

Visit Report

**Litla-Hraun Prison
28-30 November 2022**

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

Summary

The Ombudsman visited Litla-Hraun Prison on 28-30 November 2022. This was the third visit by the Ombudsman to the prison for the purpose of the office's OPCAT mandate, but the first where the prison and its operations were examined in their entirety.

During the visit of the Ombudsman, it was found that the cabinet for defensive equipment was not sealed and that the employees had access to such equipment, including tear gas and batons, without the use being recorded or reported to the shift supervisor. Due to this, the recommendation is addressed to the Litla-Hraun Prison and the Prison and Probation Administration to clarify work procedures for the storage and use of defensive equipment and its registration. In addition, the recommendation is addressed to the Minister of Justice to follow up on plans to establish rules on the use of force by prison guards, as well as the handling and use of equipment involving the use of force and use of weapons.

Prisoners kept in security cells are generally separated from other prisoners. Their detention is never to last longer than is consistent with its purpose and the application of other measures. Considering the basic principle of proportionality, it is therefore necessary to periodically reassess whether there is a need for continued detention. In light of the fact that the harmful effects of isolation increase the longer it lasts, there are strong reasons for actively supervising detentions in security cells, especially in the case of long-term detention. However, the Execution of Sentences Act does not prescribe the maximum period of detention or systematic monitoring of it. Nevertheless, the recommendation is addressed to the prison to reassess regularly, at least daily, whether continued detention in a security cell is necessary and to ensure that this practice is adequately documented.

Laws and multinational standards stipulate certain safety measures for the use of solitary confinement, such as supervision by health care personnel. In actual practice, in some cases prisoners are neither examined by a doctor at the beginning of their placement in a security cell nor during their detention. Such a practice generally tends to increase the likelihood of inhuman and degrading treatment, and this applies especially if a prisoner is struggling with a mental health problem. The recommendation is directed to the prison to summon a doctor at the beginning of detention in a security cell to assess the prisoner's mental and physical condition. Furthermore, the general suggestion is made to the Minister of Justice to consider whether there is a reason to take the initiative to have the detention of prisoners in security cells given a more detailed framework in law or administrative provisions based on law.

The reports on cell searches of which the Ombudsman received a copy did not indicate that formal decisions had been taken by the director and recorded. It appeared from the reports that in the majority of cases prisoners were not given the opportunity to be present at the search and without this being based on a special decision by the director. In addition, prisoners were generally not informed of the reason for the search. With this in mind, the Ombudsman directs the prison to review the procedure for searching cells in order to comply with statutory provisions.

Body searches are carried out either due to individual incidents or systematically, e.g. after prisoners receive visits and when prisoners return to the prison after a stay outside it. Although the decision to systematically search prisoners can be based on objective considerations and fall within the limits set by the law and other basic principles for the practice, the suggestion is made to the prison to regularly reassess the need for systematic body searches in the prison.

Body searches in the prison are generally carried out by having prisoners undress completely, without a special assessment being made as to whether a less extensive measure would suffice. The report points out that such a general practice may involve the risk of degrading treatment. In view thereof, the recommendation is addressed to the prison to make sure that the execution of body searches allows room for individual assessment of whether milder measures can be used during body searches, e.g. that it is carried out in stages.

When urine samples are taken, prisoners are always required to undress and are given the option of wearing a prison robe. In this context the Ombudsman points out that a decision on a physical examination is an onerous decision that must always be based on necessity and proportionality, both in terms of the need for it and its implementation. The recommendation is addressed to the prison that it review the procedure for taking urine samples so that there is scope for individual assessment of whether it is necessary to let prisoners strip completely or whether other and less extensive options are possible in that regard.

There were examples where the recording of the reasons for X-ray examinations was not adequate, and there was no formal decision by the director concerning them, as is required by law. For that reason, the recommendation is addressed to the prison to ensure that the implementation of these decisions accords with law.

