

Summary of Case № AJB-1423/2015

The Commissioner for Fundamental Rights as OPCAT National Preventive Mechanism examined the detention conditions in the Juvenile Penitentiary Institution of Tököl within the frameworks of a follow-up type inspection.

At the time of the inspection, placement conditions were the worst in the security cells and the waiting room (*called "csurma" in prison slang*). In the security cell, the per capita cell space did not reach the statutory minimum, the ventilation and lighting of the premises were inadequate. The "*csurma*" was overcrowded, many inmates were forced to stand due to the insufficient number of seats. Such conditions created an impropriety related to the ban on inhuman treatment and the right to health.

During the interviews, the inmates reported on acts of violence committed against each other, and on instances of being physically abused by the staff. Proving such acts of violence or physical abuse is often difficult or virtually impossible; however, the allegations of the detainees refer to possible improprieties related to the ban on torture, inhuman or degrading treatment.

Based on the experience of the staff members of the National Preventive Mechanism (NPM) and on the reports of the detainees, it may be established that the members of the Institution's personnel used to make racist and sexist remarks, which resulted in an impropriety related to the ban on degrading treatment.

According to the detainees, the choice of programs and engagements within the Institution was rather limited. Although the institution provides various programs and engagements for the detainees, their attendance is occasional. In the National Preventive Mechanism's view, the Institution should try and motivate the detainees to participate in those programs and engagements.

Although the inspection did not focus on verifying the implementation of the recommendations put forward in an earlier report by the Ombudsman, the NPM could not ignore it, either. The number of psychologists working in the Institution had increased from three to four, which is a step forward; however, it might not guarantee the smooth provision of psychological care considering the large number of detainees (761 and 762 persons, respectively, at the time of the two-day inspection). As a result, the detainees' right to health—in particular that of the juvenile ones—may get infringed upon. The issue of the juvenile detainees' smoking had not been settled, either: there are still smoking cells in the Institution, thus perpetuating an impropriety related to the requirement of the rule of law and the requirement of legal certainty deriving therefrom, to the right to health, and to the right of the child to protection.

The Commissioner for Fundamental Rights has requested the Head of the Hungarian Prison Service Headquarters to take the necessary measures in order to increase the number of psychologists and to arrange for the provision of the financial resources necessary therefor. László Székely has also requested the Head of the Hungarian Prison Service Headquarters to take action in order to have the crowdedness in the inbound processing unit reduced.

The NPM has proposed to the Head of the Institution to take the necessary steps to ensure the proper ventilation and lighting of the prison cells and to prevent the ill-treatment of and violence among the detainees. The Ombudsman has also suggested that the staff members responsible for the engagement of the detainees should try to make the latter more motivated in participating in the programs.