



Permanent Mission of Hungary to the United Nations Office, to the World Trade Organization  
and Other International Organizations in Geneva

Geneva, 29 August 2017

No. 103/2017/HU/GVA

The Permanent Mission of Hungary to the United Nations Office, to the World Trade Organization and Other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and has the honor to transmit hereby the response of the Government of Hungary to the joint urgent appeal sent by the Working Group on Arbitrary Detention and Special Rapporteurs (UA HUN 4/2017 dated 14.07.2017) concerning allegations of segregating people with disabilities in closed-type institutions and denying them the support needed to live independent lives in the community.

The Permanent Mission of Hungary to the United Nations Office, to the World Trade Organization and Other International Organizations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest considerations.



Special Procedures Branch  
Office of the High Commissioner for Human Rights  
Geneva

## **Reply of the of the Government of Hungary to the joint urgent appeal from Special Procedures**

**sent by the Working Group on Arbitrary Detention, the Special Rapporteur on the rights of persons with disabilities, the Special Rapporteur on extrajudicial, summary or arbitrary executions; the Special Rapporteur on the right of every one to the enjoyment of the highest attainable standard of physical and mental health, the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on violence against women, its causes and consequences**

The Government of Hungary hereby submits the following observations concerning the joint urgent appeal from Special Procedures dated 14 July 2017, ref: UA HUN 4/2017.

With regard to the urgent appeal the Government wishes to make the following remarks concerning **the allegations of the situation of persons with disabilities in closed-type institutions:**

### **1 Please provide any additional information and any comment you may have on the above-mentioned allegations.**

The Act III of 1993 on Social Administration and Social Services (hereinafter: Social Act) determines the forms and organisation of certain social benefits provided by the state in order to establish and maintain social security and the eligibility conditions for the social benefits and the guarantees of the enforcement thereof. Personal care for persons with social disadvantages is provided by the State and by local governments. Personal care encompasses basic social services and specialised care. Care and nursing homes for disabled persons are considered to be specialised care institutions. Those disabled persons who can be educated, trained, employed **only** within an institutional framework, may be admitted to the home for the disabled. Use of the services provided by the system is voluntary and no person is compelled to do so against his or her will, therefore it is **unacceptable to call the institution a place of detention** as the service has no such feature. According to the Social Act section 94/E paragraph 9, service recipients are entitled to the freedom of movement inside and outside the institution, are subject to observing the rights to tranquillity and security of others and of their own. The institution's rules of house define the order of leaving and returning to the institution.

Upon the complaint by the care providers at the Göd-based Topház Special Home submitted to the Commissioner of Fundamental Rights, the Ombudsman's staff paid an unannounced on-site visit to the institution. The investigation was conducted in accordance with the traditional Ombudsman's investigation rather than within the framework of the activities of the OPCAT

NPM. Consequently, the Commissioner's allegations report [REDACTED] was prepared. It is worth mentioning that the Commissioner for Fundamental Rights in addition to investigating into the specific complaints may also reveal the systemic problems of institutional care.

The Topház Special Home provides care to persons with intellectual disabilities, some of whom have multiple disabilities, while the vast majority of them have grave disabilities. Some of the residents also suffer from serious mental illnesses, and several of these patients are dangerous to themselves and others. It is pointed out by the report that it had already been concluded by the investigation conducted by the supervising authority in 2016 and it is confirmed by the Ombudsman's inquiry as well that the institution only has a part of the objective and personal resources required for satisfying the needs of the residents. From the on-site inquiry conducted by the Commissioner for Fundamental Rights, it was clearly concluded that de-institutionalization is imperative. The Ombudsman sent his conclusions to the Minister of Human Capacities, the maintainer of the institution and the head of the care home. The competent Minister of State of the Ministry of Human Capacities practically confirmed the conclusions of the report and informed the Commissioner on that it had been uncovered by the inquiry conducted by the Ministry in 2016 mentioned above, that the conditions provided by the Institution is not suitable for the care of the current number of residents, it needs to be modernized and refurbished, the professional knowledge required for the developments is missing, the provision of care is not appropriately organized. Despite the lack of the required professional staff number, the nursing activities are performed on a satisfactory professional level, the staff members of the Institution pay special attention to serving those residents who are confined to bed and require high standard medical attendance. In order to solve these issues, the Ministry elaborated a 30-point action plan, including some tasks assigned to the Institution and the maintainer thereof.

In his response to the actions taken by the Ombudsman described in the report, the head of the Hungarian Directorate-General for Social Affairs and Child Protection also informed the Commissioner of the current situation regarding the execution of the action plan defined as a result of the inspection carried out by the supervising authority in 2016, of which the head of the Institution gave a report to the Delegation on May 17, 2017. Based on this report, some of the actions were in fact taken, however, due to the lack of financial resources several tasks cannot yet be performed. According to the information provided by the director of the Institution, the operation of the Institution is reviewed in order to fully eliminate the deficiencies uncovered during the inspections; the still existing but professionally objectionable practices are terminated, they strive to develop a structured, well-organized institutional operation instead. As the first step of this process, the analysis of the individual branch activities within the institution, the supervision of the efficiency of the work processes, as well as the implementation of a new documentation system for medical attendance activities began. By

---

[REDACTED]

way of support from the maintainer, experts from the partner institutions and the maintainer come to the Institution to assist the staff of the special home with the performance of their tasks. With a view to improving the objective conditions, as well as creating the appropriate hygienic conditions, the Institution continues to redecorate the walls of the rooms, to repair and paint the damaged doors, as well as to obtain some physical assets, which also happens with assistance from the maintainer. The director also added that the execution of the actions defined in the report on the inspection by the supervising authority was in progress, however, in some cases, the lack of staff and the work performed in the training period by new staff members hired to replace those employees who terminated their employment, which was thus not fully competent as yet, slow down the performance of these actions. The operation of the Institution will be investigated into by the maintainer in the framework of a follow-up investigation.

The Commissioner accepted the measures taken on the basis of the information received and asked the competent Minister of State to do his best to promote the development of dignified living conditions for the affected residents and to help their social acceptance.

In connection to the Topház Special Home in Göd case, investigations are currently pending before the Police Headquarter of Pest County supervised by the Pest County Public Prosecutor's Office in the alleged crime of professional misconduct committed against 27 persons. The victims have already been examined by experts, and the expert opinion is due September-October of 2017. Proceedings have been initiated in two additional cases regarding violent crimes against persons:

1. On July 5th, 2017 the Police Station of Dunakeszi ordered an investigation based on the criminal complaint submitted by the director of Topház Special Home in the alleged crime of causing grievous bodily harm and other crimes, as perpetrator █████ twisted the arm of resident █████ in a manner resulting in the fracture of the arm. Additionally, according to the criminal complaint, █████ commenced also intercourse with R. N. against the will of the offended within the area of the institute.
2. Likewise, the Police Station of Dunakeszi ordered an investigation on July 4th, 2016, on the basis of the crime of causing simple bodily harm committed against a person whose ability to defend himself is diminished due to his disability. █████ assaulted minor resident G.P. after attacking a caregiver and throwing himself on the ground. The investigating authority interrogated █████ as a suspect.

