

NATIONAL PREVENTIVE MECHANISM VISIT TO DUTOVLJE SOCIAL WELFARE INSTITUTION

Disclaimer: The following report contains only main findings regarding the visit. It was produced on the basis of the original report on the visit of the National Preventive Mechanism and the response of the authorities to it. It is intended for publishing purposes on the official Human Rights Ombudsman of the Republic of Slovenia webpage.

Based on the tasks and competences of the National Prevention Mechanism (hereinafter, NPM) under the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Human Rights Ombudsman of the Republic of Slovenia (hereinafter, the Ombudsman) and the representative of one of the chosen non-governmental organisations (the Slovenian Red Cross) visited, after prior advance notice, the Dutovlje Social Welfare Institution (hereinafter, the Dutovlje SWI) and performed a tour of the secure ward on 25 November 2009. The last time we visited it in the role of the Ombudsman was in 2007.

The Dutovlje SWI is a special social institution for adults with long-term mental health and/or development problems and for people with several types of disturbances. Its capacity is 169 beds. 145 residents reside in the main building in Dutovlje and 24 reside in the separately located residential unit in Sežana. The main building contains six homes or wards: the Grlica Home, the Lastovka Home, the Sinica Home, the Taščica Home, the Brinjevka Home and the Slavec Home. The Grlica Home is a secure ward with 24 beds.

The secure ward has one single-bed room, two two-bed rooms and four five-bed rooms. The NPM's position is that five-bed rooms do not provide adequate privacy to the residents, while there is also a higher chance of conflict among them. We proposed to the Dutovlje SWI a gradual elimination of five-bed rooms and their rearrangement into two-bed rooms (with regard to the size of the complex, exceptionally three-bed rooms). Thus, we support the Dutovlje SWI's efforts to reduce the capacity to 100 rooms.

Particularly in the multipurpose room, the dining room and the hallway the air smelled bad and was unpleasant, therefore we proposes that the rooms be appropriately aired. We were also unpleasantly surprised by the impersonal look of the multipurpose room, the dining room, the hallway and the secure ward rooms. The walls of the rooms were painted in warm colour shades but were empty. It was explained that the residents would destroy or break the objects and paintings on the walls. Regardless, the NPM insisted that the rooms could be furnished more pleasantly, e.g. with objects made by the residents (we saw many such items in the premises of the occupational therapy area), calendars, photographs from trips, etc. The rooms could have been more pleasant, while any damage to the exhibited objects and other paintings would not have presented major financial loss.

During the tour of the rooms we noticed that the room inventory is (too) modest and also insufficient in some rooms. The rooms are equipped with beds and wardrobes; however there is practically no room for other furniture (tables, chairs). There were also no night lights above the beds. The residents put their clothes on the edge of the bed or on a nightstand.

VARUH ČLOVEKOVIH PRAVIC RS

DUNAJSKA 56, 1109 LJUBLJANA TELEFON: +386 1 47 500 50 FAKS: +386 1 47 500 40
BREZPLAČNI TELEFONSKI KLIC IN INFORMACIJE: 080 15 30 E-MAIL: INFO@VARUH-RS.SI

WWW.VARUH-RS.SI

However, the nightstands were missing in some rooms. Beside one of the beds, the nightstand was substituted by a chair. The Dutovlje SWI managements explained that some nightstands were removed for security reasons (if there is a chance that, for example, when getting out of bed or turning in bed, the resident could bump into it and hurt himself) or other reasons (thus, for example, the resident who had a habit of urinating into it no longer has a nightstand, as well as the resident who prefers to lay his clothes on a chair). We proposed that in such cases the removed nightstands be replaced with a storage surface by the bed. In one of the psychiatric hospitals we visited, the nightstands were removed for security reasons and replaced by shelves above the beds. We also proposed to the Dutovlje SWI to examine the possibilities for better furnishing of the rooms in general and to regularly perform small repairs of the inventory, because in one of the rooms we noticed that one of the three lights had burnt out and one ceiling light was broken.

There are four toilets, one toilet for the disabled, four showers and one nursing bathroom at the ward. The residents are bathed 1 x a week or when necessary, while assistance in oral hygiene is provided every morning. Pedicure is also provided every week, hair cutting, if necessary, and, without additional payment, hair styling and colouring to the interested female residents. The Dutovlje SWI's care for the look of the residents was commended. We observed that no paper towels for the wiping of hands were available to the residents, but only cloth towels. Thus, NPM proposes that the Dutovlje SWI examine the hygiene aspect of using cloth towels for the wiping of hands.

At the time of the previous visit we criticised the locking of rooms at the secure ward during the day, with which the Dutovlje SWI tried to encourage the residents to be active, otherwise they would just lie in bed most of the day. At that time we agreed that physical activity was important for the residents, and we proposed that a more appropriate way of achieving that goal be found. At this visit the rooms were no longer locked, and (just) a few residents rested in them.

