

- NATIONAL PREVENTIVE MECHANISM -

Report on a site visit to

ORMOŽ PSYCHIATRIC HOSPITAL

Explanation

In the course of exercising the duties and powers of the National Preventive Mechanism (hereinafter: NPM) under the Act ratifying the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (Official Gazette of the Republic of Slovenia, no.114/2006), the Human Rights Ombudsman of the Republic of Slovenia (hereinafter: Ombudsman) carries out site visits to places of deprivation of liberty. Apart from representatives of the Ombudsman, representatives of contractual NGOs and, occasionally, independent medical and other experts and translators participate in visiting groups. The legal basis for carrying out control visits by the NPM is presented on the following website: [Varuh kot državni preventivni mehanizem](#).

This report contains only the essential findings of the visit with recommendations for the improvement of conditions or elimination of irregularities. It was prepared on the basis of the report on the NPM visit and the response report of the competent authorities. It is intended for publication on the Ombudsman's website.

Basic location information:

- ▶ **Type of location:** public health institution (hereinafter: Hospital).
- ▶ **Categories of persons deprived of liberty:** persons with mental disorders.
- ▶ **Official capacity and actual occupancy of the location on the day of the visit:** The Hospital has two secure wards with the total capacity of 39 beds – of these, 23 were occupied on the day of the NPM visit.

Course of the visit and preparation of the report:

- ▶ The visit was **unannounced** and was **carried out on 16 September 2014**.
- ▶ **Visiting group:**
Two Ombudsman representatives (a Senior Adviser and an employee) and two representatives of contractual NGOs (ZDUS, Novi Paradoks). An external expert (hereinafter: expert) participated in the part of the visit relating to health and medical care.
- ▶ **Content of the visit:** The main purpose of the visit was to examine the treatment of persons accommodated in secure wards.

► **Reporting:** Our preliminary report was sent to the Hospital on 8 January 2015. We received the reply from the Hospital on 2 March 2015. The final report was sent to the Hospital and the Ministry of Health on 2 April 2015 and we received a reply from the Ministry on 5 May 2015. On the basis of a remark by the Ministry, we slightly amended the report and sent the amended report to the Hospital and the Ministry of Health on 22 May 2015.

► NPM proposal

NPM: We propose¹ that the Hospital act in accordance with the Mental Health Act and inform the court of patients who find themselves in the situation defined in Article 2, point 12 of the Mental Health Act. Informing the court is required in cases in which persons fail to or are unable to give consent to admission to the secure ward. In this way, the final judgment on whether placing the loop and returning a patient to the ward constitutes the fulfilment of conditions under Article 2 of the Mental Health Act will be left to the court rather than the Hospital.

The NPM² cannot provide answers regarding the organisation of individual wards. Namely, it predominantly depends on the accommodated patients and their safety assessment. If patients who are well oriented in time and space are accommodated in the psychogeriatric unit and there is no risk of their wandering, there is evidently no need to establish the secure ward. However, if patients (all or at least some), could wander out of the unit and thus put themselves or others in danger (e.g. by getting lost in a forest, falling into a river, stepping onto a busy road) due to their mental condition (e.g. advanced phases of dementia), their liberty to leave needs to be limited for the sake of their safety. In cases in which a patient's consent cannot be obtained, regardless of how the unit is named, legal basis for an individual's detention is required that can only be provided by a court with a decision, in a procedure

► response by competent authorities

Hospital: In its reply, the Hospital explained that it will consistently comply with the Mental Health Act. At the same time, it pointed out the dilemma related to the future organisation of the psychogeriatric unit as to whether it should be considered to be an open unit with certain specifics of work or a secure ward.

¹ During the visit we noticed that patients in the psychogeriatric unit who wanted to leave the unit were still stopped and directed back by the Hospital staff. The NPM insists on the understanding of the secure ward that has been previously expressed on multiple occasions. When patients cannot leave the secure ward at will, it is no longer possible to claim that their freedom of movement is at least de facto not restricted. In this particular case, this would also apply for the potential introduction of electronic bracelets. The essential circumstance in the restriction of movement is the actual consequence for a resident or a patient, rather than a method used to achieve restriction. Consequently, it means that this accommodation regime in the hospital should be regulated in accordance with the Mental Health Act.

² Our response to the received reply by the Hospital is presented here.

stipulated by the Mental Health Act.

NPM: We recommend that the smoking area in the female secure ward be aerated on regular basis.

Hospital: The Hospital explained that it will regularly aerate the smoking area at the female secure ward.

NPM: We recommend that the Hospital decorate patient rooms and particularly corridors and the common area with patients' handwork that has aesthetic (as well as optimistic) value. Namely, room decoration is also a visual stimulus for patients, making the place more homely and patient-friendly.

Hospital: The Hospital explained that corridors and the common area will be decorated with occupational therapy handwork.

NPM: We also recommend that the Hospital consider the possibility of installing call bells to enable patients in distress to safely call staff, and that the hospital ensure that call bells are not removed from patients who use them frequently (perhaps even without good reason, according to the staff).

Hospital: In its reply, the Hospital explained that more time and perhaps introduction by phases is required for the installation of call bells.

Although we are aware that setting up a call bell system is technically demanding and also involves certain costs, we believe that the Hospital's reply can be considered as preparedness to initiate the efforts to implement this recommendation.³

NPM: We propose that the Hospital continue to encourage the patients to wear daytime clothes.

Hospital: The Hospital explained that it will encourage patients to wear daytime clothes.