The victims of both cases did not file a complaint against the measures or decisions taken by the investigative authority.

## **2 Please explain the legal basis and the reasons for the institutionalization of children and adults with disabilities and measures that have been put in place to prevent their separation from families.**

The legal basis of placing a disabled person in a care institution is the Social Act of 1993. It is set out in Section 69 of the Social Act who might be admitted to a care institution for disabled

persons. Pursuant to that Section, disabled persons whose education, training, employment or care can only be carried out in an institution may be admitted to a care institution for disabled persons. Minors with slight mental disability can be placed in a care institution for disabled persons in exceptional cases only.

**Placing disabled persons in a care institution for disabled** is provided for in Section 70 of the Social Act. Pursuant to that Section, the care to be provided to minors and adults, as well as to people with slight, moderate or severe mental disability must be organized separately from each other in a care institution for disabled persons. As regards minors with disability, the Act sets out that early development and care, or the cooperation with the competent specialized pedagogical services performing development education, and any assistance to be given to the person concerned in his school studies, must be provided simultaneously to normal care. As regards persons of legal age with disability, the Act provides that their institutional care must be organized in a manner that an appropriate level of independence and an opportunity to make decisions will be guaranteed to them. Refresher and skills development engagement as well as sports and recreational activities must be provided to disabled persons, corresponding with their disability. Additional rules on the placement are laid down in the Act e.g. a provision setting out that a rehabilitation department may also be operated in a care institution for disabled persons provided that it complies with all technical and personnel requirements set out in law. Placing a disabled person of legal age in a care institution for disabled persons shall be subject to performing a basic examination on the basis of the medical records submitted. Simultaneously to performing the basic examination, a complex assessment of needs shall also be carried out. The head of the residential care institution for disabled persons shall inform the applicant on the possibility of applying for a subsidized residence.

The possibility of **maintaining contact with the family** is provided for in Section 94/E (10) of the Social Act. Pursuant to that Section, the recipients of care have right to maintain their familial ties and to receive relatives and other visitors. The head of an institution may regulate the order of visiting in the bye-laws; the cases when visitors may contact the recipients of care out of visiting hours must be determined. When receiving visitors, the peace of other persons living in the institution should be respected.

Children in need of special child protection care and social services receive a multi-directional, complex protection. They have the right to complain to the Institute Director, and they may contact the child rights advocate, who helps them exercise their rights. On behalf of the child, the parent may make a complaint to the Institute Director, if the parent possesses the right of parental supervision, if not, representing the child's interests is the task of the child protection guardian. Complaints related to the institution's operations and activities may be relayed to the **supervisory organisation** that has the right to inspect the physical and personal operating conditions and to take action if deficiencies are encountered, and is ex officio obliged to carry out this inspection every year or every two years, depending on the institution type. The procedure of the Commissioner for Citizens' Rights also ensures legal protection.

The child may enter a social care institution at the parent's request, or if removal from the family was an unavoidable measure in the child's interest, at the Guardianship Authority's

decision. A child may be admitted to an institution providing child protection special care (i.e. foster parent care or a children's home) based on the child protection authority's decision, if the child cannot stay in his/her original family despite all legally guaranteed forms of aid, and if fostering is necessary for the protection of the child. The parent has the right of appeal against the decision of the first instance child protection authority, and the decision of the second instance child protection authority may be contested in court, with reference to an infringement of the law. Caring in a way that facilitates the child's re-insertion in his/her family, and maintenance of the child's relationships with parents and other relatives in order to do this is a goal in these cases, as well. Thus, separating the child from the family may never be a goal, but a measure that benefits the child, if it is unavoidable because of the parents' endangering (neglectful or abusive) behaviour.

For the child in social care, the Guardianship Authority appoints a **child protection guardian**, if the child is not under parental supervision. The child protection guardian works independently from the place of care of the child (foster parent, children's home, social institution), with the goal of helping the realisation of the best interests of the child.

The child protection guardian, based on the appointing resolution of the guardianship authority, shall:

- represent the child's interests, help exercise the child's rights, and control the realisation of the child's full-range care,
- learn the child's opinion and present it to the service provider, to the institution and to the authorities dealing with the child's affairs;
- provide legal representation for the child in personal and financial matters;
- initiate procedure in matters specified by law.

Thus, the guardian may request Child Protection Services to, for example, regulate the child's contact with a parent or other relative, to change the place of care of the child, and in cases requiring immediate action, the guardian may change the place of care immediately him/herself (this has to be reported to Child Protection Services). The guardian is also entitled to bring proceedings in the interest of the child (termination of parental supervisory rights, initiation of guardianship). The child protection guardian files the complaint if a crime is committed against his/her ward.

It is observed in several cases that the child protection guardian's charges, request for change of place of care, or immediate change of place of care stopped child abuse and ensured the safety of the child.

The **child rights advocate** performs tasks related to the child protection system. The child rights advocate is considered a client in processes he/she initiates, therefore has the right to request documents, to make statements, and to use judicial remedy. Such processes include changing the place of care of the child, initiating an immediate change of the place of care, and initiating the process of the declaration of eligibility for adoption. In child protection

procedures, the Authority makes its decision after hearing all experts – including the child rights advocate –, clarifying the facts, and considering all of these.

The child rights advocate also represents the child in non-contentious proceedings in case educational supervision is ordered. The advocate also has the power to propose issuing child protection administrative fines. Heads of child welfare and child protection institutions have to give a substantive response to a request to investigate a claim from the child rights advocate within 15 days, and to the institution’s supervisor, within 30 days.

Placement of adult persons with disabilities starts with a voluntary application. This is not separation. The application may be submitted by the person who has capacity, or by the legal guardian. Guardianship is decided by legal means, i.e., by court of law.

Regarding social services, issues may be raised to the administrator, the recipient rights advocates, the Ombudsman, or the licensing authority.

