

Summary of Case № AJB-3341/2016

During the visit, the NPM found that the maintainer had been exercising neither supervision over, nor assessment of the institution. It gives cause for concern, as both supervision and assessment may play a significant role in preventing torture and other cruel, inhuman or degrading treatment or punishment.

As far as the personnel is concerned, it has to be pointed out that there are only women working in the Home for Children with Disabilities, there are no male employees in positions dealing with the children. The management would prefer to have male educators or child protection assistants in the Home for Children with Disabilities; however, fluctuation of staff members is not typical in this unit of the Károlyi István Children's Center (KICC). In the NPM's view, special attention should be paid in the future to creating a more balanced sex ratio when hiring professional staff. In connection with the staff, the NPM also has to point out that the training plan of the Home for Children with Disabilities does not include the content elements specified by the relevant legal regulation, and no employee of the Home for Children with Disabilities attended any training program in 2013 and 2014. The number of credits collected by staff members in 2015 lags far behind the planned. The NPM concluded that the General Directorate of Social Affairs and Child Protection had failed to comply with its obligation, stipulated by the Child Protection Act, to provide for the education and training of the professional staff.

In connection with the material conditions of the children's placement, the NPM uncovered some deficiencies as regards barrier-free access. The building used by Group 51 has a threshold and the building used by Group 53 has no barrier-free access. In connection with the lack of accessibility, the NPM also pointed out that most toys on the playground located between the buildings used by Groups 51 and 52 are difficult to use for children with reduced mobility, the playground is not barrier-free.

As far as eliminating placement in the Home for Children with Disabilities, the NPM emphasizes that neither the promotion of adoption, nor placement with foster parents is given enough attention. These aspects are missing from the Professional Program of the Home for Children with Disabilities as well. As regards placement in a children's home, the NPM—in Clause 2.d) of case report № AJB-373/2015—already established that the provisions of the Child Protection Act making distinction between children living with severe disabilities or long-term illnesses and children who are free thereof in a way promoting their placement in an institution instead of facilitating their removal from children's homes constitute an impropriety in connection with—inter alia—the prohibition of discrimination based on disability. In this context, it seems to be justified to work out a government strategy with an appropriate timeframe in order to make it possible for children placed in children's homes to grow up in a family environment instead.

In the course of the interviews the NPM learned that children confined to a wheelchair could not move around freely even on the premises of the Children's Center. In this respect the NPM pointed out that restricting the possibility of moving around on the premises of the Home for Children with Disabilities without appropriate reason causes an impropriety in connection with the right to free movement.

According to a member of the staff, children often complain: "I may not go home because I've done this or that." The NPM pointed out: if the means of punishment applied against children include—even occasionally—restrictions on visiting home and, as a result, on maintaining contact, it constitutes an impropriety in connection with the rights of the child to private and family life and to protection and care.

The NPM identified some deficiencies of the regular, short-interval contacts between child protection guardians and children under guardianship, concluding that they cause an

anomaly in connection with the enforcement of the right of the child to protection and care. The KICC's failure to comply with its reporting duties in cases when child protection guardians do not visit the children with sufficient regularity also constitutes an impropriety related to the aforementioned right of the child.

Although children are not punished physically, they are often subject to emotional blackmail, and there are cases when their favorite objects are taken away from them. The NPM concluded that such means of punishment jeopardize the enforcement of the right to physical and mental health.

The visiting delegation got the impression that the children were tolerant and helpful towards each other; however, there were cases when yelled at and fought with each other and used foul language for no apparent reason. According to a staff member there was a child who was ostracized by the others. As she put it, that particular child "was unable to be nice", adding that "when she gets restless, we take her to her room and put her on the bed". The NPM drew attention to the following: when a child is ostracized by his/her peers and the staff treat the situation as justified, and when treating a child's anxiety means taking him/her to his/her room, putting him/her on the bed as if he/she was an object, and leaving him/her there on his/her own, the acts of both the staff and the other children constitute an impropriety related to the right to human dignity and the prohibition of inhuman treatment. In addition, the lack of proper behavior on the part of the staff also jeopardizes the enforcement of the right of the child to protection and care.

As far as the complaints mechanism is concerned, it is positive that many children think that they may turn to anyone if they have a problem. There were some cases, however, when interviewed children claimed that it was of no use to notify the adults about any problem; therefore, feeling unable to do anything about it, they would rather not say a word. The NPM reckoned that there was a need for a means to submit complaints anonymously (complaint box), information helping to exercise the right to complain were not properly displayed, and the operation of the Interest Representation Forum and the Children's Self-government were not adequate. All these caused an anomaly in connection with the right to complain.

As far as education is concerned, the NPM learned that the KICC tries to have the children admitted to the primary school of Fót; however, only a few of the inhabitants of the Home for Children with Disabilities attend school regularly. The non-admission of children to local schools and the legal environment unsupportive of the inclusive education of children with disabilities cause an impropriety related to the right of the child to protection and care, the State's duty to promote equal opportunity through special measures and the State's obligation to protect persons living with disabilities through special measures.

As far as leisure activities are concerned, the NPM learned that the Home for Children with Disabilities organizes various programs for the children, e.g., arts and crafts activities, glass painting, equestrian therapy, modelling club, puppetry group. The children enjoy these activities and are looking forward to them. Nonetheless, data related to free-time activities, hobbies, special activities and the children's interests are almost entirely absent from the individual care and education plans randomly inspected by the NPM.

In the NPM's view, the KICC takes substantial steps towards the children's sexual education. However, since the boys' bathing can be assisted only by female staff members, the situation is prone to induce embarrassment in the children concerned, which causes an impropriety related to degrading treatment.

The children did not complain about either the quality or the quantity of the meals.