



**Permanent Mission of Hungary to the United Nations Office  
and Other International Organizations in Geneva**

No. 74/2018/HUMIS/GVA

Geneva, 30 May 2018

The Permanent Mission of Hungary to the United Nations Office and Other International Organizations in Geneva presents its compliments to the Special Procedures Branch of the Office of the High Commissioner for Human Rights and has the honor to communicate the following:

The Permanent Mission of Hungary has the honor to transmit herewith the reply of the Government of Hungary to the request of Ms. Catalina Devandas-Aguilar, Special Rapporteur on the rights of persons with disabilities, REFERENCE OL HUN 2/2018, dated 6 April 2018.

The Permanent Mission of Hungary requests the Special Procedures Branch of the Office of the High Commissioner for Human Rights to acknowledge receipt of the present note verbal and its enclosure.

The Permanent Mission of Hungary to the United Nations Office and Other International Organizations in Geneva avails itself of this opportunity to renew to the Special Procedures Branch of the Office of the United Nations High Commissioner for Human Rights the assurances of its highest esteem.



Enclosure: 1 file

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

## **Remarks and responses to the comments of the Special Rapporteur on the rights of persons with disabilities**

The Hungarian legal system recognises disability and its surrounding contractual relations as protected legal interests, as it is apparent from the Act CXXV of 2003 on Equal Treatment and the Promotion of Equal Opportunities (thereinafter: Ebtv).

According to Article 8 of Ebtv

*„Provisions that result in a person or a group is treated less favourably than another person or group in a comparable situation because of his/her*

- a) sex,*
  - b) racial origin,*
  - c) colour,*
  - d) nationality,*
  - e) national or ethnic origin,*
  - f) mother tongue,*
  - g) disability,*
  - h) state of health,*
  - i) religious or ideological conviction,*
  - j) political or other opinion,*
  - k) family status,*
  - l) motherhood (pregnancy) or fatherhood,*
  - m) sexual orientation,*
  - n) sexual identity,*
  - o) age,*
  - p) social origin,*
  - q) financial status,*
  - r) the part-time nature or definite term of the employment relationship or other relationship related to employment,*
  - s) the membership of an organisation representing employees' interests,*
  - t) other status, attribute or characteristic (hereinafter collectively: characteristics)*
- are considered direct discrimination.”*

Above list of protected legal interests cannot be considered taxative regarding the grounds of discrimination. It only identifies the most typical and important characteristics that are protected by law on first place. Disability seemingly has a prominent place in the list. Furthermore, segregation constitutes an independent state of affairs of the act cited above:

Article 10 (2) of Ebtv. stipulates:

*„Unlawful segregation is a conduct that separates individuals or groups of individuals from others on the basis of their characteristics as defined in Article 8 without a reasonable explanation resulting from objective consideration.”*

Reflecting to the comments on forced institutionalization and forced treatment Hungary would like to highlight the fact, that all social services, regardless of their nature, target group or any other aspects are based on a legal agreement, concluded voluntarily by clients. Although our Act III of 1993 on social administration and social services (thereinafter: Social Act) does retain the possibility to place patients with mental disorders in institutions by a judicial decision, this provision can only be applied in favour of the patient and in defence of his or her social

environment. The Hungarian legal system recognises involuntary treatment in mental care institution as well. Involuntary treatment can take place in cases of commitment of violent crime against persons or punishable criminal offenses endangering the public if the perpetrator cannot be prosecuted due to his/her mental condition, and it is likely that he/she will commit a similar act, provided, that the same crime carries a penalty of imprisonment of one or more years. These measures are taken in a specialised institution (Forensic Psychiatric and Mental Institution) designated for this purpose.

In the same vein, placement in social institutions providing personal care can take place on a voluntary basis, at the request of the person concerned. Legal prescriptions relating to the operation of the institutions are meant to ensure the rights of the care recipients living in the institutions. The lawful operation of social services is ensured on the basis of the provisions included in the professional legislation, through the cooperation of several state authorities.

The most relevant provisions of Social Act are the following:

Article 93.

*(1) " Recourse to social services providing personal care is voluntary and based on verbal or written request of the service recipient or his or her legal representative.*

*(2) \* In case of a request for a social service a legal representative has to submit the request or application on behalf of Incapacitated persons or minors, taking their opinions into consideration, if possible."*

Regarding the first allegation of the Special Rapporteur, Hungary would like to kindly remind the information provided in its previous reply (Reply of the Government of Hungary to the joint urgent appeal from Special Procedures), where the process of deinstitutionalization in Hungary has been described in detail, including the new concept and the projects concerned. Hungary is pleased to provide additional information as follows:

The National Committee for the Coordination of Deinstitutionalization (hereinafter: IFKKOT) got renewed.