Prisoners were generally not aware of the possibility of making calls in private in the prison's telephone rooms, for example, to attorneys, public institutions and the Althingi Ombudsman. For that reason, the prison is instructed to improve information provision in this regard.

The run-down condition of some parts of the prison's premises drew the Ombudsman's attention. The recommendation is made to the Ministry of Justice, the Prison and Probation Administration and the Litla-Hraun Prison to examine the general minimum maintenance of the prison's premises to ensure wholesome and decent conditions for prisoners, regardless of whether or when a new prison will be taken into use at Litla-Hraun.

The report comments on the air quality in the prison and directs recommendations to the prison to ensure that it is adequate, such as by checking the ventilation system and window frames. Poor air quality can also be attributed to the fact that smoking is allowed inside the cells. The suggestion is therefore made to the prison that it consider whether it is possible to house prisoners who so request in a non-smoking corridor.

With the exception of an exercise bike in the common area and a pull-up bar in the outdoor area, no visible improvements had been made to the security ward's facilities since the release of the Ombudsman's report on the ward in November 2021. For that reason, previous recommendations are repeated to the prison, the Prison and Probation Administration and the Minister of Justice to begin without delay the necessary renovations and maintenance of the security ward, such as to its outdoor areas and common spaces.

Hygiene was insufficient in the prison's common sanitary facilities, which prisoners see to cleaning. Some prisoners also described the discomfort that could follow from using the toilet facilities inside their cells, as they did not have access to shared sanitary facilities at night. Therefore, the suggestion has been made to find a way for prisoners to be able to use the toilet, also at night, without having to live and sleep with bad odours.

The children's visiting area Barnakot is a facility intended for prisoners and their children to spend time together and has a somewhat more relaxed feel than general visiting facilities in the prison. However, the facility is not fully utilised, which is explained by the fact that the opening hours of the facility are only from 13:00-15:30 on weekdays and it is closed on weekends. These opening hours can make it difficult for prisoners' families to use the facility, for example, due to school and work. Therefore, the suggestion is made to the Prison and Probation Administration that it look for ways to extend the opening hours of Barnakot or similar facilities for the families of prisoners, in part to take into account the activities of preschools and compulsory schools.

It could only be concluded that the food allowance, per diem allowance and payments for work and studies are generally insufficient to cover the expenses of prisoners in the prison. The Ombudsman's previous recommendation to the Prison and Probation Administration, that it publish information about prisoners' food allowance and the premises on which it is based, or to make this available by other means, is therefore reiterated. The Prison and Probation Administration is also advised to regularly re-evaluate the premises of the food allowance and assess whether it should rely on factors other than the consumption criteria of the Ministry of Social Affairs and Labour, e.g. by taking into account the development of consumer goods prices. The suggestion is also made to the Ministry of Justice to consider and assess whether there is a reason to revise the remuneration for study and work and the amount of the per diem allowance, taking into account the proposals of the steering group on prisoners' affairs.

At the time of the Ombudsman's visit, only one of the 48 prisoners serving time had an active treatment plan, and three treatment plans were in preparation. A recent report by the Ombudsman on the facilities and conditions of women in Icelandic prisons discussed how the criteria used as a basis by the Prison and Probation Administration in taking a decision as to whether there was a need for a treatment plan were too restrictive for the assessment that the institution was required to carry out according to law. Therefore, the recommendation was repeated, that the institution cease to apply only general criteria for the decisions in question and instead also assess the need for a treatment plan based on individual factors as required by law.

