloven (straffegjennomføring i annen stat), samtykke til inngåelse av avtale med Nederland av 2. mars 2015 om bruken av fengsel i Nederland og endringer i statsbudsjettet 2015 (Amendments to the Execution of Sentences Act (execution of sentences in another state), consent to enter into an agreement with the Netherlands of 2 March 2015 on the use of a prison in the Netherlands and amendments to the state budget 2015 - in Norwegian only).

5 The Parliamentary Ombudsman, Letter to the Standing Committee on Justice, 6 May 2015, Comment from the Parliamentary Ombudsman after the hearing of the Standing Committee on Justice, 28 April 2015.

6 The UN's Committee against Torture, General Comment no 2 (General Comment 24 January 2008, CAT/C/GC/2).

Torture. Méndez emphasised that torture and ill-treatment is still taking place around the world. States are also becoming increasingly involved in activities in other countries. When states operate outside their borders, whether in connection with military activity, border controls, deprivation of liberty or peacekeeping operations, they have the same responsibility to honour their commitments under the UN Convention against Torture as they do on their own territory. All states have a duty to prevent, prohibit and punish torture in every area under their own jurisdiction, regardless of where in the world the acts take place or who is responsible for them

#### **The consequences for prevention of torture and ill-treatment**

The Parliamentary Ombudsman has also highlighted a lack of clarity with respect to carrying out visits to prisons abroad. The Ministry presumed, among other things, that the Parliamentary Ombudsman should be able to carry out visits under its mandate to a prison abroad rented by the Norwegian. However, the consultation paper of 30 January contained no discussion of the Norwegian NPM's relationship

with the NPM of the 'receiving state' under OPCAT, the relationship with the authorities of the 'receiving state' and the role they exercise in relation to the inmates, or other factors of importance to carrying out preventive visits in another state.

The UN Subcommittee on Prevention of Torture, SPT, has an advisory role in relation to the NPMs. SPT has issued a statement on how preventive work should be carried out if a state enters into an agreement with another state on sending people there for detention purposes. It must be ensured that the NPM in the 'sending state' has the legal and practical possibility to visit the inmates in prison in the 'receiving state' in accordance with OPCAT and to make recommendations and enter into dialogue with the authorities in both countries. At the same time, the NPM in the 'receiving state' shall have the same possibility to carry out visits, make recommendations and enter into dialogue with the authorities of both states.

The Ombudsman recognises both legal and practical challenges associated with entering into dialogue on follow-up with other states' authorities (about matters outside Norway's jurisdiction), and also recognises that this will be a key factor in fulfilling the OPCAT mandate. For example, with respect to inmates' access to health care services, which according to the agreement are provided by the Dutch authorities. It is unclear how the Norwegian NPM will be able to effectively investigate the health care services provided during a visit to Norgerhaven prison, and make recommendations and carry out follow-up afterwards.

Having carried out visits to a number of places of detention in Norway over the past two years, the Ombudsman is of the strong opinion that preventive efforts require a holistic approach. Reference is made in this context to the reports the Parliamentary Ombudsman has published to date following visits under the preventive mandate. These reports make it clear that the health departments in prisons, accident and emergency units, specialist health services and the management of risk during transport, are covered by the mandate and are an integral part of a visit. The situation is illustrated by the fact that around 30 per cent of the recommendations the Parliamentary Ombudsman has made to the prisons under the preventive mandate concern health matters.



***" After more than six months of Norwegian inmates being detained in prison in the Netherlands, it is still unclear how Norway honours its commitments under the UN Convention against Torture and how the NPMs and SPT are to exercise their mandates "***

#### **Evaluation of the agreement's implications for the preventive mandate**

The agreement entered into between Norway and the Netherlands on 2 March 2015 on renting prison places neither refers to the states' commitments under OPCAT nor to the mandate of the SPT and the NPMs.

On assignment for the Dutch NPM, an evaluation is now underway on the implications of the bilateral agreement between Norway and the Netherlands on the Dutch NPM's OPCAT mandate. The evaluation's conclusions will also be of interest to the Norwegian Ombudsman's prevention efforts for inmates who are transferred from Norway.

After more than six months of Norwegian inmates being detained in prison in the Netherlands, it is still unclear how Norway honours its commitments under the UN Convention against Torture and how the NPMs and SPT are to exercise their mandates. The Ombudsman will continue to follow developments in the time ahead.

4





# Visits in 2015

## Prisons

### Ringerike Prison

6–9 January 2015

Announced visit

The prison's ordinary capacity is 160 cells. The prison is required to turn five cells into double cells. This gives an overall capacity of 165 places. All the inmates are men. It is a high-security prison whose primary target group is inmates on remand and long-term inmates.

### Findings

The visit showed that the use of coercive measures and exclusion from company were well documented through administrative decisions, supervision logs and the keeping of records. The administrative decisions met the requirements for grounds and stated whether less intrusive measures had been attempted. The administrative decisions and records also showed that partial exclusion from company was often used as an alternative to complete exclusion.

As a result of the prison's high occupancy level, newly admitted inmates and inmates who are transferred from the communal sections to the restricted section on the basis of administrative decisions regarding exclusion from company, remained in the restricted section considerably longer than they should. It also emerged that the majority of the inmates in the restricted section experienced a high degree of isolation. The lack of activity programmes for a high number of inmates in the prison in general gave cause for concern.

It was found that there was a high presence of prison officers in the living sections, and most of the inmates stated that they felt secure in the communal sections. The inmates seemed to be generally satisfied with the prison officers. However, there was a need for more contact officers in department A, and to ensure that the inmates receive adequate information on arrival.

A separate review of procedures to prevent suicide and self-harm found that better communication was required in the Correctional Services, within Ringerike Prison and between the police and the Correctional Services. The prison should strengthen its procedures for preventing suicide, particularly on arrival.

Many inmates expressed frustration over what they perceived as a strict control regime. This included visit control, the possibility of making phone calls and being denied home leave.

Most of the inmates stated that they had inadequate access to the prison health service, and many said that they had lost confidence in the health department.

Foreign inmates or inmates with family members or relations who do not speak Norwegian or English found that their possibility of having contact with their next of kin was very limited.

### After the visit

After the NPM's visit, Ringerike Prison initiated thorough efforts to follow up the Parliamentary Ombudsman's recommendations. In particular, it has had a systematic



Ringerike Prison

focus on suicide prevention and competence-raising among its staff. A new admissions form was devised with questions about inmates' mental health, suicide risk and need for an interpreter. Measures have also been implemented to activate inmates in the restricted section and those in the communal sections who have lacked activity programmes and have therefore spent large parts of the day locked in their cells.

The prison's health department has also drawn up new written request forms to ensure confidentiality in communication with inmates, and a new system has been introduced to log enquiries to the health department and to provide feedback about doctor's appointments. Efforts are being made to ensure that all inmates are given an opportunity to speak to a nurse within one day of their admission.

#### **Bjørgvin Prison's Juvenile Unit**

11 February 2015	Announced visit
22 April 2015	Unannounced visit

On 11 February, the NPM made an announced visit to Bjørgvin Prison's Juvenile Unit.

The visit started with a meeting with the prison management. The meeting was followed by an inspection of the unit's premises. The NPM spoke to the health department and psychology service, and also had conversations with other members of staff in the unit.

The Juvenile Unit had one inmate at the time of the visit. The inmate did not wish to speak with the NPM.

The NPM subsequently made an unannounced visit to the Juvenile Unit on 22 April, during which it spoke with the youths who were inmates of the unit.

The NPM also reviewed relevant records and administrative decisions. The review included all administrative decisions concerning exclusion from company in 2014

until the time of the visit in 2015, and the single instance in which a security cell had been used in 2014.

#### **Findings**

The NPM's general impression was that the Juvenile Unit is administered and run in a sound manner. The new premises at Bjørgvin Prison are more adapted to the needs of the target group than the old premises at Bergen Prison. The management seemed to be aware of the professional and ethical challenges they face in their work with these youths. With a small number of inmates, however, there were challenges relating to their opportunities for socialising with their peers.

During the visit, the use of coercive measures was focused on in particular. The Juvenile Unit's security cell differed from the security cells of other prisons in that it was significantly larger, had parquet flooring rather than a concrete floor, and a large window providing a view of the natural surroundings.

The NPM emphasised that, if the use of a security cell is absolutely necessary, clear records should be kept in the supervision log of continuous supervision and frequent re-evaluation of whether the grounds for continuing the measure still exist.



**Bjørgvin Prison's Juvenile Unit**

According to the prison management, they sought, as far as possible, to avoid exclusion from company. The Juvenile Unit should continue to seek to avoid the exclusion of juveniles.

In general, the Juvenile Unit appeared to have highly competent resources and to be capable of meeting the inmates' individual needs and involve them in meaningful activities, within the framework set by the prison situation.

#### After the visit

After the visit, the Juvenile Unit has, among other things, drawn up action cards with specific procedures for following up inmates held in the security cell. The prison also has a continuous focus on preventing situations that can lead to the exclusion of an inmate from the company of others. Measures in this context include a high presence of staff, clarifying misunderstandings at an early stage, individual conversations and conflict mediation on site.

#### Trondheim Prison

17–19 March 2015

Announced visit

Trondheim Prison has the capacity to hold 194 inmates, divided between 155 high security places, 29 lower security places and ten places in a day release unit.

#### Findings

The review of administrative decisions and the supervision log related to the use of security cells and restraint beds showed material shortcomings in the registration of documents. A review of the decisions regarding exclusion from company indicated that the prison's quality assurance of the case processing in these cases was inadequate. Some of the decisions were not signed, and decisions on when the measure should be discontinued were rare. In addition, the decisions rarely stated whether less intrusive measures such as partial exclusion had been considered. In some cases, inmates remained in the restricted section (A1) without an administrative decision until a place became available in the communal section.

On the positive side, the NPM noted that the prison was clearly concerned with adapting activities to the needs of individual inmates. The fact that only 60 per cent of the inmates participated in activity programmes was a cause for concern, however.

There were instances of unreasonably long stays in the restricted section, both for newly admitted inmates and for inmates being transferred to the restricted section following an exclusion decision. Despite the fact that activation measures were organised, many inmates stated that they found it hard to cope with the high degree of isolation and lack of contact with other inmates and staff. In general, the prison buildings were not adapted to today's requirements for the execution of sentences.

The inmates expressed varying experience regarding what information they received on their admission to the prison. Some foreign inmates said that they had not been offered an interview in a language they understood, even several weeks after they arrived at the prison. The prison's admission interview form did not contain any questions relating to suicide risks. The management had initiated work to improve the admission procedures.

The NPM made several recommendations relating to the health service at the prison. They particularly concerned the inmates' access to both primary and specialist health services.

Both inmates and staff stated that there was much noise and unrest in some of the communal sections, and that groups of inmates sometimes took control of the communal kitchen. Many inmates in these sections felt that, in general, the prison officers spent too little time in the communal areas. Some inmates also said that they felt unsafe, and that episodes of violence occurred that the prison officers did not register.

The NPM got the impression that inmates in the women's section had often been locked in during periods of high sickness absence among the staff or when there were a large number of escorted leaves. The women in the section also expressed dissatisfaction that they were not allowed to use the large exercise yard. The exercise yard near the women's section did not provide any real opportunities for running or ball games.

#### After the visit

After the visit, Trondheim Prison has initiated efforts to bring administrative decisions in line with the applicable legislation, provide training to those responsible for decisions and establish control procedures. The prison has also purchased special clothing for use in security cells so that inmates who, following an individual assessment, are not allowed to wear their own clothes in the cell do not have to be naked.

The prison will also increase and provide a more adapted employment and activity programme to inmates. It is also positive that the prison states that questions relating to mental health and suicide risk have been included in the templates for admission interviews and mapping.



Trondheim Prison

### Telemark Prison, Skien branch

2–4 June 2015

Announced visit

The prison's regular capacity consists of 82 places at the high-security level. When the prison holds inmates in the department with the highest security level, the capacity is 76 places. The prison held no female inmates at the time of the NPM's visit.

#### Findings

The NPM examined the prison's handling of serious incidents and use of coercive measures. The security cells had been used a total of seven times in 2014 and, up until the visit, four times in 2015. The review of documents related to stays in the security cells indicated that the prison had a high threshold for placing inmates in a security cell, in accordance with what is prescribed by law. However, administrative decisions, records and the supervision logs were in the form of loose sheets in ring binders. The sheets containing the supervision logs were generally not numbered. The ring binder system is vulnerable because it can subsequently be changed and it is therefore not perceived as secure.

Furthermore, no grounds were stated in the supervision log for changing the frequency of supervision and there was no description of measures to bring the stay in the security cell to an end as soon as possible. An administrative decision related to one stay in a security cell was missing for 2014. Moreover, there was no supervision log for one stay in a restraint bed and for one period of such a stay. The absence of an administrative decision and the failure to keep a log constitute serious breaches of the inmates' legal protection.

As a result of the prison's high occupancy level (97.4 per cent during the visit), newly admitted inmates and inmates who were transferred from the communal sections to the restricted section on the basis of administrative decisions regarding exclusion from company remained in the restricted section considerably longer than they should.

