

Summary of Case Report No. AJB-1383/2017

On November 8-9, 2016, the OPCAT National Preventive Mechanism (hereinafter the "NPM") made an unannounced visit to the Bóly-Görcsöny Integrated Social Institution of Baranya County (hereinafter the "institution")

The institution provides long-term residential care to persons living with disabilities whose education and care can be ensured only in institutional frameworks. At the time of the visit, there were 35 minors and 200 adults with intellectual disability living in the institution with the capacity of 235. Pre-placement reports were made before placing the children in the institution; however, in the case of minors with no legal capacity, the documentation contained no records of interviewing the children regarding their placement in the institution. The NPM called attention to the fact that, pursuant to Article 12 of the United Nations Convention on the Rights of the Child, States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child. The NPM requested the head of the institution to hear all minors with no legal capacity and persons under guardianship invoking fully limited legal competency upon their admission to the institution and to enclose these interviews' records with the contract on the provision of care.

When the residents reach legal age, the institution automatically requests the Guardianship Authority to launch guardianship proceedings. Relatives may act as guardians if they are willing to do so. In other cases, the Authority assigns a professional guardian. In connection with placing in charge of a guardian, the NPM requested the Minister of Human Capacities to call the Government Offices' attention to the fact that, in the case of persons over 18 years of age living in a residential institution, they have to inform the parties that, in cases when the restriction of legal capacity is not justified, it is possible, upon request, to nominate a supporter.

During the elections, the institution failed to provide the opportunity to vote to those whom the court, their restricted legal capacity notwithstanding, had not stripped of their right to vote. The NPM asked the head of the institution to ensure, during general elections and referendums, the possibility to vote, using a mobile ballot box, to those residents who want to exercise their right to vote.

There were apparently few personal items in the residents' rooms. The shelves were empty except for some soft toys. The NPM also pointed out that, in addition to the small living space, the residents' private sphere was also compromised by the lack of personal items. The NPM requested the head of the institution to make the residents' immediate environment more personal, to encourage them, through the caretakers, to put items on the shelves to make their surroundings cozier.

The institution did not have a resident physician. The NPM asked the head of the institution to make a public call for application for the position of a physician. As the number of movement psychotherapists and activity-organizers did not reach the number recommended by the law for residential institutions providing personal care, the NPM suggested that the institutions should hire more movement psychotherapists and developmental pedagogues.

Taking into account the size of the rooms and the number of residents placed therein, the statutory minimum living space of six square meters was not guaranteed in every room. The nine, ten, eleven, or even twelve beds in the overcrowded rooms practically left no living and moving space for the residents and their visitors. The NPM requested the institution's supervisory authority, the General Directorate of Social Affairs and Child Protection to organize the rooms in a way that would ensure the statutory minimum 6 m² per capita living space for every resident.

The residents were rarely visited. There were only a few of them who would receive visitors every second week or once a month. Contacts with the guardians were not regular, either.

To facilitate exercising the right to complain anonymously, the NPM requested the head of the institution to have a complaint box installed in a visible place. I asked the Integrated Legal Protection Service to ensure that the patients' rights representative, when visiting the institution, would encourage the residents to voice their desires, wishes, and complaints in order to improve their immediate environment.