

BASIC FINDINGS FROM THE INSPECTIONS PERFORMED BY THE BULGARIAN OMBUDSMAN AS NPM IN HOMES FOR ELDERLY PEOPLE WITH MENTAL RETARDATION, HOMES FOR ELDERLY PEOPLE WITH MENTAL DISORDERS AND HOMES FOR ELDERLY PEOPLE WITH DEMENTIA

1. Subject to the NPMs inspections were:

degrading, cruel or inhuman treatment, isolation, restrictions, use of force, procedures for submission of complaints and signals, disciplinary procedures, food, lighting and ventilation, personal hygiene, sanitation facilities, accommodation and overcrowding, access to medical care, specific health services for the mentally ill; contacts with the outside world.

2. Findings and frequently detected, serious problems:

2.1 Facilities

During the inspections the NPM has found that the large number of consumers using services in homes for elderly people with mental retardation (HEPMR), homes for elderly people with mental disorders (HEPMD) and homes for elderly people with dementia (HEPD) is kept regardless of the vision to deinstitutionalize such services. This leads to the conclusion that there is still no alternative to the institutional care. There are no sufficient support services in the community (protected homes, transitional housing centers and family-type centers).

The trend such type of social services to be located in places far from big cities is quite common. This fact, along with the lack of transport links, makes the access of qualified professionals and the provision of health services to consumers difficult. The above significantly reduces the extent of ensuring the rights of people with mental retardation, mental disorders and dementia.

A negative finding is the lack of ramps for people with disabilities in many of the homes, which violates art. 40g, item 1 of the Rules for implementation of the Law on Social Assistance. On this occasion, recommendations have been sent to the Social Assistance Agency and to the municipality mayors.

During the investigations of the NPM has been also found that some homes do not provide enough toilets and dormitories for the consumers, which is in violation of the Rules for the implementation of the Law on Social Assistance (RILSA).

Also in violation of the Rules on implementation of the Law on Social Assistance there were no emergency call systems equipped with an easily accessible alarm button, security cameras and alarm systems in most of the homes.

2.2 Management and administrative capacity

During the inspections in almost all homes it had been identified understaffing of specialized personnel. In part of the inspected state institutions the staff provided for social workers is insufficient compared to the number of consumers and the structure of the personnel should provide for additional positions.

Very disturbing is the fact that a number of existing positions for some specialists (speech therapist, psychologist, physiotherapist, occupational therapists) are vacant, which challenges the provision of quality care for the consumers. Distance of the homes from the big cities and low payment of the employees makes the jobs unattractive to the specialists (physiotherapists, psychologist, occupational therapist, social worker).

In such a context, the NPM has recommended to the Ministry of Labor and Social Policy (MLSP) to:

- Earmark budgetary resources for salary increases for the medical staff, as current salary scales are the main impediment to filling the numerous job vacancies available, which in turn undermines the provision of quality health care to the homes for elderly people with dementia residents;

- Regulate the possibility to add new staff positions for practitioners directly involved in delivering services to eldercare beneficiaries, as well as for specialists and support staff.

2.3 Medical care

The medical care provided in the homes for adults is performed by a general practitioner (GP) and health offices inside of the institutions. The medical diagnostic process of the residents is led by the GP. The staff of the health offices consists of medical specialists - paramedic and nurses. In cases of emergencies are called ambulances.

Due to the shortage of physiotherapists who should do rehabilitation in most of the institutions the physical activity of the patients is reduced.

After the conducted inspections the conclusion could be drawn that in many homes the medical care is provided at lowered standards – both in quantitative and qualitative terms. It is neglected and is reduced to routine manipulations without actually engaging the staff with the health conditions of the consumers.

In some of the individual health care plans the diagnosis are not even recorded in their full extent when examination by medical experts is held and included in personal medical records of the patients. These are referred to as “underlying diseases” and targeted researches and consultations with specialists in order to administer adequate treatment for them have not been made, i.e. the adequate diagnostic and therapeutic steps had not been taken in compliance with the rules of the good medical practice.

The NPM established a case in which a GP sent for treatment patients whose diseases should be established by a specialist.

During the interviews with the staff it was found a case in which the GP provides patients with information about the necessary treatment on the phone and comes in the home only when is needed. To the patients who are given the medicines fully or partially paid by the National Health Insurance Fund (NHIF), the GP writes out prescriptions on a monthly basis and submits them to the pharmacy and the institution`s staff takes the medicines and delivers them in the home. All of this happens without the general practitioner to see the patient (HEPMD – Razdol) despite the fact that under the current regulations medicines cannot be prescribed without a medical examination of the patient.

The NPM didn't find cases of medication-based restrictions to freedom.

The NPM noticed that the practice in the homes providing social services is in case of death of a patient the notice of death is made by the GP and not after a pathological examination of the deceased is made.

The NPM emphasizes that it is important to be carried out a post-mortem examination in any case of death of a person who uses the appropriate social service. In this way are avoided both suspected neglect of the patients' health and this is a way to identify potential medical errors.

2.4 Treatment and resocialization

The process of resocialization of the consumers is extremely difficult. A small percentage of families and friends do not interrupt the contact with the consumers through phone calls or meetings with them in the home. There are cases in which the institutions become a permanent place for living for people with mental health problems, mental retardation and dementia.

During the inspections the NPM also found that the large majority of the consumers in the HEPMR, the HEPMD and the HEPD are under full or limited custodianship. Their custodians/guardians are the director of the institution or another member of the staff and in rare cases – their kin and relatives. In all of its reports the NPM highlights the question of how only one person is able to fully care for the interests of a large number of people and manage their property. The opinion of the NPM is that a legislative change and adoption of a new approach considering the people under interdiction living in institutions is necessary.

It is important to be taken into consideration the recommendations of the European Court of Human Rights in the case “Stanev v. Bulgaria”. There the court found out that „the placement of the claimant had not been ordered “lawfully” and his detention is not justified by the letter “e” of article 5, paragraph 1 ... Bulgarian courts not once, in any form, have participated in the placement of the claimant and the national legislation does not provide for regular and automatic review of the placing of people in a home for people with mental disorders”.

2.5 Deinstitutionalisation of the care for the elderly and the people with disabilities

The National Strategy for Long-term Care (CoM Decision No. 2 / 07.01.2014) was approved in the early 2014 as an effort to develop the long-term care for the elderly people and to improve their quality of life. The Strategy places special focus on the deinstitutionalisation of care for people with disabilities and elderly people, development of home-based services and support to the families, with increased responsibility for the care for dependent family members. Promoting the interaction of social and health services and the implementation of an integrated approach are also prioritised in the Strategy.

One of the key priorities of the Strategy is to establish a more effective financing mechanism for long-term care and to achieve sustainable increase of funds for community-based and home-based services.

3. The NPM has identified the following main priorities in the domain of eldercare services:

- The facilities and the equipment of all residential institutions should be brought in compliance with the requirements of the Rules for the Implementation of the Social Assistance Act, including the creation of an accessible environment;

- The establishment of guardianship should comply with the provisions of Article 156, para 1 of the Family Code with a view to limiting the practice of appointing staff members of specialized institutions as guardians;

- The competent institutions should exercise regular and efficient oversight over all service providers of residential elderly care to ensure compliance with the requirements of the medical standards and the Social Assistance Act and the Rules for its implementation;

- Actions should be taken to have the MLSP-approved and appropriately updated Staffing Methodology for the Specialized Institutions and Community-Based Social Services;

- The process of deinstitutionalisation of the care for the elderly and the people with disabilities should be accelerated.