It is clearly unfortunate that inmates lose the right to communal interaction and time out of the cell as a result of a high occupancy level.

In the highest-security section, the NPM looked at the prison's implementation of control measures (use of handcuffs and body searches) and on measures implemented to compensate for the lack of human contact and to reduce any harmful effects of solitary confinement. Access to health services and the staffing situation were also investigated.

The regime in the highest-security section puts very strict limits on the inmates' freedom of movement and possibility of human contact. Together with the fact that, in reality, a very low number of inmates, sometimes only one, will be subject to such strict security conditions at any given time, this means that the regime entails a heightened risk of ill-treatment. From the point of view of prevention, the risk of solitary confinement having harmful effects as a result of limited human contact is very much in focus.

The health service endeavoured to offer new inmates a medical consultation within two days of admission, but findings indicated that this was not always possible. The health department kept records of any physical injuries that inmates were found to have sustained, but did not take photographs of the injuries.

In general, the prison's health department seemed to observe professional ethics and meet the requirements for independence. However, it emerged that one inmate had been checked on by a doctor from the accident and emergency unit while strapped to the restraint bed and that the doctor had then recommended continued use of the straps. Health personnel shall neither approve nor recommend the use of coercive measures to the Correctional Services.



Telemark Prison, Skien branch

The prison admission procedures and how inmates are attended to in this phase were given particular attention. The information indicated that it was not adequately ensured that all inmates were attended to and given sufficient information during their first period as inmates.

It was found that there was a high presence of prison officers in the living units and most inmates stated that they felt secure in the communal sections. Small living units and the presence of the officers were highlighted as important factors that made them feel secure.

The NPM also focused on whether the inmates were offered a sufficient level of activity. It was seen as positive that almost all the inmates in communal sections B and C were offered education or employment opportunities. Findings indicated, however, that inmates in department A were not offered satisfactory employment or activity programmes. A clear majority of the inmates in that section participated in a few or no activities in the course of a week. This gives cause for concern considering that solitary confinement can have serious effects on the mental health of inmates.

**After the visit**

The report from the visit was published in November 2015, and the prison is to inform the Parliamentary Ombudsman about its follow-up of the report's recommendations by 1 April 2016.

**Kongsvinger Prison**

25–27 August 2015

Announced visit

Kongsvinger Prison's ordinary capacity is 120 places, divided between 72 high security places and 48 lower security places.

Since December 2012, Kongsvinger Prison has been established as a special prison unit for foreign inmates. The prison is exclusively for male inmates who are to be expelled and deported from Norway on their release or transferred to serve their sentence in their home country.

The prison staff received good feedback from the inmates, and there were relatively few undesirable incidents in the prison. Inmates felt protected against violence and harassment. None of them accused the staff of abuse or of using physical force or speaking to inmates in a degrading, discriminating or offensive manner.

However, the prison should improve its information work, particularly during the arrival phase. The inmates did not always receive verbal and written information about the rules and procedures at the prison in a language that they understood. The prison was equipped for video interpreting, but the equipment was not used for admission interviews. With the help of an interpreter, the NPM was in contact with several people who neither spoke Norwegian nor English, and who had a great unmet need for information. It is important to have good reception procedures in place, including information, so as to identify any special needs and any risk of self-harm, suicide, violence, threats and other factors that have a bearing on safety.

The quality of administrative decisions concerning the use of security cells and exclusion from company was unsatisfactory. Several decisions lacked a concrete description of the basis for the decision and a description of which alternative measures had been considered or tried. In some cases, the administrative decision itself was also missing. This constitutes a serious breach of the inmates' due process protection.

A review showed that one inmate had spent more than six days in a security cell in 2015. The long duration gives cause for concern. Isolation can have a serious impact on the mental health of inmates, and security cells should only be used as a last resort and for as short a period as possible.

Information obtained indicates that inmates were routinely stripped and placed in the security cell naked, with only a suicide prevention blanket to cover themselves. It was unclear whether the inmates were always allowed to put their clothes back on or were given suitable alternative clothing. According to a supervision log, one inmate had spent more than 24 hours naked in a security cell.

The available information indicated that not all inmates underwent a medical assessment on arrival. The inmates also found it challenging to access psychological/psychiatric follow-up in prison. Moreover, the request forms used to contact health personnel were not designed in such a way as to protect the inmates' confidential health information. It gives cause for concern that one person was in handcuffs during a dental examination. The use of handcuffs during medical examinations is potentially problematic and entails a risk of ill-treatment.

Among other things, it was pointed out that some inmates spent much of the day locked in their cells with less than eight hours out of the cells, that people with mobility impairments had inadequate access to premises for communal activities, and that there were building-related challenges in connection with the oldest part of the prison.

### After the visit

The visit report was published in March 2016, and the prison is to inform the Parliamentary Ombudsman about its follow-up of the report's recommendations in June 2016.

## Police custody facilities

### Lillestrøm police custody facility

2 February 2015

Unannounced visit

The custody facility has a total of ten cells and, at the time of the NPM's visit, it was the primary custody facility in Romerike Police District.

### Findings

The NPM examined the police's handling of serious incidents and use of coercive measures. The custody facility appears to have well-established procedures for the admission and supervision of detainees. There was no overview of incidents in which detainees had sustained injuries as a result of legitimate use of force or accidents. The NPM also gave a reminder that the police often have information about suicide risk or similar serious matters, and it urged the police to strengthen the transfer of information to the Correctional Services to ensure that necessary information is communicated when detainees are transferred to prison.

The NPM found nothing to indicate a disproportionate use of handcuffs in connection with admission. Body searches on admission are carried out based on an assessment in each case by an officer of the same gender. A procedure should be introduced whereby the removal of all clothing in connection with body searches is carried out in a two-step process, and the procurement of suitable rip-resistant clothing should be considered so that suicidal detainees do not have to be naked.

Detainees are required to share the same cell ('double-celling') relatively often, and the police linked this to the low capacity at the custody facility. A review showed 163 instances of double-celling in 2014. In exceptional cases, three to four detainees had shared a cell. When so many detainees share a cell intended for one person, the air quality can deteriorate significantly, among other things. This should not happen out of consideration for the individual detainees' integrity.

Many detainees had been detained for considerably longer than 48 hours at the custody facility. 56 detainees had been detained for more than three days in 2014, 13 of whom for more than four days, while three had been detained for more than five days and there were two different cases in which one detainee had been detained for more than six and seven days, respectively. At the same time, the information available indicated that the police prioritised work on preventing breaches of the holding period, and the challenges must also be seen in conjunction with the high occupancy levels in the prisons. It was otherwise considered positive that the police implement accommodating measures to combat isolation, particularly in the form of frequent trips to the exercise yard, including in the company of other detainees.

During its visit, the NPM also looked at the detainees' access to health services. It was positive that the police generally had a low threshold for escorting detainees to the accident and emergency unit. At the same time, the police and health



Kongsvinger prison

personnel must be conscious of their different roles. The duty of health personnel (with the exception of expert assignments) is exclusively to assess the patient's state of health, also when the examination is initiated by the police. Routine examinations entail a risk that health assessments will gradually become conveyor belt decisions with a shift in focus from examination of the patient to 'clearance for remanding in custody'. This type of shift in focus could undermine the relationship of trust between the patient and health personnel.

The available information showed that the custody facility largely provided satisfactory information about detainees' rights on admission and that the right to contact a defence counsel and inform next of kin was respected. Based on the findings made during the visit, however, questions were raised about whether the police district complies with the restrictions on the use of video surveillance laid out in the applicable regulations.

The NPM also recommended removing the fixed metal bars along the wall of the registration room. The cells had no clocks or direct daylight. The information otherwise indicated that the custody officers generally offered the detainees a daily

opportunity to spend time in the custody facility's own exercise yard.

#### After the visit

After the visit, Romerike Police District has established or tightened procedures in several areas. Among other things, the detainees are given updated written information about their rights on arrival at the custody facility. A declaration will also be drawn up, which detainees will sign to confirm that they have been informed about their rights in a language they understand. A procedure has also been introduced whereby all police enquiries to the Correctional Services concerning prison places and the grounds for any breaches of holding periods are recorded in the custody log. The police district will also follow up the procurement of a camera by the accident and emergency unit to document any injuries to detainees.

#### Ålesund police custody facility

11 March 2015

Unannounced visit

The facility has a total of ten cells and, at the time of the visit, it was the primary custody facility in Sunnmøre Police District.



Lillestrøm police custody facility



## Findings

The NPM examined the police's handling of serious incidents and use of coercive measures. There had been no suicides at the custody facility, but several attempted suicides had been prevented during the past six months. On the whole, the procedures for physical supervision were satisfactory. A document review revealed that the results of the supervision of detainees at risk could be better documented, however.

The information indicated that the police have clear procedures for the use of handcuffs, and that body searches are carried out based on an assessment in each case by an officer of the same gender. Recommendations were made to improve the procedures for carrying out body searches.

The number of breaches of the police custody holding period has been relatively low in Sunnmøre Police District in recent years, even though the figures vary significantly. Nevertheless, a review of cases where the holding period exceeded two days (48 hours) showed inadequate documentation of measures to procure prison places. The work on procuring prison places should start as soon as possible and the measures should be documented. The available information indicated that the police implement accommodating measures to combat isolation, particularly in the form of frequent trips to the exercise yard, in a few cases also in the company of other detainees.

It was good that the police seemed to have a low threshold for escorting detainees to the accident and emergency unit, but this entails stringent requirements for health personnel to be aware of their role. The only task of health personnel is to examine the patient's health status. When examinations are initiated by the police, there is an increased risk that the examinations become 'conveyor belt' decisions with a shift in focus from examination of the patient to 'clearance for remanding in custody'. This can cause other health needs the patient might have to be overlooked, and undermine the relationship of trust between the patient and health personnel.



Ålesund police custody facility

It was found during the visit that both the police and the accident and emergency unit should do more to prevent a confusion of their roles. A review of the custody logs revealed examples of inmates having been 'examined by a doctor as okay for remand in custody'. Interviews with the accident and emergency unit's management indicated that health examinations of escorted detainees were perceived as expert assignments in which the police were seen as the client. This is an unfortunate state of affairs. The accident and emergency unit also lacked a procedure for dealing with suspected disproportionate use of force or injuries to detainees caused by the police.

It was also pointed out that the police could improve their procedures for ensuring that detainees are informed about their rights at the earliest opportunity.

The air quality was highly unsatisfactory in several of the cells. The cells were painted in a dark grey colour and most of the cells lacked adequate colour contrast between the floor and walls. The cells had no clocks or direct daylight. The available information indicates that the detainees are offered an opportunity to spend time

outdoors every day. The NPM also recommended some minor building alterations to prevent people being able to see the exercise yard from the outside.

### After the visit

Following the visit, Ålesund intermunicipal accident and emergency unit has initiated work to safeguard detainees escorted to the accident and emergency unit on a par with other patients. Guidelines have been devised for the unit's doctors clarifying roles and providing guidance on how to cooperate with the police in a way that is compliant with the principles of medical ethics. The accident and emergency unit has also stated that it will purchase technical equipment to enable the unit to better safeguard the patients' right to confidentiality and the need for documentation in serious cases.

Sunnmøre Police District has informed that the cells in the custody facility have been painted and that there is now a colour contrast between the floor and the walls of the cells. The police has ordered rip-resistant clothing and blankets for detainees to use when needed.

## Mental health care institutions

### Diakonhjemmet Hospital

24–27 February 2015

Partly announced visit

Diakonhjemmet Hospital has three psychiatric wards. The NPM visited two of them: the Tåsen geriatric psychiatry unit and the Vinderen adult psychiatry unit. Both units have an open and a closed inpatient section with a total of 38 beds.

### Findings

In general, the physical conditions were satisfactory at all the inpatient sections. The closed unit at the geriatric psychiatry unit planned to make several changes that can lead to safer treatment of patients.

During the visit, consideration was given to whether the patients had been informed verbally and in writing of any administrative decisions imposed and of their right to file a complaint. Consideration was also given to whether next of kin were informed about administrative decisions.

The NPM visited the segregation sections at both the geriatric psychiatry unit and the adult psychiatry unit's emergency inpatient section.

An individual assessment is made for each patient of whether they should have access to leave the unit and possibly also the hospital area, and if so, whether they should be accompanied. The assessment is referred to as 'status and leave' and is a method of classifying the need for control and the security of the patient, co-patients and staff. 'Status and leave' is assessed, changed and cancelled by the doctor/psychologist who is treating the patient together with the social worker.

It was found during the visit that, as a matter of routine, staff at the adult psychiatry unit went through the patients' belongings on admission. No administrative decision was made to conduct such an examination. Luggage searches were based on the patient's consent.

There is no legal authority under applicable regulations to carry out routine searches of the patients' belongings on admission. Nor does the patient's consent form an independent basis for carrying out a search under Section 4-6 of the Mental Healthcare Act. The adult psychiatry unit should only look through the patients' belongings when there are grounds for suspecting that medication, drugs or alcohol, means of escape or dangerous objects are being introduced or stored, and then only following an administrative decision that a search should be carried out.