Pursuant to Section 1(3) of ACFR, “in the course of his or her activities, the Commissioner for Fundamental Rights shall – especially by conducting proceedings ex officio – pay special attention to assisting, protecting and supervising the implementation of the Convention on the Rights of Persons with Disabilities (hereinafter referred to as: “CRPD”), promulgated by Act XCII of 2007.” This means that the strong constitutional protection of persons with disabilities, or the Ombudsman’s narrative of equal opportunities and the right to dignity are not optional tasks. Through continuous, regular and permanent action, the efficient communication thereof, the goal is specifically to implement the new paradigm in public thinking. The Ombudsman has very unique instruments. Competence is a pragmatic limit, however, the reasonable broadening of such limits is not alien to the practice followed by the Commissioner, exactly because of his constitutional fundamental rights protection function. An inquiry launched on the basis of complaints, responsive action to the vulnerable social groups do not clearly indicate the strength of a genuine rights protection mechanism, although it is without a doubt that these can sometimes remedy the individual problems. However, if the Commissioner for Fundamental Rights reveals a greater social problem affecting many, in the framework of an ex officio inquiry, then the result may also affect a wider group of people, in all aspects. Therefore, proactive inquiries constitute a real option in the ombudsmen's human rights protection repertoire.

**3 Please provide information regarding the deinstitutionalisation process and other measures taken to ensure that persons with disabilities are not forced to live in institutions and can access support to transition to communities and lead independent lives. Please include details on the forms of housing available for persons with disabilities and which constitute an alternative to institutionalization, including the numbers of persons with disabilities benefiting from them; and the available schemes of personal assistance and other services, which are necessary to encourage and support independent living and prevent isolation or segregation, as well as the number of persons with disabilities benefiting from such schemes.**

Several types of care outside an institution are provided for in the Social Act. One of them is the **day-care of disabled persons**. Under Section 65/F (1) (c) of the Social Act, disabled persons over 3 years of age who are partially or not self-sufficient but, on account of their disability, need someone else's assistance or who are autistic persons, are provided the opportunity to stay in a day-care institution during the daytime, to maintain social relations and to satisfy their basic hygienic needs there, and the institution will organize meals for the people receiving day-care - excluding elderly people - on demand. **Day-care** for disabled persons, as a social basic care, shall be provided by the local government of every municipality with more than 10,000 inhabitants for persons in need who request help with the maintenance of their independent life.

Furthermore Section 65/F (2) of the Act provides that, in extremely justified cases, day-care may also be provided to disabled persons for whom their parents or other relatives receive child care allowance, benefits assisting child care, child care benefits or care allowance.

Such benefits also include a **support service** which is regulated in Section 65/C of the Social Act. Under that Section, support service aims at providing ambient care to disabled persons, through assisting their access to out-of-home public services and providing special assistance in their apartment while preserving their independent lifestyle. Duties related to support services especially include the following, corresponding with the nature of disability:

- (a) providing access to the services and public services for the purpose of meeting basic needs (special passenger transport, operation of a transport service);
- (b) providing the personnel and technical conditions of access to health and social benefits corresponding with the person's general health status and the nature of his disability, and to development activities;
- (c) providing information, transaction of affairs, counselling, and providing access to services facilitating social integration;
- (d) providing access to sign language interpreting services;
- (e) providing assistance to improve the interpersonal skills of disabled persons, to strengthen their family relationships and to participate in special self-help groups;
- (f) performing certain social sub-tasks relating to basic services appropriate to the special needs of disabled people;
- (g) assisting the social integration of disabled people, and ensuring appropriate conditions for their equal participation in family, community, cultural and recreational relationships;
- (h) promoting the access to and making use of the services facilitating the employment and working of disabled people.

In addition, Section 40 of the Social Act guarantees that people with disabilities can remain in their own home with their family; to this end they are entitled to receive **care allowance**. The



Act provides that care allowance is a financial contribution granted to an adult relative of the person in need of permanent care who performs such care at home. Any relative is eligible to a care-allowance who takes care of a person who is severely disabled and requires uninterrupted and long-term supervision, or of a person under 18 years of age who is permanently ill.

In case if it is not possible to provide care for people in need in the framework of primary care due to their age, health condition or social situation, they must be given specialized care corresponding to their condition and status. Along with residential institutions, including residential homes (institutions of 12 people at most), housing support provides an alternative for the housing and community-based care of persons with disabilities.

The aim of the Hungarian social care system is to provide persons in need, vulnerable target groups - including persons with disabilities - with appropriate care and services, primarily at their home. Primary social services are community-based services that provide services for the disabled person in his/her own living environment and home to facilitate an independent or close to independent life.

The goal of the 'FECSKE' programme (Temporary accompaniment and service provision programme provided at the homes of families raising persons with disabilities), in operation since 2006, is to ease the burden on family members, help to maintain their physical, psychological, and mental health, social relationships and employment activity by providing a flexible service, thus allowing the entire family a higher standard of living, and making it possible for disabled persons to live with their families. The extension of the service aids in reinforcing the family's social role and social integrity. Its primary target group is thus the family in which the disabled family member lives.

The service consists of supervision, care-primary care, accompaniment, and it creates an opportunity to signal to related professions.

It is important to emphasize that FECSKE, as a programme, treats the family including a disabled person as a complex unit/target group, is a service that fills a previously empty niche. Its aim is to permit the disabled person to live with his/her family, and if the family and the disabled person wish so, to avoid moving the disabled family member to an institution.

**Accessibility support** is available in Hungary, that in its present form is a direct, non-refundable state aid provided to persons with reduced mobility, that may be utilised for housing construction, home buying, and construction and engineering accessibility works related to home use, decreasing living issues, permitting the intended use of the house.

From 1 January 2016, the Government increased the allocation to HUF 300,000 and another made it possible that in justifiable cases, this support may be applied for again in 10 years' time. In addition, the Interministerial Committee on Disability at the session on 2 December 2015, created a working group, the goal of which is to overview the support system of home and living environment accessibility, and creation of a set of proposals for the reform of the support system. The working group had met multiple times in Spring 2016 and made recommendations for the Committee about the proposed changes. Based on these recommendations a specific

plan is being presently introduced to modify Government Decree 12/2001. (I.31.) on state subsidy for housing. Widening the range of people who are entitled for this support is currently under debate, the main direction of suggestions is focusing on the individual's needs and their need-based satisfaction. This is one of the ways in which the Government of Hungary supports the independent life of disabled people.

**Housing support**, the new form of service defined in the Social Act was introduced on 1 January 2013. It guarantees that all disabled people and patients suffering from psychiatric diseases or pathological addiction will receive housing and social services corresponding with their age, health status and self-sufficiency. To this end, Section 75 of the Social Act provides for subsidized residence. Pursuant to that Section, subsidized residence is a benefit granted to disabled persons, psychiatric patients excluding dementia persons, and also to patients suffering from pathological addiction which provides the following corresponding with the age, health status and self-sufficiency of the person concerned, in order to maintain or promote the independent lifestyle of the person receiving the benefit:

- (a) residence service;
- (b) transaction of affairs carried out applying techniques of mental health and social work and other support, in order to maintain or promote the independent lifestyle of the person concerned;
- (c) providing assistance in making use of the services promoting access to public services and participation in social life;
- (d) supervision, meals, care, skills development, counselling, pedagogic assistance, special education assistance, transportation, assistance replacing household work or housekeeping –upon request and on the basis of a complex assessment of needs of the person receiving the benefit.