The situation of the employees at the Dutovlje SWI is in accordance with personnel norms, except the 16 guardians (guardians and animators) of 21 required at this visit. The medical model of working with the residents no longer prevails but the social model, which we welcomed. To this end, more experts in the field of social care were employed: a psychologist, social pedagogue, special pedagogue, three animators and fifteen guardians. This staff also treats the residents of the secure ward. At the visit of the ward and reviewing the work schedule we determined that two days prior to our visit to the ward, no guardian was present (23 and 24 November), as well as on the day of our visit (25 November). The persons responsible were not able to explain how the presence of the guardian will be provided for in the following days. Namely, it was explained that this occurred due to sick leave. Such an explanation would be acceptable only for the first day of unexpected absence, but absolutely not for three days or more; therefore, we proposed that the Dutovlje SWI respond faster and provide for the required reallocation or staff at the secure ward. Subsequently it was explained in the response report of the Dutovlje SWI that between 23 and 25 November five guardians were absent (the guardian at the Glica Home and two other guardians on sick leave, the guardian on maternity leave, and the guardian on the planned annual leave). Such a large number of absent workers may not be immediately substituted. The Dutovlje SWI has already employed three new guardians (one for the Glica Home) and another five are planned to be employed. If necessary, social workers, a psychologist, an occupational therapist and other professionals are present at the secure ward. During the day, at least one employee is present at the Glica Home, so that the residents are never alone. One of the three should be present also at night, however, the Director determined that the employees had reservations or were afraid to be alone at night with the residents at the ward. Thus, she could not guarantee the continuous presence of an

employee at night at the secure ward, but she could guarantee regular rounds. We proposed that the efforts for a continuous presence of an employee at the secure ward be continued, while paying appropriate attention also to providing security for the employees.

Because the secure ward is located on the ground floor, it has a direct exit to the paved yard, extending to the fenced part of the park. In the yard, the residents move around alone, but they may visit the park, which can be freely accessed through the Institution's hall, only when accompanied by an employee. The yard and the park are separated by doors that open if necessary. During our visit, there were five of 24 residents at the ward who were allowed to leave the ward on their own. Others may only leave it if they are accompanied. On the days when the weather does not allow outside activities, the personnel take the residents (in a group or individually) for a walk around the Institution. As we made sure, such accompanied walks were carried out and recorded in a report.

Based on an inquiry performed by the Ombudsman at the Local Court in Sežana in 2008, she was informed that, up to and including 2007, this Court carried out the proceeding determined in Articles 71 to 81 of the Non-litigious Civil Procedure Act based on notices received from the Dutovlje SWI. When in 2008 the Court received two notices proposing the extension of the confinement, the Court decided not to implement the procedure referring to the Higher Court case-law. Thus we determined that at the beginning of the entry into force of the Mental Health Act (ZDZdr) all persons at the Dutovlje SWI's secure ward, for whom a judicial proceeding should have been carried out, resided there without a court decision. This finding was confirmed also by the Director.

In reviewing the documentation of the persons for whom a notice must be sent to the court based on the provisions of ZDZdr, we determined that there was a three-month delay in sending the notices to court. The NPM believes that the Dutovlje SWI, which did not send the notices to the court immediately after ZDZdr entered into force, acted wrongly. We pointed out that in the future they must be more careful in sending these notices in due time and, in particular, to inform the court in due time of extending the confinement of a particular resident at the secure ward. Furthermore, the Dutovlje SWI explained that, based on the notices sent to the Local Court in Sežana, they already received the court decisions that the applications be submitted to the courts in the area in which the resident's permanent address is located. We pointed out the first paragraph of Article 41 of ZDZdr which, based on the second paragraph of Article 75, also applies to the admission of persons to the Dutovlje SWI's secure ward. According to this provision, a proposal must be submitted before a competent court in the area where the person's permanent or temporary residence is located or, if the person does not have a permanent or temporary residence, before the court in the area in which he actually resides. We proposed that in the future the Dutovlje SWI send the proposal for admission to a competent court, which will also shorten the time for the court to adopt a decision. NPM does not agree that in such cases the provision on the court's local jurisdiction is not completely economical. Most likely its purpose was to reduce the burden of particular courts; however, the costs of a faraway court coming to the Institution will be higher. We also doubt that the impact of reducing the burden of the competent court according to the location of the Institution will be achieved, because we presume that, due to the distance involved, the competent courts will most likely use legal assistance. Regardless, in the response report, the Dutovlje SWI assured that greater attention would be paid to submitting the applications for the admission to the secure ward or to extend such an accommodation in due time and that the applications would be submitted with regard to the jurisdiction of courts.

The Director assured us that the implementation of special protection measures (hereinafter, SPM) was carefully monitored. They try to avoid using them. If a resident's health condition worsens, his therapy is changed or he is hospitalised. They determined that most often a

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DUNAJSKA 56, 1109 LJUBLJANA TELEFON: +386 1 47 500 50 FAKS: +386 1 47 500 40
BREZPLAČNI TELEFONSKI KLIC IN INFORMACIJE: 080 15 30 E-MAIL: INFO@VARUH-RS.SI

WWW.VARUH-RS.SI

health condition worsens due to abandoning the prescribed medication therapy. The staff tries to calm the restless residents with appropriate communication, NPM supported the Dutovlje SWI's decision to use SPM as a last resort, particularly the fact that they try to calm the resident in a personal manner, with human closeness. We are aware that this requires greater efforts by the staff. Therefore, we proposed that the Dutovlje SWI keeps paying attention to educating the personnel and preventing their overburdening.

