

Summary of Case Report No. AJB-2569/2020

On 29 April, 2020, the Commissioner for Fundamental Rights of Hungary, who is responsible for performing the tasks of the OPCAT National Preventive Mechanism (hereinafter referred to as the “NPM”) and two members of his staff paid a visit to the Nagykanizsa Reformatory, an institution of the Ministry of Human Capacities (hereinafter referred to as the “Institute”).

In the Institute with a capacity of 108 places, there were 49 young offenders, of whom 30 were sentenced to correctional education and 19 held in pre-trial detention, therefore the utilization rate was 45.37%.

Due to the state of emergency declared by Government Decree No. 40/2020 (III.11.), the visit, in contrast to the general practice of the NPM, was previously announced to the Institute. The members of the visiting group, wearing appropriate protective equipment, inspected the premises of the Institute and made interviews with the members of the management, the staff, and the detainees.

The aim of the visit was to investigate into the measures taken to prevent the spread of COVID-19 and to cope with the challenges of the pandemic, and to inspect the impact of the restrictions imposed due to the COVID-19 outbreak on the everyday life of young offenders.

Although the NPM already visited the Institute when it was a Unit of the Debrecen Reformatory of the Ministry of Human Capacities, the purpose of the inspection, due to the pandemic situation, was not to check the implementation of the recommendations made in Case Report No. AJB-493/2018 on the previous visit.

At the time of the visit, there was not any COVID-19 positive person in the Institute.

The number of staff working with young offenders in some professional positions (e.g. psychologist, school teacher, subject teacher) did not reach the norm stipulated by law. Some staff members, in addition to the extra tasks performed due to the pandemic situation, had an excessive workload and put in a significant amount of overtime, which jeopardized the enforcement of the residents’ right to protection, care, and mental health.

The restrictions imposed during the situation of emergency affected the detainees’ right to contact with the outside world, as well as participation in education and cultural programs. Personal contacts and participation in programs outside the Institute were prohibited, due to the ban on visiting and leaving the institutions stipulated by the law. The characteristics of the building allowed providing education, and also, work and free time activities, including outdoor sports, for the detainees within the Institute, organized in smaller groups.

The director of the Institute prepared an action plan in order to prevent the spread of COVID-19 in the Institute, which placed strong emphasis on tasks related to cleaning, disinfecting, and providing personal hygiene. He also designated rooms for the isolation and observation of newcomers and possibly infected persons. The visit showed that the staff members and the residents complied with the provisions of the action plan. The visit did not uncover any improprieties with regard to fundamental rights concerning the provision of health care. However, it raised concerns that in certain residential units, the showers, due to a structural and construction defect, were out of order and in need of renovation.

According to the impressions of the visiting team, the detainees were appropriately informed about the pandemic and the restrictions imposed due to the state of emergency. The young offenders understood the necessity of the measures taken, but had some difficulties in coping with the changed circumstances.

The detainees made use of the possibility of extra phone calls, or, depending on the equipment available for their contact persons, communication via the internet as compensation for the restrictions. However, compared to the young offenders sentenced to imprisonment, the detainees of the Institute were at a disadvantage as far as the timeframes of phone communication are concerned, which caused an impropriety in connection with the enforcement of the prohibition of discrimination.