The basic principle is that housing and social services are separated. At the site of the housing service - houses/flats of no more than 6 people, houses/flats of no more than 7-12 people, or combinations of flats or building housing no more than 50 people - no other social services may be provided. Instead of providing a ready-made residential care “package”, housing support utilises a flexible combination of housing services and support services, at different physical locations. By separating the place of stay during the day and the place of living, we reinforce and encourage individual involvement in local community life. The service is based on a complex needs assessment of recipients that makes it possible to fit the care to the individual needs.

Currently there are 1582 housing support places in the country, of which 965 are for persons with disabilities, 396 are for psychiatric patients (persons with psychosocial disabilities), and 200 places for persons with addictions. This number of places will grow significantly in the coming years, as **the process of deinstitutionalisation** is still a priority of the Government of Hungary.

On 21 July 2011, the Government accepted Government Decree 1257/2011. (VII.21.) on the strategy of replacing the capacities of residential social institutions providing care and nursing to persons with disabilities and the government tasks related to its execution, that was a decisive step in **changing to community-based services**. The direct target group of strategy that forms the appendix of the Government Decree (hereinafter: Strategy) are persons with disabilities who receive care provided by institutions with a large number of patients. Persons with disabilities suffering from addictions or psychiatric disorders are also members of the target group. The National Body for the Coordination of Deinstitutionalisation (IFKKOT), formed on the 11th of August, 2011 was named to coordinate actions related to the implementation of the strategy.

The original timeframe of the strategy was 30 years. Realisation of the changes of the first three years based on the Strategy was done in the Social Infrastructure Operative Programme – Residential institutions capacity replacement – social institutions components (hereinafter: TIOP-3.4.1.) tender. In the TIOP-3.4.1. tender set to realise the modification of the first phase, HUF 7 billion was available. The tender aimed at the replacement of the capacities at residential social institutions having more than 50 capacities offering care and nursing to persons with disabilities, psychiatric patients and addicts around principles defined by the strategy.

In TIOP-3.4.1., 672 housing support places were created using HUF 5.8 billion in the conversion of the following institutions: Szent Lukács Greek Catholic Charity Nursing-Care Home, Szakoly; Aranysziget Home, Szentes; Bélapátfalva Home and Methodological Institute for the Elderly and the Disabled, Bélapátfalva; Somogy County Love Social Home, Berzence; Kalocsa City Local Government, Kalocsa; Mérki Nursing-Care Home, Mérk.

In 2016, the first five years of the strategy's realisation ended, therefore the available knowledge and experiences had to be summarised, and the fact-based planning of the next period based on recent legal changes with the involvement of all shareholders on the entire spectrum of policies relevant to the strategy. Therefore, Government Decree 1023/2017. (I. 24.) on the 2017–2036 long-term concept of replacing the capacities of residential social institutions providing care to persons with disabilities, that shortens the timeframe of the entire deinstitutionalisation process from the original (2011-2041) by 5 years (2016-2036) was developed with wide professional and NGO participation and published in January 2017. The concept takes into account the summary of recent experiences, relaying the human rights approach, and considering recent legal changes, focusing on community-based care of persons with disabilities.

The Government of Hungary aims to deinstitutionalise 10,000 persons with disabilities, moving them from large residential institutions to community-based forms of housing. The main goal of the concept is to close large residential institutions, including the Göd site of the Pest County Topház Unified Social Institution (Topház).

During the 2014-2020 EU financial period, the deinstitutionalisation process will continue. Three European Union projects (codes EFOP-2.2.2-16, VEKOP-6.3.2-17, EFOP-2.2.5-17) are in progress titled “The Development of Transition from Institutional to Community-based Care” for the various regions with a budget of HUF 78 billion. The projects are aimed at the complete replacement of institutional service forms having a capacity of more than 50 per authorisation holder in respect of the target groups, offering care and nursing to persons with

disabilities, psychiatric patients and persons with addictions, and at the creation of high quality community-based forms of service that is responsive to residents' needs.

**4 Please explain how your Excellency's Government is ensuring the involvement of persons with disabilities, their representative organizations and civil society in the development and monitoring process of legislation, policies and programs that directly or indirectly concern them.**

Pursuant to Section 5 of Act CXXXI of 2010 on Public Participation in Developing Legislation, legislative drafts and statement of reasons of laws, government decrees and ministerial decrees must be submitted for public consultation. The forms of public consultation shall be as follows: making comments via the links available on the website, and comments made directly by persons, institutions and organisations engaged by the Minister competent to draft the legislation. Pursuant to Section 9 (1), anyone may make comments on the draft or concept submitted for public consultation via the electronic mail address provided on the website. Return receipts shall be sent on the comments received. Thus every person including disabled people and the organisations representing them may directly express their opinion on any legislative draft directly or indirectly affecting them. As regards specific legislative drafts affecting disabled people, the ministry responsible for the preparation of those laws i.e. the Ministry of Human Capacities has all additional information about the direct consultation with organisations representing disabled persons.

The Government established the Human Rights Working Group in its decision adopted in February 2012 (Government Resolution 1039/2012 (II.22).) with the main purpose of monitoring the implementation of human rights in Hungary, conducting consultations with civil society organisations, representative associations and other professional and constitutional bodies as well as of promoting professional communication on the implementation of human rights in Hungary.

The Working Group also monitors the implementation of the fully or partially accepted recommendations in relation to Hungary of the United Nations, Human Rights Council, Universal Periodic Review (UPR) Working Group. It makes recommendations to the Government and the other central administration bodies involved in legislation and application of the law to provide regulations that allow for a wider representation of human rights and oversee the implementation of these regulations.

During its constitutive meeting held in 2012, the Working Group decided to establish the Human Rights Roundtable, which currently operates with **62 civil organisation** members and **further 46 organisations** take part in the activities of the thematic working groups based on invitation. The Roundtable holds its meetings in 11 thematic working groups. The thematic working groups are led by appointed State Secretaries or Deputy State Secretaries; the Working Group members are government agencies, civil society organisations, representative associations and professional bodies. One of the thematic working groups is responsible for the rights of persons with disabilities.

Since 2013 **Thematic Working Group Responsible for the Rights of Persons with Disabilities** has held 6 meetings and has discussed several issues including the human rights situation of persons living in special institutions. At the initiation of one of the NGO members of the Thematic Working Group the Human Rights Working Group put the issue of the issue of the Topház Social Home on its agenda.<sup>2</sup>

The Government of Hungary pays special attention to and has a special responsibility for persons with disabilities, and wishes to ensure the instruments of improving the life of these people. One such instrument is the active partnership between decision-making bodies and Non-governmental organisations, one form of which is the operation of the **National Disability Council (OFT)**. The OFT provides a space and an opportunity for Non-governmental organisations and advocacy organisations representing persons with disabilities to be able to get their opinions and suggestions to the decision-makers before disability-related policy decisions are made. The Body had regular sessions in the last period, with the State Secretary and other government leaders taking part. Members of the regular meeting National Disability Council had the issue of Topház Social Home twice on its agenda, and they talked about deinstitutionalisation multiple times in the last period.