The majority of the inmates at Litla-Hraun struggle with substance abuse and appear to have easy access to illegal substances within the prison. Substance abuse generally has a major impact on prison activities and the order maintained within it. Violence among the group of prisoners and intervention by staff are often linked to prisoners' use of illegal substances. In this context, the Ombudsman draws attention to the fact that the problem of substance abuse is undisputed in the prison and that it stands apart from other prisons in terms of access to and consumption of illegal substances. Despite this, there are few treatment options in the prison and there does not appear to have been a specific response to comments of the CPT committee from 2019 about the lack of a holistic government policy regarding substance abuse problems in prisons. The plan for prisoners' healthcare services from 2019 assumed that a mental health team for prisons would be involved in providing targeted, continuous and individualised addiction treatment. In this regard, the Ombudsman emphasises that the team must be provided with appropriate facilities and given support to carry out treatment work so that the plans that have been made can be followed up on. The Ministers of Justice and Health, together with the Prison and Probation Administration, are also urged to draft a holistic policy on assistance to prisoners with substance abuse where the aim will be to reduce use of illegal substances in the prison, including by increasing the availability of treatment and support resources. The same ministers are instructed to examine, based on their powers as the senior management and supervisory authorities,

whether the action plan on prisoners' healthcare services has been followed up on with appropriate actions.

Communication between prison guards and prisoners in the prison is mostly limited to formal requests, and prison guards generally do not have a presence inside the cell blocks except when drugs are given or cells are closed and opened in the evening and morning. For this reason, the Prison and Probation Administration and the prison are instructed to seriously improve the training of staff in active security, while regularly maintaining the training of staff in the use of force and physical restraint. The necessity of staff receiving regular training in first aid is also pointed out, together with the need to review arrangements for so-called training shifts, so that they will be more useful as training.

Due to the heavy workload of the transport team, inmates in need of healthcare may have to wait to be seen by a doctor. Therefore, the Ombudsman directs the Prison and Probation Administration and the prison to ensure ready access to healthcare services for prisoners due to unexpected pain or illness that requires treatment and to seek ways to prevent prisoners from being deprived of the services of specialist doctors due to incidents beyond their control, such as due to staff work loads or insufficient staffing. The Ombudsman also reiterates the importance of a medical examination being carried out when prisoners begin serving their sentence and when solitary confinement, segregation, placement in a security cell and, as the case may be, placement in a security ward, are applied.

There can be a long wait for general dental care, even in cases where prisoners are in pain, and the service is dependent on the prisoner's finances. In accordance with the Ombudsman's previous discussion on prisoners' access to dental care, the recommendations to the Prison and Probation Administration are reiterated, that they ensure that all prisoners have access to necessary dental care regardless of their finances.

Prison guards are in charge of dispensing medicine in the prison. Administration of medication is an extensive task in the prison, as the vast majority of inmates take prescription drugs on a daily basis. Scheduled administrations of medicine occur four times a day. In general, prison guards have not received special training or education in relation to drug administration. Prescription medicines for daily use are dispensed in special medicine containers in a pharmacy. However, prison guards may administer medicine according to instructions from a doctor when a prisoner has been prescribed medicine *as needed*. For this reason, the prison is directed to seek ways to prevent prison guards or general workers from performing the work of medical personnel, such as administering medicine. If the situation is such that staff need to be involved in administering medication, the Ombudsman points out the need for the employees concerned having received appropriate instruction and training. The prison is directed to make sure that prisoners are informed when mistakes are made in administering medication.

Some prisoners with mental health problems have serious illnesses and therefore require extensive mental health services within the prison or, in some cases, in a psychiatric ward outside the prison. There is a general risk that these prisoners will not integrate well into the prison group, with the result that they are more likely to be separated from other prisoners, e.g. by placement in a security ward or a security cell. Such placement often means isolation, which can be particularly difficult for prisoners who suffer from mental illness of some kind. The prison's attention is drawn to the fact that in cases like this it is particularly urgent that the prisoner be medically examined and that their condition be monitored on a regular basis.

The introduction of the prisons' mental health team has improved mental health services for prisoners. In those cases where admission to a healthcare institution has been deemed necessary, for instance, by doctors or a mental health team, according to the information from the prison, prisoners only go to the relevant healthcare institution in exceptional cases, partly due to the reluctance of such institutions to accept prisoners. They point to a lack of facilities to ensure the safety of prisoners and staff. Detention of persons in prison should not reduce their chances of admission to a psychiatric ward if it is deemed necessary. Therefore, the Ombudsman recommends that the Minister of Health ensure, in co-operation with the Minister of Justice, that prisoners have access to necessary mental health services comparable to that of other citizens.