A few patient records from 2014 showed that some patients had been strapped to a restraint bed for several days or had been in restraints several times during their stay on account of disruptive behaviour or violence

directed at staff. The documentation showed that clinical assessments were made continually, including of whether to use strap extenders. After such incidents, however, the patients were not offered consultations with treating staff on a regular basis so that they could talk through the incident. The handwritten use-of-force records lacked some information.

The vast majority of patients the NPM talked to felt that they were heard and looked after by both regular staff and those responsible for treatment. They also appreciated the fact that routines and control were adapted to individual needs. None of the patients said that they had experienced any threats or violence from members of staff or other patients. Some patients were concerned about excessive or incorrect medication.

It was found that both units offered ECT (electroconvulsive treatment). In order for ECT to be administered, the patient must consent and next of kin must not object to such treatment. The geriatric psychiatry unit stated, however, that it was sometimes difficult to determine whether the patient was competent to consent and whether the consent was genuine. ECT is administered out of necessity once or twice a year at the geriatric psychiatry unit. These are cases in which it is considered

that, without treatment, the patient would die in the course of a few days. During the NPM's visit, none of the patients expressed any concerns regarding the administration of ECT.

#### After the visit

Diakonhjemmet Hospital has informed the Parliamentary Ombudsman about its follow-up of the recommendations. The hospital has introduced new procedures for informing patients about use-of-force decisions. The record entry, which contains the grounds for the use-of-force decision, is now enclosed with the letter the patient receives about the decision. The hospital has also focused on strengthening documentation procedures in the use-of-force records and the procedures for ensuring that they contain complete information. A practice has also been introduced whereby patients have access to the use-of-force record concerning the particular incident and is able to add comments to it, which are then scanned into his/her electronic patient record.

#### Telemark Hospital

8–10 April 2015

Partly announced visit

The visit focused on inpatient sections of three units at Telemark Hospital's Clinic for Mental Health Care and Substance Addiction Treatment: the emergency psychiatry, geriatric psychiatry and rehabilitation units.

#### Findings

The physical conditions in Building 19, which houses inpatient sections 19A, 19B, 19C and the section for emergency drug and alcohol-related assistance were found to be good. The patient rooms seemed functional, the reception facilities were good and there was free access to an atrium with benches, plants and running water.

Building 4, which houses the geriatric psychiatry unit's inpatient section, was built in the 1960s and was most



Diakonhjemmet Hospital

recently upgraded in 1995. Most of the patient rooms in Building 4 were equipped with a washbasin only, and the patients had to share bathroom and toilet facilities. Among other things, this posed challenges related to the patients' privacy and self-care, and health personnel's care for the patients.

The rehabilitation unit's secure treatment unit 3A was located on the first floor of Building 3. The unit was in poor condition. The air quality in the corridor was poor, and there were signs of mould and water damage in one of the communal showers. The secure treatment unit had no activity room, exercise room or library that the patients could use. The patients in the secure treatment unit had no access to any separate outdoor area, garden, ball game area, balcony or veranda.

It emerged during the visit that the physical conditions and low staffing levels resulted in patients in the secure treatment unit not always being given the possibility for daily outdoor exercise and physical activity. The situation was particularly serious because average stays for patients in the secure treatment unit were longer than the stays of other patients at the Clinic for Mental Health Care and Substance Addiction Treatment.

Patients in the geriatric psychiatry unit were not informed of all administrative decisions, and in some cases, medication was administered to patients subject to decisions that they were to be treated without their consent by hiding the medication in their food or drink without informing them. One patient in the emergency psychiatry unit had experienced short periods of restraint without any formal decision to that effect having been adopted.

Some patients had their luggage searched on admission. An administrative decision to conduct such a search had not been made in the case of any of the patients that the NPM spoke with. The hospital management informed the NPM that, when patients are admitted, the staff searched their belongings as a matter of routine. Luggage searches were based on the patient's consent. There is no legal authority under applicable regulations to carry out routine searches of the patients' belongings on admission. Nor does the patient's consent form an independent basis for carrying out a search under Section 4-6 of the Mental Healthcare Act.

Even though a large and well-equipped activity building was located next to the secure treatment unit, it was seldom used by the patients because of the low staffing level. Patients in the geriatric psychiatry unit were offered a daily opportunity to take part in a simple morning exercise programme and often had the possibility of going for a walk afterwards. Several of them stated that the afternoons and evenings could feel very long, however, due to the lack of activities after lunch.

According to the use-of-force records, one patient had been placed in restraints during the current period of admission. A review of use-of-force records indicated that patients were generally placed in restraint beds for short periods only (a few hours). The use of a restraint bed is a very invasive measure that in itself entails a high risk of ill-treatment. This risk increases with the length of time the patient is restrained.



Telemark Hospital

The majority of patients felt that they were heard and looked after by both regular staff and those responsible for treatment. Several patients raised the problem, however, that it sometimes took a long time before a member of staff was able to accompany them to go outside. In the emergency psychiatry unit, several patients felt that there was an informal ban on discussing illness, religion and politics, among other things. The wording of one 'house rule' related to clothing in the secure treatment unit could be perceived as degrading.

#### After the visit

Telemark Hospital has informed the Parliamentary Ombudsman that it has implemented new procedures to ensure that patients gain access to use-of-force decisions and that patients now have the possibility to add comments to the use-of-force records. The clinic has initiated a project to strengthen the milieu therapy offered to patients in the inpatient sections. Plans to upgrade and renovate the building that houses the geriatric psychiatry unit will be implemented in 2016 and plans will be drawn up for a more suitable building for the secure treatment unit. The house rules at the secure treatment unit have been changed so that the wording can no longer be perceived as degrading.

#### Sørlandet Hospital, Kristiansand

7–9 September 2015

Partly announced visit

The NPM's visit to Sørlandet Hospital comprised six inpatient sections at the psychiatric unit in Kristiansand: two emergency units, two psychosis units, a secure treatment unit and a first psychosis unit.

#### Findings

The physical conditions at the different inpatient sections appeared to be good. All of the inpatient sections had access to outdoor areas, but three inpatient sections situated on the ground floor did not have outdoor areas that were designed to enable patients who had been committed to go outside when they wanted.

The patients were informed both verbally and in writing about use-of-force decisions, but were not routinely given the grounds for such decisions in writing. Information about rights in connection with the use of force, nor about the supervisory commission, the County Governor or the Parliamentary Ombudsman, was not posted in the inpatient sections.

The NPM noted that the psychiatric unit had endeavoured to reduce the use of all types of force, including the use of coercive measures. A review of documents indicated that mechanical restraints were, in most cases, used for a few hours or for less than 24 hours. Two cases gave cause for grave concern. One case concerned a patient in restraints where the duration of the measure had been determined in advance without the person responsible for the decision carrying out a continuous assessment of the patient's situation and whether the criteria for the use of the restraint still applied. In another case, an elderly patient with dementia was restrained for six hours, although the risk of harm had passed.

The patients' next of kin were largely informed about the use of the coercive measures, so that their right to file a complaint etc. was safeguarded. In one case, however, two days passed before the next of kin were informed.

The psychiatric unit had initiated a voluntary interview, a so-called follow-up interview, between the patient and health personnel following the use of force. This is one of the measures the units hopes will reduce the use of all types of force. It emerged during the visit, however, that follow-up interviews were not always offered and that they were a source of distress for some patients who did not find them useful.

The NPM received some feedback from patients about the use of medication. Patients who had been forced to take medication largely perceived this as negative.

All of the inpatient sections had at least one segregation room or unit. Some of the verandas at the segregation

unit did not give the patients a satisfactory sense of spending time outdoors or sufficiently safeguarded their privacy. The placing of the restraint beds in the segregation units was problematic because it could generate unnecessary fear or increase the risk of the restraint bed being used instead of less intrusive measures. The NPM found patients who were segregated in the segregation unit while the staff sat with the door closed in the main corridor outside the unit. This practice, as it was observed during the visit, indicated that the segregation resembled isolation.

The NPM was left with the impression that many patients wanted to spend more time outside, more physical activities and a more active staff who could facilitate indoor activities.

#### After the visit

The visit report was published in February 2016, and the hospital shall inform the Parliamentary Ombudsman about its follow-up of the report's recommendations in June 2016.

## The police immigration detention centre at Trandum

### The police immigration detention centre at Trandum

19–21 May 2015

Unannounced visit

The detention centre has the capacity to hold 140 detainees, and the plan is to extend the capacity to include another 90 places in 2016. The detainees do not have legal residence in Norway and have been detained on grounds of suspicion that they have given a false identity or to prevent them from evading the enforcement of a final decision requiring them to leave the country. Being detained at Trandum is not the consequence of a criminal offence and does not therefore constitute punishment.

#### Findings

In the early morning of 21 May, the NPM observed an escorted deportation of eleven individuals from the time they left the detention centre until they boarded a



Sørlandet Hospital, Kristiansand

chartered flight at Oslo Airport Gardermoen. According to the NPM's observations, the deportation was carried out in a dignified and professional manner.

It was also positive that the detainees mostly had positive things to say about the detention centre staff. Many of them stated that they were treated with respect and received the necessary assistance in their day-to-day pursuits.

One of the main findings was that, overall, excessive attention to control and security was at the expense of the individual detainee's integrity. This had also been pointed out by the Parliamentary Ombudsman after previous visits. Many of the detainees felt that they were treated as criminals, even though they had not been convicted of a crime. Several described the humiliation of undergoing a body search on arrival and after all visits. The body search entailed the removal of all clothing and that the detainee had to squat over a mirror on the floor so that the staff could check whether they had concealed items in their rectum or genital area. The detainees perceived it as especially upsetting that a full body search was conducted after visits, even though staff members were always present in the room during the visit. Many were also frustrated because they were not given access to their mobile phone and that they could only speak to their families and friends for a few minutes each day, and because they were locked in their rooms during evenings, at night and for shorter periods during the day.

The detention centre used largely the same security procedures as the Correctional Services, including procedures for locking detainees in and out of their rooms, the use of security cells and solitary confinement, and room searches. In some respects the procedures appeared to be more intrusive than in many prisons. In addition to concerns about the overall control regime, it should be noted that all these control measures can result in more unrest and undesirable incidents rather than a sense of security.



The police immigration detention centre

The immigration detention centre did not appear to be a suitable place for children. In 2014, 330 children were detained, 10 of them without adult guardians. There were no children at the detention centre at the time of the NPM's visit. The atmosphere at the detention centre was characterised by stress and unrest. Several incidents took place at the detention centre in 2014 and 2015, including major rebellions. The incidents included 18 documented self-harm incidents and suicide attempts, the smashing of furniture and fixings and the use of force. In two instances during the same period, children also witnessed their parents self-harming. This was not deemed to be a satisfactory psychosocial environment for children.

Several weaknesses were identified in the health services. A clear majority of the detainees were critical of the health services offered by the detention centre. Among other things, the criticism concerned factors such as a lack of confidentiality, availability and follow-up.

The immigration detention centre purchased health services from a private health enterprise based on a contract between the enterprise and the National Police Immigration Service (NPIS). The contractual relationship between the enterprise's doctors and the NPIS raised questions about the health service's professional independence. This could undermine the relationship of trust between patients and health personnel and weaken

the health service's assessments. The health service also included two nurses. They were employed by the police, however. This arrangement also gave rise to doubt about the health service's professional independence.

Health interviews with newly arrived detainees were not conducted as a matter of routine, despite clear recommendations from the CPT. Detainees are often particularly at risk of poor somatic and mental health. The detainees also did not have access to mental health care over and above emergency assistance, among other things because of a lack of rights. In addition, the health department lacked procedures for systematic follow-up of persons who are detained for a longer period of time.

Other factors that were noted include shortcomings in administrative decisions on the use of solitary confinement and security cells, few organised activities, unclear legal authority for locking detainees in their rooms, lack of information on arrival, whether the food that is served is sufficiently nutritious, routine visit control and lack of access to mobile phones.

#### After the visit

The report from the visit was published in December 2015, and the NPIS is to inform the Parliamentary Ombudsman about its follow-up of the report's recommendations by 1 April 2016.

### Visit covering multiple places of detention

#### Places of detention at Gardermoen

22 April 2015

Unannounced visit

The purpose of the visit was to map all the places of detention at Gardermoen. The NPM visited the National Police Immigration Service's (NPIS) deportation centre, Customs and Excise's detention premises, the police waiting cells at the airport and Gardermoen police custody facility.

#### Findings

The NPM first visited the temporary premises of NPIS's deportation centre inside the airport area. The deportation centre had no ordinary cells. The premises were furnished so that they resembled an ordinary airport waiting area, intended for short stays before deportation. The waiting area was put to use shortly after the NPM's visit. Even though the written procedures for the waiting area appeared to be satisfactory, it was pointed out that the verbally described procedure for avoiding body searches with removal of clothing should be set out in local instructions.

Following the visit, the NPM obtained an overview for April 2015 of the use of coercive measures both in connection with stays at the deportation centre and in connection with persons being escorted out of the country. No coercive measures were used at the deportation centre during this period. Concerning the use of coercive measures when people are being escorted out of the country, the NPIS stated that information about such use is not stored in a way that enables the retrieval of statistics. Such information can only be obtained from the reports that are prepared in each case of escorted deportation. A review of these reports showed that coercive measures were used on 15 of the total of 98 persons escorted out of Norway in April 2015. The NPM noted information that suggested that two persons were restrained by the use of strips during a long flight. Even though the use of strips is permitted under the deportation instructions, this appears to be an unfortunate practice, including for security reasons. The NPM pointed out that there was a need for establishing a solution for better documentation and subsequent control.