Among the Council's tasks are:

- delivering its opinion on draft legislation on disability issues, providing suggestions on the creation and modification of disability-related legislation and public law organisational regulatory instruments;
- taking part in the evaluation of the National Disability Programme (hereinafter: Programme) aiming to create equal opportunities for persons with disabilities and the related Action Plans, putting forward suggestions helping with the preparation;
- monitoring the implementation of the Programme according to Act XXVI of 1998 on the rights of persons with disabilities and guaranteeing their equal opportunities;
- delivering its opinion on reports on the implementation of the UN Convention on the Rights of Persons with Disabilities.

Its members include representatives of advocacy groups, one person delegated by the Hungarian Olympic Committee representing the sports of disabled persons, one person delegated by the National Council of Associations of Persons with Disabilities and the Council's President (minister responsible for equal opportunities in society).

The significance of the Ombudsman's fundamental rights protection in disability matters is strengthened by the fact that he is a permanent invitee to the Government's Inter-ministerial Committee on Disability Matters, sometimes also to the National Disability Council, and he is also a full member of the National Board for the Coordination of De-institutionalization.

---

<sup>2</sup> The report of the meeting of the Human Rights Working Group and Thematic Working Group Responsible for the Rights of Persons with Disabilities available in Hungarian at the following website <https://emberijogok.kormany.hu/emlekeztetok>.

**5 Please explain if persons with disabilities can access free legal assistance and other appropriate support services, and what redress, rehabilitation and compensation is provided to persons with disabilities whose rights have been violated.**

Adult and child recipients of social services and institutions receive multi-directional protection. There is **complex legal protection** available to them in the case or suspicion of legal contraventions or infringements.

Section 94/K provides that a **social care rights advocate** will be ensured specifically for the recipients of care under the Social Act. The Act provides that a social care rights advocate provides assistance to persons placed in basic and specialised care institutions providing personal care, and also to persons making use of those care services in enforcing their rights. When carrying out his duties, the social care rights advocate shall comply with the provisions of Act XLVII of 1997 on The Management and Protection of Healthcare and Related Data.

Duties of the social care rights advocate are laid down in Section 94/K (2) of the Social Act. According to the Social Act, those duties are as follows:

- (a) upon request or upon his own initiative, the social care rights advocate may provide information on the most important fundamental rights affecting the beneficiaries, on the obligations of the institution and on the rights relating to the recipients of care;
- (b) the social care rights advocate helps the recipients of care and their legal representatives in solving any issues and problems related to the care, and provides assistance in solving any conflict between the institution and the beneficiary as appropriate;
- (c) the social care rights advocate helps the recipients of care and their legal representatives in expressing their complaints; may initiate the inquiry into that complaint with the director of the institution and with the sponsor; provides assistance in wording requests or applications to be submitted to the authorities;
- (d) the social care rights advocate may act before the director of the institution or the sponsor or any competent authority in any issue related to the institutional care - except for the institution and termination of the legal relationship, and relocation -, and when doing so, may represent the recipient of care and his legal representative under a written authorisation;
- (e) upon prior consultation with the director of the institution, the social care rights advocate informs all employees of social institutions on the beneficiaries' rights and the enforcement of and compliance with those rights in the course of the care;
- (f) the social care rights advocate may propose measures to the sponsor in order to terminate any practice contrary to laws;
- (g) the social care rights advocate may submit comments to the director of the institution on the care performed in the institution;

- (h) should the social care rights advocate find any infringement affecting a group of beneficiaries, he may propose measures to the competent authorities;
- (i) the social care rights advocate may inspect any documents pertaining to restrictive measures and procedures.

Furthermore, Section 64 of the Social Act provides for **services for families**. Services for families are services provided to persons or families in need of help by reason of social or mental problems or other crisis situations in order to prevent the causes leading to such a situation, terminate the crisis situation and preserve the ability to lead life.

Within the scope of services for families, counselling must be provided to long-term unemployed, young unemployed, persons with debt and housing problems, persons with disabilities, chronically ill, persons suffering from pathological addiction, persons with drug problem, other socially deprived persons and their family members.

The Hungarian Government provides **free legal aid** to any restricted person including disabled persons as well. The Act LXXX of 2003 on Legal Aid (hereinafter: Legal Aid Act) does not contain any special procedural provisions and legal aid forms for persons with disabilities. According to the terms of the Legal Aid Act, when persons with disabilities have legal problems, the persons involved are entitled to submit application to the Legal Aid Service in order to receive legal aid in court and out-of-court cases as well, furthermore in civil and criminal procedures. Costs of the legal aid are covered or advanced by the State and legal aid is granted as a general rule based on a means test for persons who are indigent.

Legal aid is primarily not provided by the public officers of the Legal Aid Service, but by those legal aid providers (attorneys, non-governmental organizations etc.) who are recorded in the Legal Aid Registry. The public officers of the Legal Aid Service, besides their official tasks, provide direct legal assistance as well, without prior screening of the client's financial situation. The Legal Aid Service, with certain exceptions, decides on granting legal aid free or by advance payment through considering the involved person's financial situation. According to the Legal Aid Act persons with disabilities are automatically considered as indigent in case they receive regular social assistance or public health care.

Pursuant to Section 1 of that Act, the State shall, within the framework of providing legal aid, provide assisted persons (hereinafter referred to as the "party") extra judicially with the right to have recourse to legal aid as provided for herein (for the purposes of this Chapter, hereinafter referred to as "aid"). Legal aid providers shall give the Parties legal advice or prepare submissions or other papers for them, and - if so authorized - inspect the documents of their case (hereinafter referred to as "providing legal services"), and the State shall pay or advance the legal aid providers in lieu of the Parties for the pertinent costs and fees in the amounts specified by law (hereinafter referred to jointly as the "legal services fee").

Legal aid can be resorted to in several cases; based on Section 3, relevant cases are the following:

- aid may be granted to a party if the party takes part in an administrative procedure and is in need of legal advice in order to understand his procedural rights and obligations or a petition has to be prepared in order to make a legal statement;
- the party requires legal advice as to what type of proceedings should be instituted in order to protect his/her rights, and at which authority or organization, or if a petition has to be prepared in order to be instituted or in the course of such proceedings, or to make a legal statement;
- the party is the victim of a crime and is in need of legal advice or requires assistance for the preparation of a petition (statement of claim, request, complaint, indictment etc.) in order to file charges, understand their procedural rights and obligations, or institute a lawsuit for compensation for the damage caused by the crime or for any injury, legal or otherwise.

