

Summary of Case Report AJB-1603_2016 OPCAT visit to the Cseppkő Children's Home in Fót (March 1-2, April 26, 2016)

On March 1-2, 2016, in the course of an unannounced inspection, members of the NPM visiting delegation examined the conditions in which children placed in the Cseppkő (*Dripstone*) Children's Home were taken care of and the ways they were treated there. The Home's director failed to comply to the expected extent with his obligation to cooperate, stipulated in Section 25 of the Ombudsman Act, thus compromising the interviews with the children and the effectiveness of the on-the-spot inspection. I hereby call on the director and the supervisory authority to comply in the future with their statutory obligation to cooperate with the Commissioner for Fundamental Rights and all authorized members of his staff.

My colleagues could not interview the children in the course of the originally scheduled two days of the visit: they had to continue interviewing on April 26, 2016, thus managing to talk with 57 children and young adults.

The Cseppkő Children's Home is one of the largest single-location children's homes in the country, consisting of three independent professional units qualifying as separate care providers, with a capacity of 40 each. Although the provided living space, the number, size and tidiness of rooms were adequate with the exception of some cases when the door and the handle were missing; however, the separation of children residing in the same institution had not been put into practice. Providing care to 100–120 children and young adults (depending on the actual utilization rate) on one location does not meet the requirement stipulated in Section 59, Subsection (1) of the Child Protection Act.¹

The Deed of Foundation and the Organizational and Operational Rules of the Cseppkő Children's Home and the resolutions of the Social and Guardianship Authority of the Budapest Metropolitan Government Office do not allow for providing care to children with special needs. However, based on the professional program and the house rules of the Children's Home, care is also provided to children with special needs, and a group functioning in a more exclusive manner than the others has been established. *Deprivation of liberty without judicial control and the discrepancy between the practices of everyday operation and the authorized forms of care result in an impropriety in connection with legal certainty, deriving from the principle of the rule of law, set forth in Article B), Paragraph (1) of the Fundamental Law, the right to freedom, stipulated in Article IV, Paragraphs (1) and (2) of the Fundamental Law, and the right of children to the protection and care necessary for their proper development, stipulated in Article XVI, Paragraph (1) of the Fundamental Law.*

Although the total number of the professional staff employed in the Children's Home is above the minimum prescribed by the relevant decree of the Ministry of Public Welfare², according to the duty roster there are two groups where the requirement of five staff members per group is not met. In connection with the professional staff, extremely high fluctuation, the fact that half of the staff do not have professional qualifications, and the absence of developmental pedagogues or educators with a degree in special education, while one-third of the residents are children with special needs, give cause for concern. *All these violate the right of children to the protection and care necessary for their proper development, stipulated in Article XVI, Paragraph (1) of the Fundamental Law, and result in an impropriety in connection with the right to equal opportunity for children with special needs, set forth in Article XV, Paragraph (4) of the Fundamental Law.*

Providing care for sick children, ensuring the everyday presence of a female nurse, and regular, bi-weekly consultations with a pediatric psychiatrist within the Children's Home are best practices. Providing various organized leisure activities and creating opportunities to engage in

¹ "... a children's home shall provide accommodation and care to not less than 12 and not more than 48 children, placed in a separate residential unit."

² Clause 2, Section II (Specialized Care) of Annex 1 of Minister of Public Welfare Decree 15/1998. (IV. 30.) NM on vocational obligations and conditions in child welfare organizations and child care services and persons involved in these activities

sports also set an example. I highly appreciate the efforts aimed at avoiding home-schooling as well as the ever-growing role of the district's public schools in the education of the residents of the Children's Home. However, it gives cause for concern that a significant rate of children under school-leaving age fail—occasionally or regularly—to participate in compulsory schooling, often staying in the Home under day watch with no justified reason. The quality of the duty room in itself and the operation of the duty system, including access to lunch, violate fundamental rights from several aspects. *It causes an anomaly in connection with the children's rights to education, stipulated in Article XI, Paragraph (2) of the Fundamental Law, the protection and care necessary for their proper development, stipulated in Article XVI, Paragraph (1) of the Fundamental Law, and physical and mental health stipulated in Article XX, Paragraph (1) of the Fundamental Law.*

The NPM found the handling of special data conducive to an impropriety concerning the public display of data relative to the children's state of health and required treatment on the one hand, and their ethnic background, i.e., their being indicated in the individual education and care plan as of Roma descent without the consent of the parent or legal representative, on the other hand. It also gives cause for concern that neither the parents, nor the specialist are duly involved in the preparation of the individual education and care plans. Instead of visitation rooms, contacts with the parents within the institution may be maintained only in the lobby, which is not suitable to facilitate the deepening of the relationship between the children and their parents, or to encourage home care.

It violates the rights of the child if the institution's staff members fail to comply with their notification duty when there is a risk of child prostitution. It is unacceptable that the staff tacitly approve of the children's smoking from an early age, and will not make every reasonable effort to prevent it. Ignoring violence directed towards each other or themselves or considering it as a prank, game or pastime make taking effective countermeasures difficult. *It causes an impropriety in connection with the prohibition of inhuman, degrading treatment or punishment, stipulated in Article XVI, Paragraph (1) of the Fundamental Law, the protection and care necessary for their proper development, stipulated in Article XVI, Paragraph (1) of the Fundamental Law, and physical and mental health stipulated in Article XX, Paragraph (1) of the Fundamental Law, when some educators try to wield influence through abuse (yelling at, threatening to slap, intimidating or humiliating the children), or when educators are unable to protect the children from violence directed towards them by their peers or themselves.*

As far as the children's right to complain is concerned, it is a major shortcoming that there are no ways to submit complaints anonymously, and maintaining contact with the guardians and children's rights representatives is also faltering. On the positive side, most of the children feel that they can turn with their problems to the educators or the head of the Children's Home.