

Summary of report AJB-2300/2022

On 23 November 2021, the staff of the Commissioner for Fundamental Rights of Hungary of the National Preventive Mechanism (NPM) made an unannounced visit to the The Napsugár Home of the Szivárvány Unified Social Institution of the Zala County (*Szivárvány Egyesített Szociális Intézmény Napsugár Otthon*), at the suggestion of the members of the Civil Consultative Body. Taking into account that all persons living in the institution were under guardianship, the inspection, in addition to exploring the institutional conditions and circumstances, focused on the guarantees of the guardianship procedure on the basis of the documents.

At the time of the visit, 31 people were living in the institution. All residents living in the Napsugár Home were under guardianship with full or partial incapacity. In its report, the NPM pointed out that, as it had already stated in its previous report¹, in the management of cases falling within the remit of the guardianship authority, it is possible to request the appointment of a support person for residents aged 18 and over living in a residential care home, for those categories of cases where a restriction of capacity is not justified. The NPM also draws attention to the fact that, in the case of a guardianship order or a review of a guardianship order, the application should only cover issues requiring expert evidence.

Some of the rooms were cosy, with stuffed animals on the beds and personal items on the shelves, and in several places Christmas trees. There were no rooms or intimate rooms in the institution that could accommodate life partners. According to the Head of the Institution, a renovation is planned for 2022, with a partition in the common room to provide two standard rooms and a gallery in the rooms with higher ceilings. The number of bathrooms and toilets complied with the requirements of Article 41(4)(b) of the “SZCSM” , but they were in a dilapidated state. According to the Head of the Institution, the renovation of the bathrooms will be carried out as part of the renovation planned for 2022.

The number of nurses and carers (11 persons), taking into account that 6 of the 31 patients were severely and multiply disabled, was below the professional staffing norm (11,7 persons) calculated according to Annex 2 of the Regulation on the Social and Health Care. The experience of the visiting team was that the largest part of the nurses' and carers' time in the institution was spent caring for a man with an autism spectrum disorder. The NPM, consequently, recommended that the Institution should recruit another professional staff member, preferably trained in the care of persons with autism spectrum disorder and that the Institution should provide training for nurses and carers in this area. Given the long-term absence, the NPM has proposed the employment of a further therapist in the Home to replace the absent therapist (even for a fixed term).

The compulsory use of contraception caused an infringement of the right to human dignity enshrined in Article II of the Fundamental Law of Hungary and the right to respect for private and family life enshrined in Article VI of the Fundamental Law of Hungary.

The lack of regular individual and group daily employment of the beneficiaries caused an abuse of their right to human dignity and physical and mental health.

¹ Case AJB-1383/2017.

The visiting team did not see any complaint boxes at the institution. In the absence of a complaint box, the residents or their relatives were unable to anonymously report their complaints about the conditions in the institution, which caused an abuse of the right to complain.