Under Section 5, the State shall pay a party's legal services fees if the party's monthly net income (wage, pension, or other regularly paid cash allowances) does not exceed the current minimum retirement pension (hereinafter referred to as the "minimum pension") established on the basis of the period of employment, and the party has, in consideration of the provisions of Section 9, no property.

Act CXXXV of 2005 on victim support and compensation does not define special rules for persons (victims) with disability when determining the conditions of access to victim support services. Victim support services (assertion of the victim's interests, instant monetary aid, victim status certificate) may be accessed by victims free of charge, without investigation of need.

In case of granting state compensation indigence must be screened, as an exception. According to the applicable provisions of the victim support and compensation Act, those victims who are in receipt of certain social benefits determined by the Act are considered as indigent victims (such as socially needy status and thereby eligibility for healthcare services is established on the basis of means test; receives care allowance, public health care services or invalidity allowance; eligible for aid to the mentally impaired, personal annuity due to the blind and visually impaired or increased family allowance). The Act takes also into account the victim's personal circumstances when describes: "A crime victim may apply for partial compensation for the loss in his regular income in the form of regular payments if the crime resulted in his disability to work for an estimated period of over 6 months. The amount of allotment payable on a monthly basis shall equal: a) 75 percent of the certified loss of income if the victim is below 18 years of age or is in need of care by others".

Based on social sector rules, recipients and children have the right to complain to the Institute Director, may turn to the representation and advocacy forum that is mandatory to create in residential social institutions and housing child protection institutions, and may go to the recipient rights advocate and the child rights advocate who help them exercise their rights. Legal protection is also provided by the measures of the Commissioner for Fundamental Rights, and the persons of the professional carer and the child protection guardian.



In case of child protection primary care according to paragraphs 11 and 35 of Act XXXI of 1997 on the Protection of Children and on Guardianship Administration (hereinafter: Child Protection Act), recipients have the right to complain, and in case of specialised care, the law mandates operation of an advocacy forum, and allows the creation of a child self-government. The child protection guardian appointed by the guardianship authority and the child rights advocate also protects the rights of children.

The **Integrated Legal Protection Advocacy Service**<sup>3</sup> operates as an independent organisational unit of the Ministry for Human Capacities for the integrated enforcement of citizen rights related to patient, recipient, and child rights. Within its responsibilities relating to integrated legal protection advocacy, the Service shall

- ensure the assertion and protection of patients', social care recipients' and children's rights determined by law,
- perform the tasks relating to the employment of (patient rights, recipients' rights, child rights) legal protection advocates, operate the network of legal protection advocates, manage, organise and control the professional work of legal protection advocates,
- provide information for persons using institutional accommodation providing health services, basic social services, basic child welfare care, specialised social care or child protection care (hereinafter together: service), their legal representatives and the service providers concerning issues relating to patients', social care recipients' and children's rights,
- publish the legal protection advocate's contact details and office hours at the relevant service provider,
- perform training and further training tasks in connection with the assertion of patients', social care recipients' and children's rights and the work of legal protection advocates, and elaborate and, if necessary, supervise the teaching material and examination requirements of the training course and compulsory further training course for legal protection advocates,
- perform methodological tasks in connection with integrated legal protection,
- may act if it obtains knowledge of any fact, circumstance, measure or failure, which may result in the significant impairment of rights affecting patients' rights, social care recipients' rights and children's rights. In the course of proceedings, IJSZ may request information, make proposals for taking measures or for the content of the legal act relating to the given case and it may formulate recommendations for other bodies participating in the proceedings.

**6 Please provide details on what measures have been taken to prevent, detect and address all forms of violence and abuse perpetrated against persons with disabilities in state-run institutions, including the existence and activity of independent monitoring**

---

<sup>3</sup> The Integrated Legal Protection Advocacy Service was created as the legal successor of the National Patient Rights, Recipient Rights, Child Rights and Documentation Centre.

**entities mandated to visit institutions, conduct impartial investigations upon complaints and bring violations before the law enforcement authorities.**

Pursuant to Article 30(1) of the Fundamental Law, “the Commissioner for Fundamental Rights shall perform fundamental rights protection activities”.

The Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter ACFR) states that the Commissioner for Fundamental Rights is responsible for inquiring into any impropriety related to fundamental rights, and for initiating general or specific measures to remedy those improprieties. Under Section (3) of that Act, in the course of his or her activities the Commissioner for Fundamental Rights shall – especially by conducting proceedings ex officio – pay special attention to assisting, protecting and supervising the implementation of the Convention on the Rights of Persons with Disabilities, promulgated by Act XCII of 2007.

According to the legal practice of the Constitutional Court, the state’s obligation to respect and protect fundamental rights is not restricted to refraining from the violation thereof but it also includes the obligation to ensure the conditions required for the enforcement of fundamental rights.<sup>4</sup> A decision adopted by the Constitutional Court shall have obligatory effect for everyone, including the Commissioner for Fundamental Rights.<sup>5</sup> In the scope of his general fundamental rights protection activities, the Commissioner for Fundamental Rights is not only obliged to examine whether the state has met its obligation to respect fundamental rights but also, it is his duty to make sure that the state body in question has duly provided the criteria required for the enforcement of fundamental rights. If the latter obligation of the state is not fulfilled, or not completely fulfilled, the Commissioner for Fundamental Rights may propose measures to ensure the enforcement of fundamental rights, with reference to a circumstance jeopardizing the latter.<sup>6</sup>

The Hungarian Government complies with the provisions of the International Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereinafter OPCAT), promulgated by Law Decree No. 3 of 1988. Under Section 2 (6) of Act CXI of 2011 on the Commissioner for Fundamental Rights, the Commissioner for Fundamental Rights performs the tasks related to the national preventive mechanism (hereinafter referred to as: the “National Preventive Mechanism”) pursuant to Article 3 of the OPCAT with effect from January 1, 2015.<sup>7</sup> According to the data made available by the government to the National Preventive Mechanism under Point a), Article 20 of OPCAT, there were **113,388** detainees for the available capacity of **122,927** places at the **4,045** places of detention<sup>8</sup> under Hungarian jurisdiction as of December 31, 2016.

In the period between **January 1, 2015 and December 31, 2016**, the National Preventive Mechanism visited **25** places of detention, while he paid a visit to another **6** institutions **before**

---

<sup>4</sup> See Constitutional Court decree No. 64/1991. (XII. 10.).

<sup>5</sup> See Section 39 (1) of Act CLI of 2011 on the Constitutional Court.

<sup>6</sup> See Sections 31 to 38 of Act CXI of 2011 on the Commissioner for Fundamental Rights (hereinafter referred to as: ACFR).

