

# **Visit Report**

## **Security Housing in Akureyri**

**25 May 2022**

**OPCAT monitoring of facilities where  
persons deprived of their liberty reside**

The Althingi Ombudsman visited a security housing in Akureyri on 25 May 2022. This was the first visit by the Ombudsman to security housing, although in 2018 the Ombudsman visited the forensic psychiatric ward of the National University Hospital at Kleppur, where individuals can also be placed on the basis of a sentence. In the security housing in Akureyri, there are [...] persons who have been sentenced to security detention based on Article 62 of the General Penal Code. Because of their situation, the legislation on disabled persons also applies to them.

The security housing is operated on the basis of a service contract between the Ministry of Social Affairs and Labour and the Municipality of Akureyri. The contract is concluded retroactively for one year at a time. For that reason, the Minister of Social Affairs and Labour and the Welfare Department of the Municipality of Akureyri are instructed to make sure that there is a valid service contract in force for the operations at all times.

In Iceland, no comprehensive legislation has been enacted on the implementation of security detention. The report points out that the lack of a legal framework has led to various problems that are reflected, among other things, in the fact that it is not fully clear how responsibility is divided between the enforcement authorities and the authorities of health and social affairs when it comes to various decisions on the implementation of sentences for security detention. Furthermore, it varies what legislation applies to persons who have been sentenced to security detention. As a result, different rules may apply to those in detention depending on whether the facility operates on the basis of a contract with local authorities or whether the person in question is held within the health care system, e.g. in a forensic psychiatric department. Some individuals are also covered by legislation on disabled persons while others are not, and this difference may affect the implementation of placement and details of the legal protection of the person in question. As a result, it is not clear either what authority is ultimately responsible for administration and supervision in each instance.

The Minister of Social Affairs and Labour has presented a draft bill for an Act on the implementation of security measures and secure placement. According to the revised parliamentary agenda, the Minister plans to present the bill in the current legislative session. The report urges the Minister to follow through on these plans, including clarifying which authority is responsible for the enforcement of judgments under Article 62 of the General Penal Code and for deciding on the detailed arrangements for detention.

The Act on the Protection of the Rights of Disabled Persons provides for a general prohibition of telemonitoring and the use of compulsion in dealing with disabled persons. The Act allows a service provider to apply for an exemption from the ban to an exemptions committee. In certain emergency cases, compulsion may be authorised without the committee's decision; however, the service provider must then send a description of the incident to a specialist team within a week of the compulsion being applied. The exemptions committee has not accepted applications from the facility for processing; however, during the visit it was revealed that new conditions have given rise to a new application. It was also revealed that no incident descriptions had been sent to the specialist team which operates under the Act. Therefore, the Ombudsman recommends to the Welfare Department of the Municipality of Akureyri that it follow through on its plans to send an application to the exemptions committee and also to send incident descriptions to the team.

There do not appear to be any authorisations for the use of force or intervention in the personal privacy of the sentenced persons except based on an exemption or rules on emergency defence measures and emergency actions. Therefore, the Ombudsman directs the Minister of Social

Affairs and Labour to follow through on the plans to present a bill that meets the requirements for a legal grounding under the Constitution and human rights conventions regarding the compulsion that is considered necessary to authorise for security detention.

During the ombudsman's visit, it was revealed that the sentenced persons could be given sedatives, as the case may be, with forced administration of medication. However, such cases were very rare, and nothing during the visit gave reason to believe that the practice of such medication would be cause for censure. The Ombudsman did note, however, that the procedure did not provide for the involvement of a healthcare professional in the administration of the medicine in each individual case, nor for monitoring following it. In consideration of this, the recommendation is addressed to the Welfare Department that it review the procedure for forced administration of medication.

There is constant video surveillance in the common areas of the sentenced persons' apartments, and their apartments are subject to audio surveillance for part of the day. In view of personal privacy considerations, the recommendation is addressed to the Welfare Department of the Municipality of Akureyri that it examine the implementation of video surveillance in the security housing on an individual basis. The Welfare Department is also instructed to keep a record of the telemonitoring in accordance with the provisions of the Act on the Protection of the Rights of Disabled Persons.

The sentenced persons' opportunities to communicate with the outside world are in some cases limited, for example, by their restricted access to their mobile phones. During the visit, it was learned that there were examples of this being done at the request of relatives [...]. The Ombudsman points out that during visits to psychiatric departments, such practices have raised questions regarding the requirement of necessity and proportionality. It should be kept in mind here that relatives themselves have the option of limiting calls, for example, through the settings on their phones. Therefore, the recommendation is addressed to the Welfare Department of the Municipality of Akureyri that it review the practice of restricting the sentenced persons' access to their phones in this way.

The Ombudsman noted that [...] of the [...] sentenced persons moved from their home district at the beginning of their placement in the security housing. The report points out that this raises questions about a person's right to live in contact with family and, as the case may be, friends. The suggestion is therefore made to the Minister of Social Affairs and Labour to consider whether the right of the sentenced persons to enjoy living in contact with family and friends, in cases where they are detained far from their home district, is adequately guaranteed.