The NPM also made a visit to Romerike Police District's facility inside the airport, including three waiting rooms that are partially at the disposal of the NPIS by agreement with the police district. These waiting rooms are used in connection with the preparation of entry rejections and expulsions, during the registration of asylum applications



and prior to deportation. According to the police, the period of occupancy was usually short (one to two hours), but could occasionally be as long as 12 hours.

The NPM also visited Customs and Excise's premises at the airport, which were next door to the police waiting cells. Customs and Excise has three custody cells of four to six square metres. Persons are not usually detained here for more than one to two hours. In the course of the three months prior to the visit, three people had been detained for more than four hours at the premises. The NPM pointed out that the information sheet that was presented contained passages that left the impression that Customs and Excise had wider powers to conduct inspections for control purposes than warranted by applicable regulations.

Finally, the NPM visited Gardermoen Police Station, located approximately 500 metres from the terminal building at Oslo Airport. The Police Station reports to Romerike Police District and has six custody cells. Romerike Police District's management has stated on several occasions that this custody facility is not in use. During an inspection, the NPM nevertheless found that the custody facility had a detainee. The local management had not been informed about this detention. Documentation obtained after the visit showed that there had been 19 cases of detention in 2015 up to the time of the visit, including several cases of detention overnight. Furthermore, the NPM found an information sheet posted on the wall of the custody facility that was inconsistent with the local custody instructions.

The cells measured around six square metres. There was no clear colour contrast between the floor and wall, which were painted in a dark grey colour. None of the cells had access to a clock. There was also a lack of daylight. Metal bars with rings for fastening handcuffs has been installed behind a bench along the wall of the registration room.

### After the visit

Following the visit, Romerike Police District has made changes to local custody instructions and made it clear that the local police district management shall be informed on the few occasions that the custody facility is taken into use. They will also investigate the possibility of installing clocks in the cells and of painting the cells so that there is a clear colour contrast between the walls and the floor.

The NPIS has made changes to internal guidelines so that it is now absolutely clear that body searches at the deportation centre are not meant to involve the removal of all clothing.

The Oslo and Akershus customs region has changed the wording in the information sheet so that it is clear that use of the special toilet is voluntary.



Gardermoen police custody facility



5

## Results in 2015

In 2015 the NPM has placed great emphasis on continuing the dialogue with the places visited about their measures to prevent the risk for violations and to follow up the Parliamentary Ombudsman's recommendations. Based on feedback from the places that have reported to the Parliamentary Ombudsman so far, their follow-up appears to be thorough.

After each visit, the Parliamentary Ombudsman publishes a report describing findings and making recommendations for measures to reduce the risk of torture and ill-treatment. Feedback is always requested from each place of detention on how the recommendations are followed up.<sup>1</sup>

During the year, the NPM has noticed that the places it visits have studied previous visit reports. Some have already reviewed their own procedures and

implemented recommendations made following visits to other places. It is very positive that places of detention learn from each other and exchange experience, also across sectors. The NPM finds that places of detention in different sectors face many of the same challenges. Findings by the NPM in prisons and police custody facilities as well as mental health care institutions include a lack of administrative decisions, poor-quality supervision logs, a lack of activities offered and different body search practices.

Some important measures that have been reported to the Parliamentary Ombudsman in 2015:

### Clothing in security cells

#### Tromsø Prison

- › During a visit in September 2014, the NPM found that inmates were always stripped naked and had their clothes removed before being confined in a security cell. After the visit, the Ombudsman recommended that inmates should not be 'stripped' as a matter of routine and never be confined naked in a security cell without an individual security assessment. Inmates should be given their own clothes back after a body search, or given suitable alternative clothes, so that they do not have to be naked in the security cell.
- › Tromsø Prison has informed the Ombudsman that inmates are no longer confined naked in the security cell. The prison has devised new procedures for the use of security cells and the staff make an individual assessment of each inmate. The prison also has plans to purchase rip-resistant/suicide prevention clothing. Following this visit, the Directorate of the Norwegian Correctional Service also sent letters to its regional offices clarifying the practice for clothing in security cells.<sup>2</sup>

<sup>1</sup> Follow-up letters and correspondence with the NPM are published on the Parliamentary Ombudsman's website.

<sup>2</sup> Letter from the Directorate of the Norwegian Correctional Service to the Correctional Services' regional offices, 6 November 2014, Case processing in cases concerning exclusion from company, use of security cells and restraint beds.

## Suicide prevention

### Tønsberg Police Custody

- › After a visit in October 2014, the Ombudsman recommended that the police, together with the Correctional Services, should carry out a review of the procedures for ensuring information flow and cooperation during the transfer of vulnerable (including suicidal) detainees to prison. The recommendation was made after a detainee at the custody facility committed suicide shortly after being transferred to Ringerike Prison.
- › The police informed the Ombudsman that a multiple-choice form will be devised for determining the state of detainees to be imprisoned. This form will include information about whether the detainee has seen a doctor during their stay, how they appeared during the stay and other relevant information.

### Ringerike Prison

- › After a visit in January 2015, the Ombudsman recommended that the prison devise procedures for ensuring that information is picked up about matters affecting the risk of suicide. This included devising a form for registering new inmates that includes questions about suicidal thoughts. It was also recommended that the prison focus on training and competence-raising among its staff.
- › Ringerike Prison has prepared a form that contains direct questions for new inmates about their mental health and suicide risk. A meeting has also been held between the Correctional Services' southern Norway region and selected prisons and police districts to improve the exchange of information between police custody facilities, the prosecuting authority, sentence offices and prisons. The prison has also applied for funding to send staff on a suicide prevention course, and staff working in the admission and registration section will be prioritised. The prison will also train its own staff to become instructors during autumn 2015.

## The conditions for women in prison

### Trondheim Prison

- › After a visit in March 2015, the Ombudsman questioned whether men and women were treated equally in the prison. For example, women were not offered the same alcohol and drug treatment as men. Nor were women allowed to use the exercise yard with sports facilities.
- › After the NPM's visit, Trondheim Prison has ensured that female inmates are offered alcohol and drug treatment equivalent to that offered to men serving sentences at the prison's unit for mastering drug/alcohol problems. Women are offered the treatment in the women's unit. Women have also been given access to the large exercise yard. .

## Confidentiality of contact with health personnel, and the role of health personnel

### Ålesund Police Custody Facility

- › After a visit in March 2015, the Ombudsman recommended that the accident and emergency unit in Ålesund should ensure that it never conducts medical examinations that are, or are perceived as, an approval of the detention in the custody facility. The accident and emergency unit should also have a camera available so that any injuries sustained by detainees can be documented by the doctor in the patient records. Furthermore, it should not be possible for the police to hear what is being said in the patient room. Nor should it be possible for the police to see what is going on in the patient room, unless the health personnel for security reasons so requests in special cases.
- › New guidelines have been drafted for the accident and emergency unit's doctors in Ålesund, which provide guidance on how to cooperate with the police in a way that is fully compliant with the principles of medical ethics. The accident and emergency unit has also stated that it will purchase technical equipment to better safeguard the patient's right to confidentiality and the need for documentation in serious cases. Among other things, it will buy a camera to document injuries and hearing protection with radio for police officers to use if security considerations require the police to be present during examinations.

## Patient rights

### Diakonhjemmet Hospital

- › After a visit in February 2015, the Ombudsman recommended that patients were given verbal and written information about use-of-force decisions and access to the concrete grounds for the decision (the record entry). It was also recommended that patients were given an opportunity to include their own comments in the use-of-force records following any incident involving the use of force, and that they are granted access to information in their records concerning the incident.
- › The hospital has introduced a new procedure for ensuring that patients receive verbal and written information about the use-of-force decision and the grounds for the decision. The record entry is now to be enclosed with the letter to the patient about the use-of-force decision so that the patient also receives information about why the decision has been made. It has also been decided to scan the use-of-force records into the patient's electronic patient record. This will make all the information about the use of coercive measures available to the patient. The patient will also have an opportunity to provide comments, which will also be scanned and entered in the electronic patient record.

## Physical conditions

### Drammen Police Custody Facility

- › After a visit in October 2014, the Ombudsman recommended that the police remove all the metal bars fixed along the wall of the custody facility's registration room.
- › Søndre Buskerud Police District has informed the Ombudsman that all the metal bars will be removed.

### Telemark Hospital

- › After a visit in April 2015, the Ombudsman pointed out that the geriatric psychiatry unit was in such a state that it, among other things, posed challenges related to the patients' right to privacy and self-care. It was also recommended that the physical conditions at the secure treatment unit should be improved. The unit appeared to be in poor condition. The patients also had no access to an adapted outdoor area or veranda, and some patients were therefore not offered an opportunity to take part in outdoor activities on a daily basis.
- › The hospital has informed the Ombudsman of its plans to start the upgrade and renovation of the geriatric psychiatry unit in 2016. The hospital is also in the process of assessing and planning a more suitable building for the secure treatment unit, and particular emphasis will be given to creating an adapted outdoor area.

## Information material

### Norwegian Customs and Excise

- › After a visit to the Norwegian Customs and Excise's detention premises at Oslo Airport Gardermoen in April 2015, the Ombudsman recommended that the customs authorities change the information sheet it gives to people selected to undergo a more thorough customs check. At the time of the NPM's visit, the information sheet could give the impression that Customs and Excise was entitled to detain suspects until they had used the special toilet. The sheet should clearly state that use of the special toilet is voluntary under the provisions of the Customs Regulations.
- › The customs region has changed the wording in the information sheet so that it is clear that use of the special toilet is voluntary.

### Lillestrøm Police Custody Facility

- › After a visit in February 2015, the Ombudsman recommended that the police should ensure that all detainees receive written information about their rights in a language they understand, in addition to verbal information. It was also recommended that the police should also establish a procedure to ensure that all detainees are asked to sign a declaration confirming that they have been informed about their rights in a language they understand.
- › Romerike Police District has informed the Ombudsman that detainees are now given written information about their rights when they arrive at the custody facility. A declaration to be signed by the detainees will also be drafted.

## The use of security cells and restraint beds

### Bergen Prison

- › After a visit in November 2014, the Ombudsman recommended that administrative decisions should always be issued on the use of a security cell and restraint bed, and that the decision should always specify which less invasive measures have been attempted or found to be inadequate. The supervision log should also clearly specify the inmate's name and the time the stay in the security cell or restraint bed commenced and concluded.
- › The prison has devised a new procedure for issuing administrative decisions and keeping of the supervision log. More formal training will also be given to everyone entitled to make an administrative decision, which will focus on detention in a security cell, the grounds for detention, administrative decisions on and implementing stays in security cells and the use of restraint beds.

### Bjørgvin Prison's Juvenile Unit

- › After visits in February and April 2015, the Ombudsman pointed out that the use of security cells for minors is a very invasive measure that has the potential to cause considerable damage. It should only be used if absolutely necessary, and for the shortest possible time. The Juvenile Unit's security cell was yet to be approved at the time of the NPM's visit and had not therefore been used. If the security cell is used, the Ombudsman emphasised that the person detained should be under continuous supervision. The supervision log should clearly specify that continuous assessments are made of whether there are grounds for continuing the measure.
- › The prison has devised its own action cards describing concrete procedures for following up inmates in the security cell. The cards describe, among other things, who has the decision-making competence, requirements of the grounds for the decision, the requirement to enter information in the supervision log, and clarification that the staff must maintain continuous supervision of inmates staying in the security cell and that the grounds for upholding the measure must be continuously assessed.