The Segufix restraints are not used, or are used only for restraining one extremity (as a safety restraint) or to wheelchairs to prevent sliding. We determined that the proposals for approving the restraints must be first submitted by the head of the ward, the team nurse or the person who identified the need to the Commission for determining the justifiability of using protection measures, consisting of the head specialist (the president), the head of the health care service, the head of the social and psychological service, a psychologist, a special pedagogue, the head of occupational therapy and a physiotherapist. The use of SPM is then approved in writing by a doctor. The allowed time of its use varies, usually up to 3 months. If the staff assesses that an SPM is no longer necessary, they propose that the Commission terminate the measure. The legal representative of the resident, if one exists, is informed of the permission/termination of the use of the SPM, as well as the Director with a decision. We pointed out that such actions were not in compliance with ZDZdr, which in the sixth paragraph of Article 29 determines that, with regard to ordering and implementing a special protection measure, the doctor who ordered such a measure informs thereof in writing within 12 hours from ordering the measure the Director of the psychiatric hospital or the social welfare institution, a family member, an attorney and a representative. If no doctor is present, the special protection measure may be implemented also by another professional worker at the social welfare institution; however, he must immediately inform the doctor thereof who without delay makes a decision on the justification of such a measure. If the doctor does not order the measure, the implementation of the measure will be abandoned. The professional worker makes a written note regarding the notification of the doctor. In the response report, the Dutovlje SWI's position was that they do not use SPM as determined in ZDZdr, namely, the restriction of the movement within a room and physical restraint with belts or restraining a person with their arms and legs to the bed frame. Thus, they believe that they are not obliged to act in accordance with the sixth paragraph of Article 29 of ZDZdr. They use bed rails to prevent falling from the bed, a chest belt when sitting on a wheelchair to prevent slipping from the wheelchair and, only for one female resident, restriction of movement with arm restraints to prevent her from removing the trachea and gastrostomy, which would endanger her life. Thus, NPM believes that ZDZdr does not define a special protection measure with regard to the number of belts used for restraining and does not distinguish SPM from just "protection measures". The protective body restraint used for managing the patient's dangerous (and non-dangerous) behaviour means encroachment on personal integrity and freedom, which is why a clear indication and suitable supervision of implementing this measure are required. The least restrictive method should be used, and the measure should last for the shortest time needed relating to the reason for implementing it.

We welcomed the cancellation of the isolation room in the basement that was entirely unsuitable for implementing the special protection measure, which we pointed out at our visit in 2007. At this time, there is no such room at the Dutovlje SWI and, as explained by the Director, having a talk with the residents is a priority. To this end the Expert Council of the Institution adopted the Instruction concerning actions in the case of an aggressive individual. The Director explained that such a method of solving conflicts, based on appropriate communication, proved to be efficient; however, some employees have a hard time accepting and implementing it. Thus, they focus on additional education of employees.

The house rules determine that the residents (or legal representatives) and their families may express their praise or complaint orally or in writing to the Institution's social worker, the head of the health care service, the head of the residential unit, the director or at the secretary's office. A praise or complaint may also be dropped into the boxes for praise and complaints. One is located in the hall and the other at the secure ward. This also provides for an anonymous submission of complaints to the residents of the secure ward. The instruction on submitting a complaint and the list of the residents' rights according to ZDZdr are located by the box for complaints. According to the director's explanations, the Dutovlje SWI believes that a broader list of rights should be prepared for the people residing at the secure ward. The list of rights was considered by the Institution's Expert Council in cooperation with the Director and adopted by the Institution's Council. During the visits, we received different explanations on the complaint consideration procedure from the persons responsible, but when we wanted to get acquainted with the conclusions on the justifiability of the complaints and any measures taken, this was not possible since no such record existed. That is why we already suggested during the visit that the Dutovlje SWI also adopt an instruction concerning the management of complaints and, in this way, ensure that every complaint will actually be considered. It was already stated in the response report that a written 'Instruction for the workers in the consideration procedure of applications, complaints and other requests of the residents and legal representatives' was prepared after our visit, which is now applied to the proceeding and its recording.

The NPM's representatives also took a look at the room for the deceased, where a resident who dies at the Dutovlje SWI waits for the undertaker's establishment. According to our assessment, the room was completely inappropriate for this purpose because it was dusty, dirty and large pieces of plaster were falling off. Despite the Director's explanations that there are only a few deaths at the Institution and that the deceased is immediately transported by the undertaker's establishment from the ward, we proposed that the room for the deceased be organised so that it is immediately available, if necessary, and shows piety to the deceased. Based on the response report we determine that the Dutovlje SWI already ordered the preparation of the project for renovating the room for the deceased and that the IPID was elaborated and submitted to the founder. NPM expects that the project will be implemented as soon as possible.