Residents can generally get outdoor exercise accompanied by staff. [...] The suggestion was addressed to the Welfare Department to seek ways to provide all the sentenced persons with access to suitable outdoor exercise on a daily basis. According to recent information from the Department, the person is now given the opportunity for outdoor activity outside the town limits every day.

The ombudsman raises objections to the arrangement whereby the employees or managers of the facility are in charge of the personal finances of the sentenced persons. Although there was no indication during the visit that any contentious issues related to this had arisen, such an arrangement can easily lead to conflicts of interest and endanger the independence and neutrality of the employee in question. For that reason, the Welfare Department is instructed to consider

whether another arrangement for the management of funds is more desirable, e.g. based on the provisions of the Act on Legal Competence concerning so-called administrators.

The recommendation is made to the Welfare Department that it review procedures for the use of force with the aim of ensuring adequate information is provided about appeal and complaint channels and that issues related to the examining of incidents are adequately recorded, such as whether debriefing has taken place and whether the person concerned has been instructed on complaint channels.

Organised and continuous activities are not offered in the facility. Consideration must be given to the fact that residents live in a closed facility and have limited opportunities to choose a suitable pursuit. For that reason, the suggestion is made to the Welfare Department of the Municipality of Akureyri that it continue looking for ways to ensure that access to daily activities, such as work, school and leisure, is adequate for all sentenced persons staying in the facility.

All the sentenced persons have a service plan that sets out short-term and long-term objectives. According to specifications, the service plan is to be drafted in consultation with the user. Two service plans were not signed by the users, so it is difficult to see whether the person had been involved or accepted them. Therefore, the suggestion is made that the Welfare Department ensure that it is evident from the service plans that the sentenced persons were involved in making them and that they sign them.

The recommendation is addressed to the Welfare Department of the Municipality of Akureyri that it continue seeking ways to ensure that staff training in response and defence measures against violence is appropriate and takes sufficient account of the situation of the sentenced persons of the facility. There were conflicting reports as to whether summer replacement staff always had the opportunity to attend courses before they began work. Therefore, the suggestion is addressed to the Welfare Department that it ensure that the training of replacement staff is carried out in accordance with specifications, so that they always receive adequate training before starting work.

The report emphasises the importance of clear and efficient channels for complaints and appeals, not least in view of the vulnerable position of the sentenced persons. It points out that it can be difficult for them to find out where to go within the administration to present complaints or appeal individual decisions concerning the implementation of their detention. Although complaint and appeal channels exist, it is questionable whether they are a viable option for the persons in question when their framework is as complex as that discussed in the report. Since a draft of comprehensive legislation on security measures and secure placement exists, which will be considered by the Althingi in the coming months, it is considered sufficient to direct the suggestion to the Minister of Social Affairs and Labour to keep these points of view in mind in the further processing of the bill.

The Ombudsman also directs the Welfare Department of the Municipality of Akureyri to analyse which decisions are considered administrative decisions and what complaint and appeal channels are available to the sentenced persons. A clear procedure for recording and handling comments and complaints must be established in order to ensure that they are processed in the manner that their presentation calls for and that appropriate instructions are provided.

At the meeting at the beginning of the detention, complaint and appeal channels are not explained specifically. Therefore, the Ombudsman directs the recommendation to the Welfare Department that it ensure that the sentenced persons and their relatives receive adequate information about complaint and appeal channels at the beginning of detention and regularly during detention, if deemed necessary. To that end, it is essential that staff are aware of the sentenced persons' rights in this respect and can thus provide instructions on them.

Security detention is indefinite and ends only by order of a judge. The supervisor appointed for the sentenced person is to monitor that their stay will not be longer than necessary; furthermore, the Minister can seek a ruling from a District Court in this regard if certain conditions are met.

A re-evaluation of the indefinite detention of a sentenced person in the security housing is generally carried out every five years; however, there are examples where a longer period has elapsed. During the visit, it was revealed that the need for re-evaluation depended on the individual and the sentenced persons could meet the conditions for relaxation of or release from security detention before re-evaluation. From the sentenced persons' supervisors it was learned, among other things, that their work lacked a framework, they had difficulty understanding their role and duties and believed that it was likely that understanding of the role varied among supervisors. The Ombudsman's report on a visit to the forensic psychiatric ward at Kleppur made various recommendations regarding the reassessment and the work of supervisors. With reference to the plans of the Minister of Social Affairs and Labour to present a bill in the coming months, which includes mention of the appointment, role and supervision of the work of supervisors, the Ombudsman does not see reason to direct recommendations to the Minister in this instance. On the other hand, it should be noted that the office will continue to follow these developments.

The Ombudsman will continue to monitor the development of these issues, but requests that the Minister of Social Affairs and Labour and the Municipality of Akureyri give an account of their responses to the report by 1 December 2023. The report is also sent to the Ministry of Justice for information purposes.

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