6 >





# Statistics

## Number of places of detention visited in 2015, per sector

SECTOR	NUMBER OF PLACES
Prisons	5
Police custody facilities	3
Mental health care institutions	3
The police immigration detention centre at Trandum and the deportation centre at Gardermoen	2
Customs and Excise's detention premises	1
<b>Total</b>	<b>14</b>

## Number of visits in 2015, per notification method

NOTIFICATION METHOD	NUMBER OF VISITS
Announced	5
Unannounced	7
Partly announced <sup>1</sup>	3
<b>Total<sup>2</sup></b>	<b>15</b>

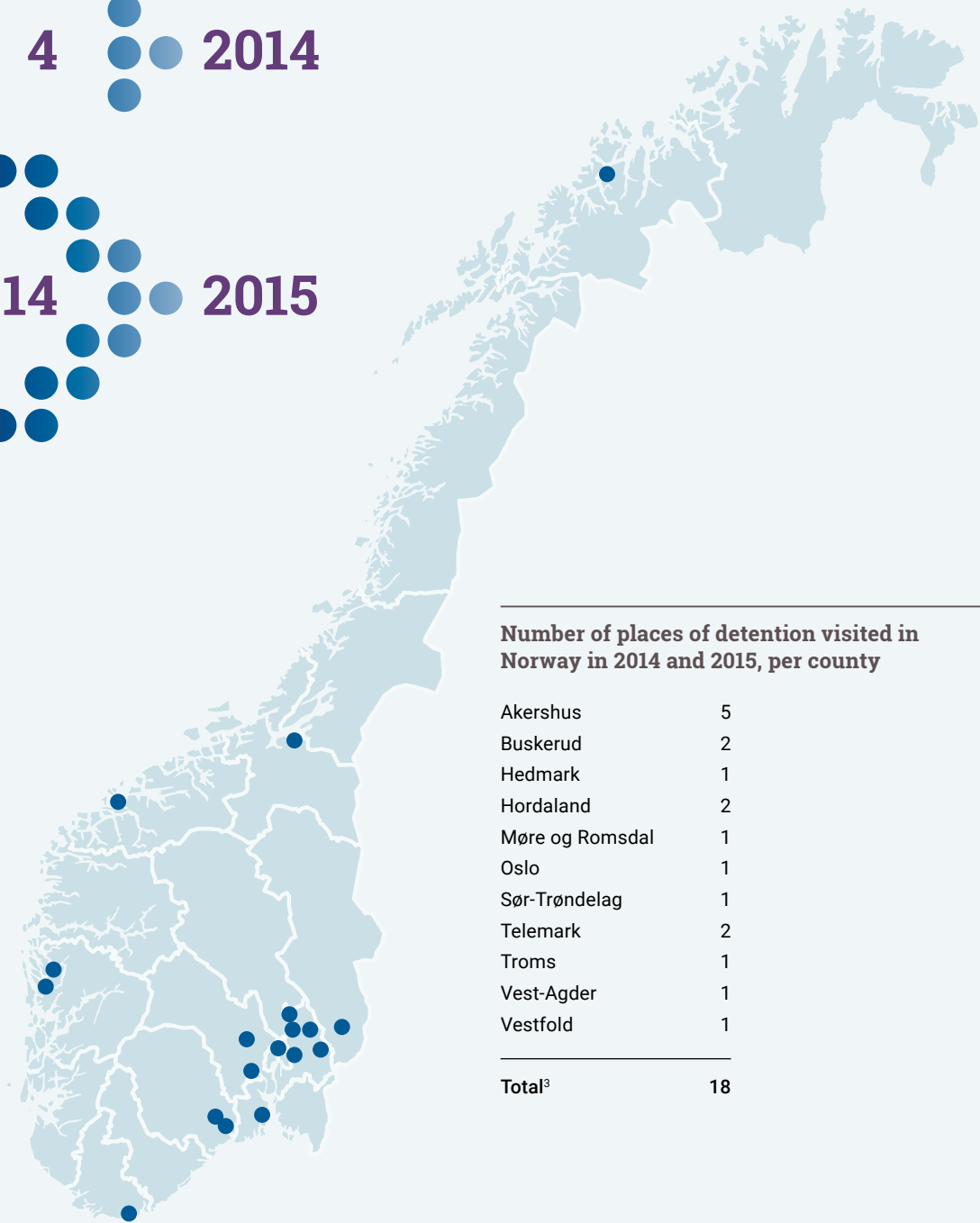
1 For partly announced visits, the NPM informed the the place of detention's management about the month of the visit, but not the date.

2 One place, Bjørgvin Prison's Juvenile Unit, was visited twice in 2015. This explains why the number of visits in 2015 is 15, while the number of places of detention visited is 14.

## Visits in 2015

DATE OF VISIT	PLACE OF DETENTION	SECTOR	NOTIFICATION	DATE OF PUBLICATION OF VISIT REPORT	PARTICIPATION OF EXTERNAL EXPERT
<b>6–9 January</b>	Ringerike Prison	Prison	Announced	17 March 2015	No
<b>2 February</b>	Lillestrøm police custody facility	Police custody facility	Unannounced	21 April 2015	No
<b>11 February</b>	Bjørgvin Prison's Juvenile Unit	Prison	Announced	23 June 2015	No
<b>24–27 February</b>	Diakonhjemmet Hospital	Mental health care institution	Partly announced	12 August 2015	No
<b>11 March</b>	Ålesund police custody facility	Politiarrest	Unannounced	18 May 2015	No
<b>17–19 March</b>	Trondheim Prison	Prison	Announced	20 August 2015	Yes
<b>8–10 April</b>	Telemark Hospital	Mental health care institution	Partly announced	10 September 2015	No
<b>22 April</b>	Places of detention at Gardermoen	Three places of detention visited: The police custody facility, the police deportation centre at Gardermoen and Customs and Excise's detention premises	Unannounced	16 June 2015	No
<b>22 April</b>	Bjørgvin Prison's Juvenile Unit	Prison	Unannounced	23 June 2015	No
<b>19–21 May</b>	The police immigration detention centre at Trandum	Police immigration detention centre	Unannounced	9 December 2015	Yes
<b>2–4 June</b>	Telemark Prison, Skien branch	Prison	Announced	11 November 2015	Yes
<b>25–27 August</b>	Kongsvinger Prison	Prison	Announced	9 March 2016	Yes
<b>7–9 September</b>	Sørlandet Hospital, Kristiansand	Mental health care institution	Partly announced	23 February 2016	Yes

**Number of places of detention visited in 2014 and 2015**



**Number of places of detention visited in Norway in 2014 and 2015, per county**

Akershus	5
Buskerud	2
Hedmark	1
Hordaland	2
Møre og Romsdal	1
Oslo	1
Sør-Trøndelag	1
Telemark	2
Troms	1
Vest-Agder	1
Vestfold	1
<b>Total<sup>3</sup></b>	<b>18</b>

3 A total of four places of detention were visited in 2014, and 14 were visited in 2015.



# National dialogue

Preventing violations and improving the conditions for those deprived of their liberty are the top objectives of the NPM. A key tool in this work is maintaining a broad dialogue, exchanging information and cooperating with national authorities, civil society, supervisory bodies and other parties.

## Advisory committee

The Act relating to and the Instructions for the Parliamentary Ombudsman stipulate the appointment of an advisory committee, which is to contribute expertise, information, advice and input to the NPM's work.<sup>1</sup> The committee was established in spring 2014 and comprises organisations with expertise in areas that are important to preventive work, such as human rights, children, equality and anti-discrimination, user experience from different sectors and knowledge about the conditions for inmates, patients and detainees etc.

In 2015, four meetings of the advisory committee were held as planned. The meetings considered, among other things, the use of coercive measures in mental health care, the conditions at the police immigration detention centre at Trandum, and follow-up of the NPM's visits and recommendations. The NPM has also given the members of the committee regular updates on its ongoing and planned work. The members of the committee have provided useful input to the NPM's work, both at the meetings and in other contexts.

The NPM has also asked individual committee members to prepare talks for several of the meetings on topics of interest to its work, in conjunction with the NPM's competence-raising and preparations for forthcoming visits. These talks have provided a basis for discussions and input that have helped to strengthen the NPM's work.

Four meetings of the advisory committee are planned in 2016.

## The members of the advisory committee are:

- › Norway's National Institution for Human Rights
- › The Equality and Anti-Discrimination Ombudsman
- › The Ombudsman for Children
- › The Norwegian Bar Association's Human Rights Committee
- › The Norwegian Medical Association, represented by the Norwegian Psychiatric Association
- › The Norwegian Psychological Association's Human Rights Committee
- › The Norwegian Organisation for Asylum Seekers (NOAS)
- › The Norwegian Association for Persons with Developmental Disabilities (NFU)
- › Juss-Buss
- › The Norwegian Federation of Organizations of Disabled People (FFO)
- › We Shall Overcome
- › The Norwegian Research Network on Coercion in Mental Health Care (TvangsForsk)
- › The Norwegian Helsinki Committee
- › The Norwegian Centre against Racism
- › Amnesty International Norway

<sup>1</sup> Section 3a of the Act relating to the Parliamentary Ombudsman and Section 8a of the Instructions for the Parliamentary Ombudsman for Public Administration.

### Dialogue with the authorities

Regular meetings and good dialogue with official bodies, such as ministries, directorates and county governors, are an important element in the preventive work. During the year, the NPM had meetings with, among others, the Ministry of Health and Care Services, the Ministry of Justice and Public Security, the Directorate of the Norwegian Correctional Service and the Norwegian Police Directorate. These meetings have provided opportunities to exchange information, discuss matters highlighted by the NPM following visits, and to follow up the recommendations made. The authorities in charge also receive the visit reports as they are published.

On 22 September 2015, the NPM attended the County Governor of Rogaland's annual meeting with the supervisory commissions and personnel with professional responsibility for administrative decisions in mental health care in the county. The NPM gave a talk on observations and findings from visits to mental health care institutions in 2015, with a particular focus on segregation practices at different inpatient units.

The Parliamentary Ombudsman also submitted a consultation submission on a proposed amendment to the Execution of Sentences Act that will allow inmates to serve their sentence in another state, and attended the Standing Committee on Justice's open hearing on the matter (see article on page 26).

### Seminars, conferences and teaching

The NPM's employees have attended a number of seminars and conferences during the year in order to present various issues linked to the deprivation of liberty and also obtain information from expert communities and increase their own knowledge and expertise.

### The NPM has attended and given talks at the following events, among others<sup>2</sup>:

- › Seminar at the Correctional Service Eastern Region office on exclusion from company and the use of coercive measures
- › The Norwegian Bar Association's Human Rights Seminar 2015 on children and human rights
- › Supervisory Commission Conference
- › The Norwegian judicial policy association's autumn seminar 2015 on the use of force in the child welfare service and psychiatric treatment
- › The 8th national conference on human rights, the use of force and ethics
- › Day-long national conference – Female inmates and convicts, organised by the Correctional Service of Norway Staff Academy (KRUS)/ the Directorate of the Norwegian Correctional Service

On 26 March 2015, the Parliamentary Ombudsman launched its annual reports for 2014.<sup>3</sup> This was the NPM's first annual report, and the occasion was marked by a panel debate on the prevention of torture and the challenges currently facing correctional services. The panel members were Leif Waage, assistant regional director of the Correctional Service Western Region; Nora Sveaass, member of the UN Subcommittee on Prevention of Torture (SPT), and Helga Fastrup Ervik, head of the NPM. State Secretary of the Ministry of Justice and Public Security, Vidar Brein-Karlsen, gave the opening speech on the significance of the Parliamentary Ombudsman's new mandate for the justice sector in Norway.

The NPM has also participated in and led classes for students studying for vocations that work with

2 A complete list of the NPM's activities in 2015 is enclosed in this annual report (see page 66).

3 Since 2014, the Parliamentary Ombudsman has submitted two annual reports to the Storting. Document 4 is the annual report on the work of the Parliamentary Ombudsman in general, and Document 4:1 is the annual report on the Parliamentary Ombudsman's prevention work.

people deprived of their liberty. This includes teaching at the Correctional Service of Norway Staff Academy (KRUS) and for trainees at Oslo Prison, as well as lectures for law students at the University of Oslo and the University of Tromsø.

### Information work

Sharing information about the conditions for people deprived of their liberty and increasing the public's knowledge about the challenges facing the different sectors are a priority in the preventive work. It is important to reach out to the population in general, and to key target groups in particular, to create an understanding of the need for preventive efforts and to provide information about the findings and recommendations made after a visit.

The NPM's work received broad national and local media coverage in 2015. There were 849 news stories online, in printed media and in broadcast media during the year. A number of articles have also been

written about the NPM's work in several trade journals aimed at user groups and vocational groups that work with people deprived of their liberty.

The Parliamentary Ombudsman's website is the NPM's primary information channel. Facebook and Twitter are used actively to spread information and direct readers to the website. Twitter contributes to an effective dissemination of new reports and it also serves as a discussion forum about the findings and recommendations in the reports. In 2015, the Parliamentary Ombudsman was mentioned in and sent a total of 1,402 twitter messages. More than half of them concerned the NPM's activities.

All of the visit reports are published on the Parliamentary Ombudsman's website. The reply letters from the places of detention visited are also published here, in which they provide information about how they have followed up the visit and the report's recommendations.



8





# International cooperation

In 2015, the Parliamentary Ombudsman, represented by the NPM, has cooperated with a number of international actors on efforts to prevent torture and ill-treatment of people deprived of their liberty. These include the UN Subcommittee on Prevention of Torture (SPT), the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), other states' national preventive mechanisms and civil society.

Employees from the NPM have, among other things, taken part in courses and conferences in Norway and abroad, spoken at panel debates and helped to raise their own as well as others' competence. They have regularly exchanged information and shared experiences with various organisations working on detention conditions for people deprived of their liberty. This has contributed to strengthening preventive efforts in Norway.