<sup>7</sup> See Section 9 of Act CXLIII of 2011.

<sup>8</sup> See Article 4 of OPCAT.

**July 1, 2017**, including places of detention for providing institutional care to children and adults with disabilities.

In his reports published on the visits paid by the National Preventive Mechanism **in 2015**, the Commissioner for Fundamental Rights proposed a total of **152** measures, and he initiated a further **239** actions<sup>9</sup> **in 2016**.

The Commissioner for Fundamental Rights has no investigation competence, so his competence does not extend to the identification of acts of improprieties related to fundamental rights revealed during his investigations and the persons responsible for such acts (hereinafter referred to as: “perpetrators”). In lack of any investigation instruments to identify the perpetrators, the Commissioner for Fundamental Rights may not propose that these persons be called to account either in the scope of his general fundamental rights protection obligation or as part of performing his activities as a National Preventive Mechanism under Article 3 of OPCAT.

According to Social Act section 92/B (1) items b) and d), and Child Protection Act section 104 (1) item c) and e), the supervisor shall periodically control the lawfulness of the operation of the institution and the effectiveness of the professional work carried out. Pursuant to Social Act section 92/K (4c) and Child Protection Act section 98 (9), the legal compliance of social, child welfare and child protection service providers and institutions is controlled by the **licensing authority**. Government Decree 369/2013. (X. 24.) on the official register and supervision of social, child welfare and child protection service providers, institutions, and networks names the county or Budapest Government Office as the licensing authority, that performs regular ex officio inspections – at least yearly for residential services, after-care services, and regional child protection services, every two years for child day-care, every three years for social services – at the institutions, or carries one out of turn if it becomes known that personal or material conditions or operations endangers the life, physical integrity, health, or the development of child recipients, or violates their other rights, or the legal framework on operations or the service provider register are severely violated. The Government Office may appoint the state authority on national methodological tasks as an expert regarding the realisation of the professional programme or the professional compliance of services.

Government Decision 1023/2017 (I. 24.) on the long-term concept for the transition of social institutional capacities providing nursing and care for persons with disabilities contains the obligation relating to the further operation of the National Body for the Coordination of Deinstitutionalisation, and determines its tasks. In particular, these tasks involve that the Body should monitor the residents' quality of life and its changes during the entire term of the deinstitutionalisation process, starting from planning. Another task is to monitor the organising activities of the relevant public bodies with regard to care. At the initiation of the Minister of State for Social Affairs and Inclusion, the Body has set up a subcommittee to focus on institutions that have not joined the deinstitutionalisation process yet. Monitoring includes an assessment of the lawfulness of operation, the professional standard of the services, and the

---

<sup>9</sup> 2015 and 2016 reports on the activities performed by the Commissioner for Fundamental Rights as a National Preventive Mechanism

assertion of different rights that individuals have. The subcommittee operates with 7 members, on the basis of the decision of the National Body for the Coordination of Deinstitutionalisation. It is chaired by the head of the National Council of Associations of Persons with Disabilities and the representatives of 3 further interest protection organisations (Hungarian Association for Persons with Intellectual Disability and their Helpers, Mental Health Interest Forum and the Hungarian Deafblind Organization) also participate in the work, as well as the representative of the National Disability Expert Group and an employee of the Department for Social and Child Welfare Services and one of the Department for Disability Affairs.

Section 1 (4) of Government Decree 331/2006. (XII. 23.) on the performance of child protection and guardianship duties and competences, as well as the organisation and jurisdiction of the guardianship authority makes it possible for the Minister for Human Capacities in the professional oversight of child protection and guardianship tasks to contact any organisation performing guardianship authority duty directly if urgent action is required for the benefit of the child or person under guardianship, or a person affected by guardianship.

Section 5 (1) of Government Decree 316/2012. (XI. 13.) on the Directorate-General for Social Affairs and Child Protection names the Directorate-General as the organisation performing **methodological tasks**. An integral part of methodological work is the regular support of the institutions' professional work, and making suggestions to ensure the highest level of professional standards of the service.

As explained above, the child protection guardian is meant to help realise the best interests of the child, while the child rights advocate performs tasks related to the child protection system. The child protection guardian is authorised and mandated to visit the child at the place of care, and if he/she notices the child being abused, the guardian may act to take the child to another, safe place of care, that must be indicated to the guardianship authority. Against a person or unknown offender that abuses a child, the child protection guardian, the child protection authority, or the child rights advocate all file a complaint at the police.

**7 Finally, the authors of the letter request details, and where available the results, of any investigation, including judicial or other inquiries, and prosecutions carried out in relation to violence, abuse and deaths in the custody of state-run institutions for persons with disabilities. Have penal, disciplinary or administrative sanctions been imposed on the responsible authorities and remedies provided to the victims? If no inquiries have taken place, or if they were inconclusive, please explain why.**

Actors in the above-described complex legal protection circle can provide solutions in individual rights infringement cases.

In case of violent incidents – as part of widening the complex legal protection circle - an investigation may be initiated if the act in question was detected by the prosecutor or the investigating authority in their official competence or a member of the investigating authority becomes aware thereof in his official capacity, or a report has been submitted in this regard.

When the investigation is completed, the prosecutor has the opportunity to bring charges against the perpetrator. Afterwards the court can decide on the charge brought against the perpetrator and has the right to ascertain the liability of a person in committing a criminal offence.

The Central Prosecutor's Office does not keep record of any relevant statistical data on fatalities in state institutions, therefore it does not possess any data on cases qualifying as death that occurred under exceptional circumstances neither. The legislation regulating investigations into such deaths does not distinguish on the basis of the place of occurrence of death that is whether it had happened in a state institution or elsewhere. According to paragraph 218 § (1) point b) of the Act CLIV of 1997 on Health a death qualifies as having occurred under exceptional circumstances if:

- ba) the death is a result of an accident or the circumstances of occurrence suggest so,
- bb) the death is a result of suicide, or the circumstances of occurrence suggest so,
- bc) the antecedents and circumstances of death are unknown, and there is no data available on which to form a well-founded assumption that the death has natural causes
- bd) the death was that of a detained person.

If the deceased person has not been identified, the procedure set forth for death under exceptional circumstances shall be followed until the person will have been identified.

Rules of procedure to be followed in cases of death under exceptional circumstances are regulated under Chapter II of the Governmental Decree no. 351/2013 (X. 4.) on post mortem investigations and procedures regarding deceased persons. The aim of the procedure is to determine the reason and circumstances of the death, including the examination of the extraordinary nature of death and to eliminate any circumstances suggesting the occurrence of a felony. Preliminary and interim measures are taken by the first instance police body that has jurisdiction on the basis of the place where the corpse had been found.