Government Decree 1023/2017 (I.24.) on the long-term concept on the deinstitutionalization of places at social care institutions for persons with disabilities (hereinafter: Concept) provides for the ongoing operation of the IFKKOT, which monitors the changes in the standard of living of residents, ranging from the strategic support of moving out of institutions, through supported housing conditions to the creation of independent housing opportunities.

Additionally, in order to ensure efficient operation, in June 2017 the IFKKOT made a decision about the establishment of an IFKKOT Subcommittee, whose duty is to monitor the operation of those high-capacity residential institutions for persons with disabilities where deinstitutionalization has not yet commenced, and to draft observations for the IFKKOT.

Supported housing, as a form of service was introduced in Social Act as of 1 January 2013. According to its rules, nursing and care capacities for people with disabilities, psychiatric diseases or addictions can only be created in the form of supported housing. Supported housing creates appropriate conditions for persons with disabilities, psychiatric diseases or addictions for receiving housing and social services corresponding to their age, health condition and level of self-sufficiency. It is based on the principle that a distinction should be made between housing and social services. On the premises where housing services are provided – which can

only be provided in a house/apartment accommodating maximum 6 persons, a house/apartment accommodating maximum 7-12 persons or a group of apartments or buildings for accommodating maximum fifty persons – no other social services can be operated. Instead of providing residential care for the people concerned in a ready-made “package”, supported housing includes a flexible combination of different forms of housing services and assistance services, which are provided on different premises. Independent participation in community life is strengthened and encouraged by making sure that during the day care recipients stay at premises other than their place of residence. Service provision is based on the complex needs’ assessment of the users’ need, which makes it possible to provide a care better adjusted to individual demands. Some conditions that characterize supported housing in the practice are the following:

- Multiply handicapped, disabled persons also constitute primary target group of the process of deinstitutionalization.
- At the establishment of conditions of supported housing for the disabled their notions and preferences are taken into account.
- They can choose their flat-mates.
- They get prepared to live an independent life.
- In the course of the deinstitutionalisation process experts by experience are involved in the shaping of the new living environments.
- Complex Needs Assessment is the basis for proper service provision, the needs of all care recipients get only as much support and help as it is needed in order to reach or set out for an independent lifestyle

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Moreover in a view to the successful implementation of the Concept and the deinstitutionalization of large institutions, the State Secretary for Social Affairs and Social Inclusion has set up a working group composed of a staff members appointed by the State Secretary for Social Affairs and Social Inclusion and invited experts. The task of the working group was to give an opinion on the professional suitability of the locations indicated in the tender projects (EFOP 2.2.2-17 Improvement of transition from institutional care to community-based services – deinstitutionalization) and to review the professional programs.

In the tender dossiers submitted, 2,717 places are planned to be transitioned by 271 locations in a total of 30 projects.

Based on the working group's professional opinion 232 locations and around 2,317 places of the selected venues are acceptable, noting that 70 places have to be compliant with the terms set by the working group.

Observed conditions:

- the characteristics of the location of the places to be transitioned ( address, target group, places, etc.)
- features of social services and employment sites related to the transition (the existing services and the services to be created)

- features of the preparation of supported housing.

Furthermore, based on the professional opinion of the working group, the transition of the selected sites for a total of 39 locations with 400 places, have to be changed, given that they do not adequately serve the project's stated professional goals. The Working Group also noted that the work plans need to be revised for several projects, to be transformed for site exchanges, and to explain in more detail the tasks related to implementation in case of other deficiencies.

As for remarks concerning the long timeframe of our deinstitutionalization process Hungary can report about some recent developments in this regard. Originally a 30-year timeframe was determined for the implementation of the strategy. However, in 2016, and it was necessary to summarise the available knowledge and experience, and to plan the following period based on evidence and on the legislative changes that took place in the past period, involving all stakeholders along the entire spectrum of the relevant policies. For this reason – besides broad professional and civic participation – Government Resolution 1023/2017 (I. 24.) on the long-term concept for the transition of social institutional capacities providing nursing and care for persons with disabilities was prepared and issued in January 2017, which shortens the duration of the entire replacement process by 5 years (2016-2036) as compared to the original plans (2011-2041).