***" The NPM has regularly exchanged information and shared experiences with various organisations working on detention conditions for people deprived of their liberty "***

**Among other things, the NPM has participated at<sup>1</sup>:**

- › **A conference to mark the CPT's 25th anniversary: "The CPT at 25: taking stock and moving forward"**
- › **A conference at Wilton Park: "Strategies for tackling torture and improving prevention"**
- › **The APT's Jean-Jacques Gautier Symposium in Geneva, which addressed the vulnerabilities of LGBT persons**
- › **A workshop in Riga for preventive mechanisms that are part of Ombudsman institutions: 'Implementing a preventive mandate', under the auspices of the International Ombudsman Institute (IOI)**
- › **Summer school at the University of Bristol Law School: "Preventing torture and ill-treatment of female detainees through gender-sensitive monitoring"**
- › **Panel discussion at the OSCE/ODIHR meeting in Warsaw on gender-sensitive preventive efforts**
- › **Round-table conference in London organised by the Open Society Foundation and the University of Bristol Law School on "Pre-trial detention"**
- › **The Swedish Parliamentary Ombudsmen's seminar in Stockholm: "Preventing torture in Sweden and Europe"**

The Parliamentary Ombudsman has also received visits from delegations where the theme of the visit has been preventive efforts, among other things. This includes visits from the Council of Europe Commissioner for Human Rights Nils Muižnieks, Ethiopia's Chief Justice of the Supreme Court and Minister of Justice, representatives from Morocco's human rights council and a delegation comprising officials, journalists and members of voluntary organisations from Angola.

<sup>1</sup> A complete list of the NPM's activities in 2015 is included in this annual report (see page 66).



Employees from the Parliamentary Ombudsman's NPM and department 2 together with visiting Nordic colleagues outside Ila Detention and Security Prison.

### **Nordic network**

In spring 2015, the NPM took the initiative to form a Nordic network of preventive mechanisms. The Swedish Parliamentary Ombudsmen, the Danish Parliamentary Ombudsman and the Finnish Parliamentary Ombudsman all have mandates as national preventive mechanisms, cf. the Optional Protocol to the Convention against Torture. The objective is to facilitate increased cooperation, learning and exchange of information between the Nordic preventive mechanisms. The first meeting of the network took place in Oslo in June 2015. It included a visit to and tour of Ila Detention and Security Prison, with particular focus on efforts to engage inmates in long-term solitary confinement in activities.

The second network meeting was held in Copenhagen in December 2015. The topic of the meeting was the conditions for foreign nationals who are to be deported, and the participants also visited Ellebæk immigration detention centre. In autumn, the NPM also visited Märsta immigration detention centre in Sweden with the Swedish preventive mechanism.

### **The UN Subcommittee on Prevention of Torture (SPT)**

The SPT comprises 25 independent experts. The committee members can visit all places of detention in the states that have endorsed the Optional Protocol, both announced and unannounced visits. The SPT's mandate is also to provide advice and guidance to

the national preventive mechanisms. This enables the national preventive mechanisms and the SPT to complement and strengthen each other's efforts.

The SPT has not yet made an official visit to places of detention in Norway, but the members of the committee are actively involved in Norway's preventive efforts in a supportive and advisory capacity. In June 2015, the NPM received a visit from SPT member and focal point for Europe Mari Amos, and it took the opportunity to discuss concrete issues linked to preventive work. The NPM's experience is that it is

closely followed up by and receives valuable feedback and good advice from the committee.

The SPT has also published several statements in 2015 on important aspects of torture prevention. Among other things, the committee issued a statement at the request of the NPM on cross-border preventive efforts.<sup>2</sup> In November, the SPT issued a statement concerning the rights of people who are institutionalised and receive medical treatment without having given their informed consent.<sup>3</sup>



Representatives from several national preventive mechanisms, the SPT and civil society, among others, who participated at the APT's Jean-Jacques Gauthier symposium, which addressed the vulnerabilities of LGBT persons in detention.

2 SPT, SPT opinion on cross-border monitoring, February 2015, <https://www.sivilombudsmannen.no/aktuelt/fns-underkomite-for-forebygging-spt-har-gitt-rad-om-forebyggingsarbeid-pa-tvers-av-landegrenser-article3495-2865.html>.

3 SPT, Approach of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the rights of persons institutionalized and medically treated without informed consent, November 2015.

# Activities in 2015

WHEN	WHAT
6–9 January	Visit to Ringerike Prison
7 January	Meeting with the free legal aid service Juss-Buss
9 January	Meeting with the Norwegian Board of Health Supervision
12 January	Meeting with Tor-Geir Myhrer, researcher at the Norwegian Police University College, on the duty of confidentiality and the police's use of means of restraints
15–18 January	The Norwegian Association for Penal Reform's winter conference (the KROM Conference)
19 January	Talk on the Ombudsman's human rights mandate at the Norwegian Centre for Human Rights
20 January	The Council of Europe Commissioner for Human Rights Nils Muižņeks visited Norway and met with the Parliamentary Ombudsman
2 February	Visit to Lillestrøm police custody facility
4 February	Meeting with the organisations Wayback, Retretten and Straffedes Organisasjon i Norge (SON)
9 February	Meeting with the Norwegian LGBT Association (LLH)
11 February	Visit to Bjørgvin Prison's Juvenile Unit
12–13 February	VIVAT course in suicide prevention
23 February	Meeting of the advisory committee to the National Preventive Mechanism
24 February	Meeting with the Ministry of Justice's executive management
24–27 February	Visit to Diakonhjemmet Hospital
26 February	Lecture at the Correctional Service of Norway Staff Academy (KRUS)
26 February	Launch of the NOAS report 'Freedom first – a report on alternatives to detention'
27 February	Consultation submission on amendments to the Execution of Sentences Act regarding the serving of sentences in another state
2 March	Conference organised by the European Committee for the Prevention of Torture: 'The CPT at 25: taking stock and moving forward'
3 March	Hearing at the Storting on White Paper 12 (2014–2015) regarding increasing the correctional services' capacity
4 March	Cooperation meeting with Norway's National Institution for Human Rights, the Ombudsman for Children and the Equality and Anti-Discrimination Ombudsman
6 March	Meeting with the supervisory council for the police immigration detention centre at Trandum
10 March	Meeting with the supervisory commission for Diakonhjemmet Hospital
11 March	Visit to Ålesund police custody facility
13 March	Meeting with the Norwegian Police Directorate

<b>17–19 March</b>	Visit to Trondheim Prison
<b>23 March</b>	The Parliamentary Ombudsman's 2014 annual reports are submitted to the Storting's Presidium represented by the First Vice President Marit Nybakk
<b>24 March</b>	The Parliamentary Ombudsman's 2014 annual reports are presented to the Storting's Standing Committee on Scrutiny and Constitutional Affairs
<b>24 March</b>	Seminar at the Correctional Service Eastern Region office on exclusion from company and the use of coercive measures
<b>24 March</b>	Meeting of the advisory committee to Norway's National Institution for Human Rights
<b>26 March</b>	Breakfast seminar and launch of the Parliamentary Ombudsman's 2014 annual reports
<b>27 March</b>	Meeting with the supervisory commission for mental health care in Telemark
<b>30 March–1 April</b>	Conference at Wilton Park: 'Strategies for tackling torture and improving prevention'
<b>8 April</b>	Seminar: 'A critical look at Trandum immigration detention centre' organised by the Norwegian Centre against Racism
<b>8–10 April</b>	Visit to Telemark Hospital
<b>17 April</b>	Meeting with the Directorate of the Norwegian Correctional Service
<b>20 April</b>	Visit to the Swedish Parliamentary Ombudsmen to provide information about the use of medical expertise during preventive visits and the status of Norway's new National Institution for Human Rights
<b>21 April</b>	Talk at the meeting for the heads of the regional administrations of the Directorate of the Norwegian Correctional Service
<b>22 April</b>	Visit to Bjørgvin Prison's Juvenile Unit
<b>22 April</b>	Visit to places of detention at Gardermoen
<b>22 April</b>	Lecture to law students at the University of Tromsø
<b>23 April</b>	Lecture to trainees at Oslo Prison
<b>24 April</b>	Meeting with patients and staff from Gaustad Hospital
<b>27 April</b>	Meeting of the advisory committee to the National Preventive Mechanism
<b>28 April</b>	Meeting with the department of medical law of the Ministry of Health and Care Services
<b>28 April</b>	Hearing at the Storting concerning consent to enter into an agreement with the Netherlands on w2 March 2015 on the use of a prison in the Netherlands, and amendments to the state budget 2015 (Changes in tax, levies and customs legislation) (Prop. 92 LS (2014–2015))
<b>29 April</b>	The Norwegian Bar Association's Human Rights Seminar 2015 on children and human rights
<b>5 May</b>	Launch of the Human Rights Yearbook in Norway in 2014
<b>5–6 May</b>	Nordic–Baltic course/workshop: 'Integrating the Preventive Approach'

12 May	Lecture on questioning and interview techniques by Asbjørn Rachlew, police superintendent with a PhD in criminology and sociology of law
12 May	Meeting with Asbjørn Rachlew
19–21 May	Visit to the police immigration detention centre at Trandum and monitoring of deportation from the detention centre until departure of Frontex-organised return flight from Gardermoen
27 May	Cooperation meeting with Norway's National Institution for Human Rights, the Ombudsman for Children and the Equality and Anti-Discrimination Ombudsman
29 May	Seminar: ten years of the Norwegian Bureau for the Investigation of Police Affairs
1 June	Meeting with Ethiopia's Chief Justice of the Supreme Court and Minister of Justice organised by the Ministry of Foreign Affairs
2–4 June	Visit to Telemark Prison, Skien branch
3–4 June	The APT's Jean-Jacques Gautier Symposium in Geneva addressing the vulnerabilities of LGBT persons
11 June	SPT member Mari Amos visited Norway and met with the NPM
12 June	Meeting with the Nordic preventive mechanisms, including a tour of Ila Detention and Security Prison
16–19 June	Workshop in Riga for preventive mechanisms that are part of Ombudsman institutions: 'Implementing a preventive mandate', under the auspices of the International Ombudsman Institute (IOI)
23 July	Lecture about the Parliamentary Ombudsman at the University of Oslo's Human Rights Summer Course
10–13 August	Summer school at the University of Bristol Law School: 'Preventing torture and ill-treatment of female detainees through gender-sensitive monitoring'
17 August	Meeting of the advisory committee of the National Preventive Mechanism
18 August	Meeting with the secretariat of Rettighetsutvalget ('the rights committee')
19 August	Meeting with representatives of the Red Cross's volunteer visitor scheme for the immigration detention centre at Trandum
21 August	Lecture to trainees at the Correctional Service of Norway Staff Academy (KRUS)
25-27 August	Visit to Kongsvinger Prison
27 August	Meeting with RVTs East – the regional resource centre for violence, traumatic stress and suicide prevention
2 September	Meeting with We Shall Overcome and the Equality and Anti-Discrimination Ombudsman
7–9 September	Visit to Sørlandet Hospital, Kristiansand

<b>10 September</b>	The Norwegian Medical Association's in-house seminar on Trandum, organised by the committee for human rights, climate and global health
<b>10 September</b>	Visit from delegation from Angola organised by the International Law and Policy Institute (ILPI)
<b>10 September</b>	International Commission of Jurists (ICJ) seminar on the implementation of the Convention on the Rights of Persons with Disabilities (CRPD) in Norway, focusing on coercive measures in mental health care and the need for law reforms
<b>11 September</b>	Meeting with Facundo Chavez, OHCHR Human Rights and Disability Advisor
<b>11 September</b>	Meeting with representatives of Morocco's Human Rights Council organised by the Ministry of Foreign Affairs
<b>21 September</b>	Event organised by the Scandinavian Solitary Confinement Network
<b>22 September</b>	The County Governor of Rogaland's annual meeting with the supervisory commissions and personnel with professional responsibility for administrative decisions in mental health care in the county
<b>24 September</b>	The Ombudsman for Children's theme day and launch of the report 'Grenseløs omsorg – om bruk av tvang mot barn i barnevern og psykisk helsevern' (Endless care – on the use of force in relation to children under the care of the child welfare service and mental health care – in Norwegian only)
<b>25-27 September</b>	Panel debate on gender-sensitive preventive work, side event during the OSCE/ODIHR meeting in Warsaw
<b>29 September</b>	The Norwegian Judicial Policy Association's autumn seminar 2015 on the use of force in the child welfare service and psychiatric treatment
<b>1 October</b>	Round-table conference in London organised by the Open Society Foundation and the University of Bristol Law School on 'Pre-trial detention'
<b>1 October</b>	The Swedish Parliamentary Ombudsmen's seminar: 'Preventing torture in Sweden and Europe'
<b>14 October</b>	The Parliamentary Ombudsman's human rights seminar on 'The significance of transparency and freedom of speech in public administration'
<b>19 October</b>	Meeting organised by the Equality and Anti-Discrimination Ombudsman: 'Violation of people with disabilities' human rights'
<b>19 October</b>	Lecture to human rights students at the Faculty of Law at the University of Oslo
<b>19 October</b>	Conference on antipsychotic and forced medication in psychiatric treatment: 'Medicating the psyche – more harm than good?'
<b>21 October</b>	Meeting with PRESS on communication with children and young people
<b>26 October</b>	Cooperation meeting with Norway's National Institution for Human Rights, the Ombudsman for Children and the Equality and Anti-Discrimination Ombudsman
<b>27 October</b>	Lecture by law professor Kjetil Mujezinović Larsen on CRPD Article 14 and the use of force in mental health care
<b>28 October</b>	Meeting with the Ombudsman for Children on communication with children and young people

