

Summary of Case Report AJB-493/2018 on the visits to the Debrecen Reformatory of the Ministry of Human Capacities and its Nagykanizsa Unit

In September 2016, the Commissioner for Fundamental Rights, acting in the capacity of the OPCAT National Preventive Mechanism (hereinafter the “NPM”), paid unannounced visits to the Debrecen Reformatory of the Ministry of Human Capacities and its Nagykanizsa Unit. The selection of these locations was motivated by the opening of the Nagykanizsa Unit in late 2015, as a result of which the total capacity of the Reformatory increased by 25 percent. The newly established unit is the only juvenile correctional institution in the western region of the country. Both locations provide accommodation for boys sentenced to spend time in a reformatory or held in pretrial detention: 48-48, respectively, in Nagykanizsa, and 36-98, also respectively, in Debrecen. Another 12 (in Nagykanizsa) and eight (in Debrecen) places are available for boys in aftercare; however, these capacities were unused in both places. There were 48 minors held in Nagykanizsa and 117 in Debrecen at the time of the visits. In the course of the inspections, the visiting delegation interviewed 133 persons, including 90 juveniles.

The NPM inquired into the staff's ability to prevent torture and ill-treatment and tried to assess to what extent social rehabilitation provided in the juvenile correctional institution can compensate family- or professional-care-induced socialization deficiencies leading to criminal behavior.

The visiting delegation did not find any circumstances indicative of an act of torture defined by Article 1 of the international Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, promulgated by Law-decree 3 of 1988.

The NPM established that only 60 % of the juveniles admitted to the institutions could be placed in reception groups due to the obligation to separate co-offenders, as well as juveniles under and over 16 years of age. The Professional Program and the practices of the correctional institutions interpret the provisions on separation by age more restrictively than the prevailing legal regulation. The Program deems it necessary to place only juveniles under 14 in groups with the age limit of 16 years.

Both institutions had a special group where juveniles were placed temporarily, as a form of punishment, thus the objective of the special group could not be achieved. *The improper operation of the special groups, originally created for the education of young people with mental and/or psycho-social disabilities or personality disorder, infringes on the State's obligation to help, by means of separate measures, to achieve equality of opportunity, stipulated by Paragraphs (4) and (5) of Article XV of the Fundamental Law Hungary.*

The NPM established that the operating orders of the closed and special groups were confused. Although the relevant legal regulations do not provide any opportunity to operate a closed unit within an institution exclusively for juveniles in pretrial detention, there were such groups in the institutions visited by the NPM. Juveniles having broken the rules or presenting an actual danger to themselves or others were taken out of their groups without handling the incidents as extraordinary. They were taken to the isolation unit by the security guards, and, usually, it was the latter who decided on the termination of isolation. *The practices of isolating and placing juveniles in closed units as a form of punishment result in an impropriety related to the principles of legal certainty, deriving from the concept of the rule of law, set forth in Article B, Paragraph (1), and liberty, set forth in Article IV, Paragraph (2) of the Fundamental Law, as well as to the right to seek legal remedy, guaranteed by Article XXVIII of the Fundamental Law. Rendering the termination of the isolation of juveniles presenting a danger to themselves and others within the security guards' scope of competence results in an impropriety related to the right to physical and mental health guaranteed by Article XX, Paragraph (1) of the Fundamental Law.*

The material conditions of placement were excellent in Nagykanizsa; the premises of the institution in Debrecen, the sanitary units in particular, seemed to be in need of renovation. The

security isolation unit in Debrecen was unusable at the time of the visit. There were no personal items seen at either location; the absence of such items was even more apparent in Nagykanizsa due to the bleak decoration. The feeling of impersonality was heightened by the prohibition of wearing one's own clothes.

Although the quality and the quantity of the meals were criticized by some in Nagykanizsa, the majority of the interviewees were satisfied at both locations.

Both institutions strive to ensure the personnel conditions of providing care. At the time of the visits, the number of psychologists was insufficient, and there was no full-time physician on the payroll. There was a shortage of caretakers and nurses at both locations. Part of the nurses and 30 % of the child carers in Debrecen did not have the required professional qualifications. There were staff members with degrees in primary education (grades 1 to 4) in both institutions employed as educators. In line with his earlier reports, the Commissioner pointed out that the skillset of such primary school teachers is not adequate to the age of juveniles placed in the reformatory.

The unfortunate Hungarian practice of not providing the staff of child protection institutions with regular supervision, case reviews, and proper mental health support could be observed in the course of the present investigation as well. In addition to the decreasing work capacity of the employees, it may also have an adverse effect on the juveniles under care. Exhausted employees at the risk of burn-out cannot show the required patience and attention towards the inhabitants of the institutions; the chances of the efficient handling the latter's streaks of aggression towards themselves and their peers are diminished. The report points out that the atmosphere projected by the notice boards, *corporal punishment, collective punishment, cleaning and copying as punishment are all built on elements that are unacceptable both legally and educationally-psychologically. Applying educational methods and sanctions violating and degrading the human dignity of the juveniles causes an impropriety related to the prohibition of degrading treatment or punishment set forth in Article III, Paragraph (1) of the Fundamental Law.*

Educational activities were in full attendance at both locations. In addition to classes, individual forms of education and training were also provided. Juveniles over the mandatory school age could also participate in formal education on a voluntary basis. All detainees over 14 years of age participated in some form of working activity.

The operation of the anonymous complaints mechanism was generally erratic. Comparing the communication options in the two correctional institutions to those available in the penitentiary system, the Commissioner established that juveniles sentenced to spend time in a reformatory are at a disadvantage as far as the timeframes of phone communication are concerned. Introducing family therapy sessions, increasing the weekly time on the phone, allowing communication in the mother tongue of the national minority the given juvenile belongs to could contribute to the improvement, restoration of family ties, and could constitute an important phase in social rehabilitation.

Based on the visits' findings, the Commissioner for Fundamental Rights made recommendations to the supervisory authority, including, among others, the renovation of the dilapidated, moldy premises of the Debrecen Reformatory, and requested to provide regular supervisions, prevention trainings, attitude-shaping and sensitizing trainings to the professional staff on the topics of preventing and eliminating violence among the juveniles, effective penalties, restitution, and the acceptance of diversity and vulnerable groups. He summarized his recommendations to the director of the Reformatory in 29 points.

The Commissioner recommended to the Minister of Human Capacities to consider the amendment of certain clauses of MoHC Decree 1/2015. (I. 14.) on the statute of reformatories, and requested the Minister of Justice to consider the amendment of Section 384, Subsection (1)

of Act CCXL of 2013 on the execution of punishments, criminal measures, certain coercive measures and confinement for administrative offences in order to allowing juveniles eligible for temporary parole to apply for aftercare, and to establish a central register of illiterate detainees and the individualized measures taken to eradicate illiteracy.

Budapest, March 07, 2018