In the case of foreign prisoners, the Prison and Probation Administration is directed to follow through on plans to have key information and documents translated into the languages which are most commonly spoken within the prison population. The prison is directed to always provide an interpretation service when prisoners are admitted who do not understand Icelandic or English, to ensure that the information is communicated, and also when communicating information that is clearly of great significance to them.

Prisoners serving sentences for sexual offences are at risk of being harassed by other prisoners and are reluctant, for instance, to go outdoors. There were examples of prisoners not going outdoors for months except for work or to go to a visiting facility. When the Ombudsman visited, a special outdoor time, intended for these prisoners, had been cancelled, on the grounds that they had not availed themselves of it. Interviews with prisoners revealed that despite having a special time for outdoor activities, they had been harassed by other prisoners, for example, through calls from windows. The prison is instructed to continue seeking ways to improve this, such as by increasing the presence of prison guards or with access to a special outdoor area where they can be safe from the harassment of other prisoners.

In view of the fact that the right of a remand prisoner, for example, to telecommunications, seems to be subject to the same restrictions as the right of a prisoner serving a sentence, the recommendation is repeated that the Prison and Probation Administration and the prison analyse the nature and content of those decisions taken in connection with the placement of remand prisoners, bearing in mind their legal status as remand prisoners.

Prisoners receive information about their rights and obligations in an admission booklet, which basically consists of a list of legal and administrative provisions regarding the serving of their sentence. Now, in addition, an admission booklet has been published in simpler language, which is delivered together with the aforementioned information, which is a positive step. In this connection, however, the Ombudsman points out that information about the laws and regulations that apply to detention may not always come to the attention of prisoners, for example, due to mental agitation or intoxication. Therefore, the Ombudsman recommends that the prison ensure adequate communication of information, e.g. by placing greater emphasis on following up on this written information with clear oral information in a manner the prisoner in question can understand, as appropriate, with the assistance of an interpreter upon admission or following it.

Prisoners were not given written confirmation of the queries and messages they submitted to the guard room, and there were examples of messages not being responded to specifically. It also proved to be difficult for prisoners to access information on the situation of their own cases. Therefore, the Ombudsman directs the prison to have the procedure for registering and handling queries from prisoners meet the requirements of the written and unwritten rules of administrative

law regarding recording, the obligation to respond to written inquiries, and the right of parties to access information on the situation of their own cases.

Prisoners were either uninformed or poorly informed about complaint channels within the prison and generally had little faith in them. This was evident, inter alia in the fact that prisoners doubted that the content of the complaints would be kept strictly confidential and also that they would be acted upon. Prisoners also believed that complaining could affect their detention and pointed out that complaint forms had only been made available shortly before the Ombudsman's visit. There were examples of prisoners' complaints not being answered specifically or that they were not informed of the outcome of their handling. Since the prison's complaints procedure only covers complaints about the conduct and behaviour of prison guards and other prison employees towards prisoners the Ombudsman directs the Prison and Probation Administration and the prison to prepare a procedure that covers all complaints and rectifies the above-mentioned deficiencies. The prison is also instructed to cease its practice of inspecting prisoners' letters to certain parties which may not be inspected, such as to attorneys and the Althingi Ombudsman.

The Ombudsman recommends that the prison provide prisoners with appropriate instructions on complaint procedures and deadlines for their submission, regarding body searches, physical examinations and cell searches, and to ensure proper documentation of how the person was informed of the content of the decisions and appropriate complaint procedures.

During the preparation of this report, in September 2023, the Minister of Justice announced plans to build a new prison at Litla-Hraun and that preparations had already begun. The Ombudsman will closely monitor the progress of the plans for these projects. However, it must be kept in mind that the construction in question, if it happens, will take some time. Recommendations and suggestions regarding facilities are based on the state of affairs at the time the prison was visited.

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