<b>28 October</b>	Open meeting at the Ministry of Children, Equality and Social Inclusion on Norway's reporting to the UN Committee on the Rights of the Child
<b>3 November</b>	Meeting with Red Cross Youth on communication with children and young people
<b>3 November</b>	Course on security in preventive work
<b>4 November</b>	GIGA inspiration day: children and young people in mental health care, organised by experts on mental health care from Forandringsfabrikken
<b>9 November</b>	Rolv Ryssdal seminar, talk on the UN Human Rights Treaty Bodies and their significance for Norwegian law
<b>9 November</b>	Meeting with the Correctional Service of Norway Staff Academy (KRUS) on the training of escorts at Trandum
<b>11 November</b>	Meeting with the legal aid organisation for women (JURK) on women in prison
<b>12–13 November</b>	The Supervisory Commission Conference, organised by the Directorate of Health
<b>20 November</b>	Lucy Smith's Child Rights Day on the Convention on the Rights of the Child, Article 3(1) on the best interests of the child
<b>25 November</b>	Meeting with Dr. Elina Steinerte, researcher at the University of Bristol, on the execution of sentences in the Netherlands
<b>25–26 November</b>	The 8th national conference on human rights, the use of force and ethics (the Hamar conference on the use of force)
<b>30 November</b>	Seminar on interview techniques with the Centre for Stress and Trauma Psychology
<b>2 December</b>	Joint visit with the Swedish Parliamentary Ombudsmen's preventive mechanism, the OPCAT unit, to Mårsta immigration detention centre in Sweden
<b>7 December</b>	Meeting of the advisory committee to the National Preventive Mechanism
<b>9 December</b>	Meeting with psychiatrist Petter Andreas Ringen on medicinal and non-medicinal treatment in involuntary mental health care
<b>10 December</b>	Day-long national conference – Female inmates and convicts, organised by KRUS/KDI
<b>11 December</b>	Meeting with the Nordic preventive mechanisms and visit to Ellebæk immigration detention centre
<b>15 December</b>	Meeting with psychologist Olav Nytingnes at Akershus University Hospital on user involvement, consent and decision-making ability, perceived use of force, non-medicinal treatment measures and other measures to reduce the use of force



# Budget and accounts 2015

CATEGORY	BUDGET 2015	ACCOUNTS 2015
SALARIES	4,951,628.00	4,841,141.00
OPERATING EXPENSES	2,887,925.00	
Furniture and equipment		126,308.00
Rent, electricity, cleaning and security		823,658.00
IT services		262,507.00
Procurement of external services		427,826.00
Travel (visits and meetings)		446,680.00
Other operations		364,034.00
<b>TOTAL NOK</b>	<b>7,839,553.00</b>	<b>7,292,154.00</b>

# Texts of acts

## UN Convention against Torture

(selected articles)

### Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

#### Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

#### Article 2

1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

#### Article 3

1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

#### Article 4

1. Each State Party shall ensure that all acts of torture are offences under its criminal law. The same shall apply to an attempt to commit torture and to an act by any person which constitutes complicity or participation in torture. 2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

2. Each State Party shall make these offences punishable by appropriate penalties which take into account their grave nature.

#### Article 5

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 4 in the following cases:

(a) When the offences are committed in any territory under its jurisdiction or on board a ship or aircraft registered in that State;

(b) When the alleged offender is a national of that State;

(c) When the victim is a national of that State if that State considers it appropriate.

2. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over such offences in cases where the alleged offender is present in any territory under its jurisdiction and it does not extradite him pursuant to article 8 to any of the States mentioned in paragraph 1 of this article.

3. This Convention does not exclude any criminal jurisdiction exercised in accordance with internal law.

#### Article 6

1. Upon being satisfied, after an examination of information available to it, that the circumstances so warrant, any State Party in whose territory a person alleged to have committed any offence referred to in article 4 is present shall take him into custody or take other legal measures to ensure his presence. The custody and other legal measures shall be as provided in the law of that State but may be continued only for such time as is necessary to enable any criminal or extradition proceedings to be instituted.

2. Such State shall immediately make a preliminary inquiry into the facts.

3. Any person in custody pursuant to paragraph 1 of this article shall be assisted in communicating immediately with the nearest

appropriate representative of the State of which he is a national, or, if he is a stateless person, with the representative of the State where he usually resides.

4. When a State, pursuant to this article, has taken a person into custody, it shall immediately notify the States referred to in article 5, paragraph 1, of the fact that such person is in custody and of the circumstances which warrant his detention. The State which makes the preliminary inquiry contemplated in paragraph 2 of this article shall promptly report its findings to the said States and shall indicate whether it intends to exercise jurisdiction.

#### **Article 7**

1. The State Party in the territory under whose jurisdiction a person alleged to have committed any offence referred to in article 4 is found shall in the cases contemplated in article 5, if it does not extradite him, submit the case to its competent authorities for the purpose of prosecution.

2. These authorities shall take their decision in the same manner as in the case of any ordinary offence of a serious nature under the law of that State. In the cases referred to in article 5, paragraph 2, the standards of evidence required for prosecution and conviction shall in no way be less stringent than those which apply in the cases referred to in article 5, paragraph 1.

3. Any person regarding whom proceedings are brought in connection with any of the offences referred to in article 4 shall be guaranteed fair treatment at all stages of the proceedings.

(Articles 8-9)

#### **Article 10**

1. Each State Party shall ensure that education and information regarding the prohibition against torture are fully included in the training of law enforcement personnel, civil or military, medical personnel, public officials and other persons who may be involved in the custody, interrogation or treatment of any individual subjected to any form of arrest, detention or imprisonment.

2. Each State Party shall include this prohibition in the rules or instructions issued in regard to the duties and functions of any such person.

#### **Article 11**

Each State Party shall keep under systematic review interrogation rules, instructions, methods and practices as well as arrangements for the custody and treatment of persons

subjected to any form of arrest, detention or imprisonment in any territory under its jurisdiction, with a view to preventing any cases of torture.

#### **Article 12**

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 has been committed in any territory under its jurisdiction.

#### **Article 13**

Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.

#### **Article 14**

1. Each State Party shall ensure in its legal system that the victim of an act of torture obtains redress and has an enforceable right to fair and adequate compensation, including the means for as full rehabilitation as possible. In the event of the death of the victim as a result of an act of torture, his dependants shall be entitled to compensation.

2. Nothing in this article shall affect any right of the victim or other persons to compensation which may exist under national law.

#### **Article 15**

Each State Party shall ensure that any statement which is established to have been made as a result of torture shall not be invoked as evidence in any proceedings, except against a person accused of torture as evidence that the statement was made.

#### **Article 16**

1. Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

2. The provisions of this Convention are without prejudice to the provisions of any other international instrument or national law which prohibits cruel, inhuman or degrading treatment or punishment or which relates to extradition or expulsion.

(Articles 17-33)

---

## The Optional Protocol to the Convention against Torture

(selected articles)

### Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment

#### PART I General principles

##### Article 1

The objective of the present Protocol is to establish a system of regular visits undertaken by independent international and national bodies to places where people are deprived of their liberty, in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.

##### Article 2

1. A Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of the Committee against Torture (hereinafter referred to as the Subcommittee on Prevention) shall be established and shall carry out the functions laid down in the present Protocol.

2. The Subcommittee on Prevention shall carry out its work within the framework of the Charter of the United Nations and shall be guided by the purposes and principles thereof, as well as the norms of the United Nations concerning the treatment of people deprived of their liberty.

3. Equally, the Subcommittee on Prevention shall be guided by the principles of confidentiality, impartiality, non-selectivity, universality and objectivity.

4. The Subcommittee on Prevention and the States Parties shall cooperate in the implementation of the present Protocol.

##### Article 3

Each State Party shall set up, designate or maintain at the domestic level one or several visiting bodies for the prevention of torture and other cruel, inhuman or degrading treatment or punishment (hereinafter referred to as the national preventive mechanism).

##### Article 4

1. Each State Party shall allow visits, in accordance with the present Protocol, by the mechanisms referred to in articles 2 and 3 to any place under its jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment.

2. For the purposes of the present Protocol, deprivation of liberty means any form of detention or imprisonment or the placement of a person in a public or private custodial setting which that person is not permitted to leave at will by order of any judicial, administrative or other authority.

#### PART II Subcommittee on Prevention

##### Article 5

1. The Subcommittee on Prevention shall consist of ten members. After the fiftieth ratification of or accession to the present Protocol, the number of the members of the Subcommittee on Prevention shall increase to twenty-five.

2. The members of the Subcommittee on Prevention shall be chosen from among persons of high moral character, having proven professional experience in the field of the administration of justice, in particular criminal law, prison or police administration, or in the various fields relevant to the treatment of persons deprived of their liberty.

3. In the composition of the Subcommittee on Prevention due consideration shall be given to equitable geographic distribution and to the representation of different forms of civilization and legal systems of the States Parties.

4. In this composition consideration shall also be given to balanced gender representation on the basis of the principles of equality and non-discrimination.

5. No two members of the Subcommittee on Prevention may be nationals of the same State.

6. The members of the Subcommittee on Prevention shall serve in their individual capacity, shall be independent and impartial and shall be available to serve the Subcommittee on Prevention efficiently.

(Articles 6-10)

### **PART III**

#### **Mandate of the Subcommittee on Prevention**

##### **Article 11**

1. The Subcommittee on Prevention shall:

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

(a) Visit the places referred to in article 4 and make recommendations to States Parties concerning the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(b) In regard to the national preventive mechanisms:

(i) Advise and assist States Parties, when necessary, in their establishment;

(ii) Maintain direct, and if necessary confidential, contact with the national preventive mechanisms and offer them training and technical assistance with a view to strengthening their capacities;

(iii) Advise and assist them in the evaluation of the needs and the means necessary to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(iv) Make recommendations and observations to the States Parties with a view to strengthening the capacity and the mandate of the national preventive mechanisms for the prevention of torture and other cruel, inhuman or degrading treatment or punishment;

(c) Cooperate, for the prevention of torture in general, with the relevant United Nations organs and mechanisms as well as with the international, regional and national institutions or organizations working towards the strengthening of the protection of all persons against torture and other cruel, inhuman or degrading treatment or punishment.

##### **Article 12**

In order to enable the Subcommittee on Prevention to comply with its mandate as laid down in article 11, the States Parties undertake:

(a) To receive the Subcommittee on Prevention in their territory and grant it access to the places of detention as defined in article 4 of the present Protocol;

(b) To provide all relevant information the Subcommittee on Prevention may request to evaluate the needs and measures that should be adopted to strengthen the protection of persons deprived of their liberty against torture and other cruel, inhuman or degrading treatment or punishment;

(c) To encourage and facilitate contacts between the Subcommittee on Prevention and the national preventive mechanisms;

(d) To examine the recommendations of the Subcommittee on Prevention and enter into dialogue with it on possible implementation measures.

##### **Article 13**

1. The Subcommittee on Prevention shall establish, at first by lot, a programme of regular visits to the States Parties in order to fulfil its mandate as established in article 11.

2. After consultations, the Subcommittee on Prevention shall notify the States Parties of its programme in order that they may, without delay, make the necessary practical arrangements for the visits to be conducted.

3. The visits shall be conducted by at least two members of the Subcommittee on Prevention. These members may be accompanied, if needed, by experts of demonstrated professional experience and knowledge in the fields covered by the present Protocol who shall be selected from a roster of experts prepared on the basis of proposals made by the States Parties, the Office of the United Nations High Commissioner for Human Rights and the United Nations Centre for International Crime Prevention. In preparing the roster, the States Parties concerned shall propose no more than five national experts. The State Party concerned may oppose the inclusion of a specific expert in the visit, whereupon the Subcommittee on Prevention shall propose another expert.

4. If the Subcommittee on Prevention considers it appropriate, it may propose a short follow-up visit after a regular visit.

**Article 14**

1. In order to enable the Subcommittee on Prevention to fulfil its mandate, the States Parties to the present Protocol undertake to grant it:

(a) Unrestricted access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;

(b) Unrestricted access to all information referring to the treatment of those persons as well as their conditions of detention;

(c) Subject to paragraph 2 below, unrestricted access to all places of detention and their installations and facilities;

(d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the Subcommittee on Prevention believes may supply relevant information;

(e) The liberty to choose the places it wants to visit and the persons it wants to interview.

2. Objection to a visit to a particular place of detention may be made only on urgent and compelling grounds of national defence, public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit. The existence of a declared state of emergency as such shall not be invoked by a State Party as a reason to object to a visit.

**Article 15**

No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the Subcommittee on Prevention or to its delegates any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.

**Article 16**

1. The Subcommittee on Prevention shall communicate its recommendations and observations confidentially to the State Party and, if relevant, to the national preventive mechanism.

2. The Subcommittee on Prevention shall publish its report, together with any comments of the State Party concerned, whenever requested to do so by that State Party. If the State

Party makes part of the report public, the Subcommittee on Prevention may publish the report in whole or in part. However, no personal data shall be published without the express consent of the person concerned.

3. The Subcommittee on Prevention shall present a public annual report on its activities to the Committee against Torture.

4. If the State Party refuses to cooperate with the Subcommittee on Prevention according to articles 12 and 14, or to take steps to improve the situation in the light of the recommendations of the Subcommittee on Prevention, the Committee against Torture may, at the request of the Subcommittee on Prevention, decide, by a majority of its members, after the State Party has had an opportunity to make its views known, to make a public statement on the matter or to publish the report of the Subcommittee on Prevention.