The decision on the result of the preliminary investigation has to be communicated to the minister of foreign affairs in case the available information suggests that the deceased has a close foreign relative who is unknown or if the deceased resided abroad and the foreign home address is unknown. In case of the death of a detained, or of a person undergoing under involuntarily psychiatric treatment or temporarily involuntarily psychiatric treatment, the decision and the punishment shall be communicated to the enforcement body taking measures or coercive measures and the prosecutor supervising the execution of punishments.

The first instance procedure shall be conducted by the police and Act CXL of 2014 on administrative procedures shall apply taking into account the special rules as set forth in the above mentioned governmental decree. (The police procedures regarding deaths that occurred under exceptional circumstances are regulated by directive no. 24/2014. (VII. 11.) ORFK.<sup>10</sup>

---

<sup>10</sup> ORFK – National Police Headquarters

The head of the police body is obliged to control and on a monthly basis whether the directive is complied with and to make a record thereof.)

If there is a suspicion during the procedure that a felony had occurred, the authorities terminate the procedure to be followed in cases of death under exceptional circumstances and notify the competent body to initiate criminal proceedings. Against the decision terminating the procedures – except in cases of crimes – application for appeal may be filed. The lawfulness of the final decision – based on the client’s application for a prosecution measure – if the court has not examined the case yet, is examined by the prosecutor specialized in the field of public interest. The prosecutor may rescind the former decision and remits the case under review or initiate investigations.

The departments responsible of life protection of county police headquarters are required to keep record of numbers of deaths occurred under exceptional circumstances. The statistics are requested to be reported to the Criminal Division of the Criminal Directorate of the National Police Headquarters by 31st of January each year.

Due to the limits of the present submission, here, we are presenting only a few cases:

In 2015 a homicide case was pending at the Chief Prosecutor Office: the Chief Prosecutor Office submitted an indictment on the 23rd of November, 2016, against ██████ regarding the crime of homicide committed with special cruelty against a person whose ability to defend himself was diminished due to his old age or disability ██████, who was treated at the closed psychiatric department ██████, having false imagination regarding ██████, attacked the sleeping injured person with a disassembled metal tube removed from the bed. The perpetrator hit ██████ overall his body and his head multiple times, who due to the abuse died at the scene. The accused was suffering from mental distress at the time of committing the act, that made it impossible for him to realise the dangerousness of his act posed to society and therefore to act in accordance with the recognition. The court acquitted the accused and based on the opinion of the court’s medical expert, it did not order the involuntary treatment of the accused in a mental institution.

Another case also worth mentioning that was pending before the Vas County Police Station on the crime “physical assault causing severe bodily harm”. The accused were residents of the Szentgotthárd Psychiatric Patients Home. B. P. complained to them that he feels like they tricked his cell phone out of him, therefore they decided to take it back. ██████ appeared in ██████ room with a knife and after unsuccessfully claiming the cell phone back, ██████ stabbed the injured person in the chest. The injured person suffered direct life threatening injuries. The court of Szombathely sentenced ██████ to 6 years of imprisonment and prohibited him from taking part in public affairs for 5 years. The second accused, ██████ was sentenced to 4 years of imprisonment and prohibited him from taking part in public affairs for 4 years as being a recidivist. The judgment of the second accused is not final.

As for the death cases, we wish to emphasize that in case of natural death – resulting from illness, the nature of disability, or old age – a separate inquiry is not necessary, as the specificity of the target group often carries the early age incidence of death. Act CLIV of 1997 on

healthcare contains the laws on autopsies and other tasks related to the dead, and it details the cases in which performing an autopsy is mandatory, and cases where it can be omitted. The state supervisor and the Ministry for Human Capacities inspect the documents of extraordinary events controlled by the state supervisor every quarter, along with discussing a case each time, and define actions of the necessary level. Extraordinary events are noted both for financial damages and for services. Considering the services, events distinct from every-day situations are noted, every one of which is investigated by the supervisor, and the supervisor identifies whether there is a personal, institutional, professional, supervisory, intersectional, other section related, or financial-regulatory reason for the extraordinary event. Action plans are always defined on the cause level. Cases that may not be solved at the supervisor level are presented at the quarterly meetings. Actions are defined after these case presentations.

According to the data provided by the Office of the Prosecutor General, please, find below statistics on the violent crimes committed against persons treated in care homes, social or psychiatric institutions, psychiatric departments of hospitals, or the Forensic Psychiatric and Mental Institution in the period January 1, 2016 and August 15, 2017.

### Conclusions

Institution types	Perpetrator		Number of victims	Offense				Number of fatal cases	Outcome		
	Staff	Resident		Physical abuse/Battery		Sexual abuse	Other offense		Cases in progress	Charges suspended	Sentence
				Simple	Aggravated						
Psychiatric institutions/ Psychiatric departments of hospitals	2	6	10	1	5	N/A	3	2	7	3	N/A
Forensic Psychiatric and Mental Institution	N/A	2	2	N/A	2	N/A	N/A	N/A	2	N/A	N/A
Care homes/Social institution	3	4	7	1	5	2	1	N/A	6	1	N/A
Psychiatric institution and care homes	7	11	17	5	5	6	3	N/A	12	5	1

The authors of the letter invoke a number of provisions set forth in the Convention on the Rights of Persons with Disabilities (CRPD), in the International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

As concerns Article 14 of the CRPD, the Government is of the position that the Hungarian legal framework provides for adequate guarantees that no person would be deprived of his/her liberty on the basis of his/her disability. For further details please see points no. 1 and 2.

As concerns Article 19 of the CRPD, the Government refers back to Point 3 where detailed information on the deinstitutionalisation process is available on the basis of which it can be established that Hungary is committed to the goal of deinstitutionalisation and in compliance with the said provision Hungary takes effective and appropriate measures to facilitate full

enjoyment by persons with disabilities of this right in the interest of their full inclusion and participation in the community.

As concerns Article 16 of the CRPD, Article 6 of ICCPR and Articles 2 and 16 of the CAT, we acknowledge the state's positive obligation to prevent the occurrence of all forms of abuse, to protect the right to life and to giving effect to the prohibition of torture and other inhuman, degrading treatment or punishment by – among others - ensuring independent monitoring of all facilities concerned and to conduct thorough investigation, if necessary. In this context, we refer back to the relevant parts of Points 1, 2 and 6 providing information about the competences of the ombudsman in this regard, to Points 1 and 7 providing information about the investigative power of the prosecutor's office and the cases currently pending before the authorities. At this juncture we also make reference to Point 4 where you find information about the involvement of persons with disabilities, their representative organizations and civil society in the process of decision making– as a preliminary form of monitoring activity.

As concerns Article 13 of the CRPD we invoke Point 5 of the present submission for information on the complex legal protection system and relevant parts of Point 2 for special information on children.