NPM: We propose⁴ that the Hospital remind their healthcare personnel in secure wards to be particularly diligent

Hospital: In its response report, the Hospital did not specifically reply to the NPM's recommendation; therefore, we

³ Our response to the received reply by the Hospital is presented here.

⁴ We were surprised by a high number of patients who are accommodated in secure wards upon consent, indications of the staff that might point to active persuasion of patients to sign a consent form and findings of an expert regarding a patient who cannot express his true will. The consent given by a patient to be admitted to the secure ward must be an expression of his/her true will. The consent must thus be based on the patient's awareness that treatment in this ward would be beneficial and provide them with sufficient safety. Doubtlessly, the duty of the admitting physician is to explain the patient's medical condition, the treatment necessary and why it is sensible to implement treatment in the secure ward. However, this explanation must be provided passively. Actively convincing a patient to sign the consent, persuasion or even related threats may encroach on the willingness of the patient to such an extent that they are unable to consent in a way that reflects their wishes. We also cannot talk about patient's will and valid consent if a patient, due to his/her medical condition and/or therapy he/she receives, is no longer capable of understanding his/her situation and thus expressing his/her true will as regards further living and treatment in the secure ward.

when assessing whether patients are able to express their true will and that it would be inadmissible to actively exhort patients or even use various forms of threat to force them to sign a consent form.

NPM: We would also like to draw attention to respecting time limits under the Mental Health Act. We are aware of the fact that sometimes they are unreasonably short, to which our attention was particularly drawn by the Hospital. However, when examining the documentation, we discovered evident breach of deadlines for which there were no grounds (e.g. despite the request that the Director be notified immediately after the admission of a patient, upon which the Director shall immediately notify the court, we discovered in one case that the notification was sent only the second (working) day after the patient's admission, while in another case it was sent the following day, almost 24 hours after admission).

NPM: We would like to point out that particular attention must be paid to the fact that a patient's detention in the secure ward is always based on the court's decision, patient's consent or his/her legal representative's consent if his/her legal capacity is revoked, while a relevant basis for detention should always be recorded. In one case, we discovered that the court decision allowed detention of a patient until 16 July 2014, but the patient was not released until 8 August 2014.

NPM: We propose⁵ that the Hospital remind the personnel of the urgency to accurately complete the forms related to the use of special protection measures.

NPM: We propose that until a more appropriate solution is found, the beds of physically restrained patients subjected to special protection measures be

take this as tacit agreement and assume it will take it into consideration during the course of its operation.

Hospital: In its reply, the Hospital explained that it will consistently comply with the Mental Health Act.

Hospital: The Hospital partially replied to this recommendation when it pointed out the dilemma related to the establishment of the psychogeriatric unit. Therefore, we assume that the Hospital entirely agrees with the recommendation.

Hospital: The Hospital explained it will consistently complete the forms for the use of special protection measures.

Hospital: The Hospital did not specifically reply to this recommendation; therefore, we assume that it will take it into consideration during the course of its

⁵ When examining records of the use of special protection measures, we also noticed that the time of termination of the use of special protection measures was not specified.

separated from the beds of other patients in the secure ward by suitable screens.

NPM: We propose that the hospital comply with the provisions of the Mental Health Act in the case of prescribing medication dosages higher than the maximum permitted.

We understand⁶ the Hospital's statement but hereby point out that prescribing medication dosages higher than the allowed maximum, except in cases and under conditions stipulated in Article 9, paragraph 7 of the Mental Health Act, is not permissible until the relevant commission is convened.

NPM: We propose that the Hospital suitably amend the form for giving consent to treatment in the secure ward by adding a section on the possibility of revoking the consent and potentially a section on giving temporary consent; we also propose that the form be amended by adding a notice that consent may be revoked. The time of giving consent and the time of admission to the secure ward should also consistently be indicated.

Although⁷ we are aware that the adjustment of the form requires some work and that new forms need to be printed, we are nevertheless convinced that the Hospital should be able to carry this out in a few days. Therefore, we believe that the statement that (still) more time and perhaps even implementation in several phases being required for this adjustment is perhaps exaggerated.

NPM: We propose⁸ that the Hospital place the description of complaint procedures near the box for collecting complaints. It would also be appropriate to place some paper (perhaps even a few forms) near the box on which patients

operation, to which we will devote particular attention during the next NPM visit.

Hospital: In its reply, the Hospital explained that in case of prescribing medication dosages higher than the maximum permitted, the Medication Commission has to be convened and that more time and perhaps introduction by phases will be required.

Hospital: In its reply, the Hospital explained that it needs more time and perhaps introduction by phases in order to amend the form for giving consent to treatment in the secure ward by adding a section on the possibility of revoking consent and a notice that consent may be revoked and to introduce consistent indication of the time of consent and the time of admission to the secure ward.

Hospital: In its reply, the Hospital explained that it needs more time and perhaps introduction by phases in order to place the description of complaint procedures near the box for collecting

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⁸ We missed the description of the complaint procedure, and particularly the person a patient may contact if he/she receives no reply within a reasonable time or if he/she is not satisfied with the reply.

may write their complaints, along with a pen attached in such a way that would pose no threat to patients.

In case⁹ of placing some paper and a pen near the box for collecting commendations, suggestions and complaints we are convinced that fulfilment of this recommendation would also require little effort and could be accomplished quickly.

NPM: We propose that the Hospital consider the possibility of using the dining room in the female secure ward for other activities during the hours not intended for dining.

complaints, along with paper or forms and pen.

Hospital: The Hospital did not specifically reply to this recommendation; therefore, we assume it will take it into consideration during the course of its operation and consequently provide even better living conditions in the female secure ward.

⁹ Our response to the received reply by the Hospital is presented here.