**PART IV****National preventive mechanisms****Article 17**

Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions.

**Article 18**

1. The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel.

2. The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country.

3. The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms.

4. When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights.

**Article 19**

The national preventive mechanisms shall be granted at a minimum the power:

- (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;
- (b) To make recommendations to the relevant authorities with the aim of improving the treatment and the conditions of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment, taking into consideration the relevant norms of the United Nations;
- (c) To submit proposals and observations concerning existing or draft legislation.

**Article 20**

In order to enable the national preventive mechanisms to fulfil their mandate, the States Parties to the present Protocol undertake to grant them:

- (a) Access to all information concerning the number of persons deprived of their liberty in places of detention as defined in article 4, as well as the number of places and their location;
- (b) Access to all information referring to the treatment of those persons as well as their conditions of detention;
- (c) Access to all places of detention and their installations and facilities;
- (d) The opportunity to have private interviews with the persons deprived of their liberty without witnesses, either personally or with a translator if deemed necessary, as well as with any other person who the national preventive mechanism believes may supply relevant information;
- (e) The liberty to choose the places they want to visit and the persons they want to interview;
- (f) The right to have contacts with the Subcommittee on Prevention, to send it information and to meet with it.

**Article 21**

1. No authority or official shall order, apply, permit or tolerate any sanction against any person or organization for having communicated to the national preventive mechanism any information, whether true or false, and no such person or organization shall be otherwise prejudiced in any way.
2. Confidential information collected by the national preventive mechanism shall be privileged. No personal data shall be published without the express consent of the person concerned.

**Article 22**

The competent authorities of the State Party concerned shall examine the recommendations of the national preventive mechanism and enter into a dialogue with it on possible implementation measures.

**Article 23**

The States Parties to the present Protocol undertake to publish and disseminate the annual reports of the national preventive mechanisms.

(Articles 24-34)

**Article 35**

Members of the Subcommittee on Prevention and of the national preventive mechanisms shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions. Members of the Subcommittee on Prevention shall be accorded the privileges and immunities specified in section 22 of the Convention on the Privileges and Immunities of the United Nations of 13 February 1946, subject to the provisions of section 23 of that Convention.

(Articles 36-37)

## Act relating to the Parliamentary Ombudsman for Public Administration (the Parliamentary Ombudsman Act)

(selected sections)

Act of 22 June 1962 No. 8 as subsequently amended, most recently by Act of 21 June 2013 No. 89.

### Section 1. Election of the Ombudsman

After each general election, the Storting elects a Parliamentary Ombudsman for Public Administration, the Parliamentary Ombudsman. The Ombudsman is elected for a term of four years reckoned from 1 January of the year following the general election.

The Ombudsman must satisfy the conditions for appointment as a Supreme Court Judge. He must not be a member of the Storting.

If the Ombudsman dies or becomes unable to discharge his duties, the Storting will elect a new Ombudsman for the remainder of the term of office. The same applies if the Ombudsman relinquishes his office, or if the Storting decides by a majority of at least two thirds of the votes cast to deprive him of his office.

If the Ombudsman is temporarily unable to discharge his duties because of illness or for other reasons, the Storting may elect a person to act in his place during his absence. In the event of absence for a period of up to three months, the Ombudsman may authorise the Head of Division to act in his place.

If the Presidium of the Storting finds that the Ombudsman is disqualified to deal with a particular matter, it will elect a substitute Ombudsman to deal with the matter in question.

### Section 2. Instructions

The Storting will issue general instructions for the activities of the Ombudsman. Apart from this the Ombudsman is to discharge his duties autonomously and independently of the Storting.

### Section 3. Purpose

As the Storting's representative, the Ombudsman shall, as prescribed in this Act and in his instructions, endeavour to ensure that individual citizens are not unjustly treated by the public administration and help to ensure that the public administration respects and safeguards human rights.

### Section 3a. National preventive mechanism

The Ombudsman is the national preventive mechanism as described in Article 3 of the Optional Protocol of 18 December 2002 to the UN Convention of 10 December 1984 against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

### Section 4. Sphere of responsibility

The Ombudsman's sphere of responsibility encompasses the public administration and all persons engaged in its service. It also encompasses the conditions of detention for persons deprived of their liberty in private institutions when the deprivation of liberty is based on an order given by a public authority or takes place at the instigation of a public authority or with its consent or acquiescence.

The sphere of responsibility of the Ombudsman does not include:

- a) matters on which the Storting has reached a decision,
- b) decisions adopted by the King in Council,
- c) the activities of the courts of law,
- d) the activities of the Auditor General,
- e) matters that, as prescribed by the Storting, come under the Ombudsman's Committee or the Parliamentary Ombudsman for the Norwegian Armed Forces,
- f) decisions that as provided by statute may only be made by a municipal council, county council or cooperative municipal council itself, unless the decision is made by a municipal executive board, a county executive board, a standing committee, or a city or county government under section 13 of the Act of 25 September 1992 No. 107 concerning municipalities and county authorities. The Ombudsman may nevertheless investigate any such decision on his own initiative if he considers that it is required in the interests of due process of law or for other special reasons.

In its instructions for the Ombudsman, the Storting may establish:

- a) whether specific public institutions or enterprises shall be regarded as belonging to the public administration or a part of the services of the state, the municipalities or the county authorities under this Act,
- b) that certain parts of the activity of a public agency or a public institution shall fall outside the sphere of the Ombudsman's responsibility.

(Sections 5-6)



### **Section 7. Right to information**

The Ombudsman may require public officials and all others engaged in the service of the public administration to provide him with such information as he needs to discharge his duties. As the national preventive mechanism, the Ombudsman has a corresponding right to require information from persons in the service of private institutions such as are mentioned in section 4, first paragraph, second sentence. To the same extent he may require that minutes/records and other documents are produced.

The Ombudsman may require the taking of evidence by the courts of law, in accordance with the provisions of section 43, second paragraph, of the Courts of Justice Act. The court hearings are not open to the public.

### **Section 8. Access to premises, places of service, etc**

The Ombudsman is entitled to access to places of service, offices and other premises of any administrative agency and any enterprise that comes within his sphere of responsibility.

### **Section 9. Access to documents and duty of confidentiality**

The Ombudsman's case documents are public. The Ombudsman will make the final decision on whether a document is to be wholly or partially exempt from access. Further rules, including on the right to exempt documents from access, will be provided in the instructions to the Ombudsman.

The Ombudsman has a duty of confidentiality as regards information concerning matters of a personal nature to which he becomes party to during the course of his duties. The duty of confidentiality also applies to information concerning operational and commercial secrets, and information that is classified under the Security Act or the Protection Instructions. The duty of confidentiality continues to apply after the Ombudsman has left his position. The same duty of confidentiality applies to his staff and others who provide assistance.

### **Section 10. Completion of the Ombudsman's procedures in a case**

The Ombudsman is entitled to express his opinion on matters within his sphere of responsibility.

The Ombudsman may call attention to errors that have been committed or negligence that has been shown in the public administration. If he finds sufficient reason for so doing, he may inform the prosecuting authority or appointments authority of what action he believes should be taken in this connection against the official concerned. If the Ombudsman concludes that

a decision must be considered invalid or clearly unreasonable or that it clearly conflicts with good administrative practice, he may express this opinion. If the Ombudsman believes that there is reasonable doubt relating to factors of importance in the case, he may make the appropriate administrative agency aware of this.

If the Ombudsman finds that there are circumstances that may entail liability to pay compensation, he may, depending on the situation, suggest that compensation should be paid.

The Ombudsman may let a case rest when the error has been rectified or with the explanation that has been given.

The Ombudsman shall notify the complainant and others involved in a case of the outcome of his handling of the case. He may also notify the superior administrative agency concerned.

The Ombudsman himself will decide whether, and if so in what manner, he will inform the public of his handling of a case.

As the national preventive mechanism, the Ombudsman may make recommendations with the aim of improving the treatment and the conditions of persons deprived of their liberty and of preventing torture and other cruel, inhuman or degrading treatment or punishment. The competent authority shall examine the recommendations and enter into a dialogue with the Ombudsman on possible implementation measures.

### **Section 11. Notification of shortcomings in legislation and in administrative practice**

If the Ombudsman becomes aware of shortcomings in acts, regulations or administrative practice, he may notify the ministry concerned to this effect.

### **Section 12. Reporting to the Storting**

The Ombudsman shall submit an annual report on his activities to the Storting. A report shall be prepared on the Ombudsman's activities as the national preventive mechanism. The reports will be printed and published.

The Ombudsman may when he considers it appropriate submit special reports to the Storting and the relevant administrative agency.

(Sections 13-15)

## Instructions for the Parliamentary Ombudsman for Public Administration

(selected sections)

Adopted by the Storting on 19 February 1980 under section 2 of the Act of 22 June 1962 No. 8 relating to the Parliamentary Ombudsman for Public Administration.

### Section 1. Purpose

(See section 3 of the Parliamentary Ombudsman Act.)

The Parliamentary Ombudsman for Public Administration shall seek to ensure that individual citizens are not unjustly treated by the public administration and that senior officials, officials and others engaged in the service of the public administration do not make errors or neglect their duties.

### Section 2. Sphere of responsibility

(See section 4 of the Parliamentary Ombudsman Act.)

The Norwegian Parliamentary Intelligence Oversight Committee shall not be considered as part of the public administration for the purposes of the Parliamentary Ombudsman Act. The Ombudsman shall not consider complaints concerning the intelligence, surveillance and security services that the Committee has already considered.

The Ombudsman shall not consider complaints about cases dealt with by the Storting's ex gratia payments committee.

The exception for the activities of the courts of law under section 4, first paragraph, c), also includes decisions that may be brought before a court by means of a complaint, appeal or other judicial remedy.

Amended by Storting decisions of 22 October 1996 No. 1479, 2 December 2003 No. 1898 (in force from 1 January 2004), 17 June 2013 No. 1251 (in force from 1 July 2013).

(Sections 3-8)

### Section 8a. Special provisions relating to the Parliamentary Ombudsman as national preventive mechanism

The Ombudsman may receive assistance from persons with specific expertise in connection with its function as the national preventive mechanism in accordance with section 3a of the Parliamentary Ombudsman Act.

The Ombudsman shall establish an advisory committee to provide expertise, information, advice and input in connection with its function as the national preventive mechanism.

The advisory committee shall include members with expertise on children, human rights and psychiatry. The committee must have a good gender balance and each sex shall be represented by a minimum of 40 % of the membership. The committee may include both Norwegian and foreign members.

Added by Storting decision of 17 June 2013 No. 1251 (in force from 1 July 2013).

(Sections 9-11)

### Section 12. Annual report to the Storting

(See section 12 of the Parliamentary Ombudsman Act.)

The Ombudsman's annual report to the Storting shall be submitted by 1 April each year and shall cover the Ombudsman's activities in the period 1 January–31 December of the previous year.

The report shall contain a summary of procedures in cases which the Ombudsman considers to be of general interest, and shall mention those cases in which he has called attention to shortcomings in acts, regulations or administrative practice, or has issued a special report under section 12, second paragraph, of the Parliamentary Ombudsman Act. In the annual report, the Ombudsman shall also provide information on activities to oversee and monitor that the public administration respects and safeguards human rights.

If the Ombudsman finds reason to do so, he may refrain from mentioning names in the report. The report shall in any case not include information that is subject to the duty of confidentiality.

The account of cases where the Ombudsman has expressed an opinion as mentioned in section 10, second, third and fourth paragraphs, of the Parliamentary Ombudsman Act, shall summarise any response by the relevant administrative body or official about the complaint, see section 6, first paragraph, third sentence.

A report concerning the Ombudsman's activities as the national preventive mechanism shall be issued before 1 April each year. This report shall cover the period 1 January–31 December of the previous year.

Amended by Storting decision of 14 June 2000 No. 1712 (in force from 1 January 2001), 12 June 2007 No. 1101 (in force from 1 July 2007), 17 June 2013 No. 1251 (in force from 1 July 2013).

(Section 13)

**Photo:**

page 2 og 14: Mona Ødegård,

page 4, 6, 10, 16, 30, 48, 54, 58 and 62: Istock,

page 34, 37, 41, 44, 45, 47 and 64: The Parliamentary Ombudsman,

page 31: Espen Braata,

page 32: Statsbygg,

page 35: Tor Erik Schrøder/NTB Scanpix,

page 38: Dina Johnsen/NRK,

page 39: Ivar Lid Riise/NRK,

page 42: Alf Øystein Støtvig/VG,

page 65: Association for the Prevention of Torture (APT)

**Design:** Miksmaster Creative

**Print:** RKGrafisk

Office address: Akersgata 8, Oslo  
Postal address: P.O. Box 3 Sentrum, NO-0101 Oslo  
Telephone: +47 22 82 85 00  
Free of charge: +47 800 80 039  
Fax: +47 22 82 85 11  
Email: [postmottak@sivilombudsmannen.no](mailto:postmottak@sivilombudsmannen.no)  
[www.sivilombudsmannen.no/NPM](http://www.sivilombudsmannen.no/NPM)