



VARUH
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PRAVIC

VARUH ČLOVEKOVIH PRAVIC RS

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SEE NPM Network Workshop

„Homes for the elderly/care institutions
and dementia – standards in health
care and medication-based deprivation
of liberty”

21 and 22 April 2016

Salzburg/Austria
Ivan Šelih & Jure Markič

Homes for the elderly - social security institution

General or special (mixed)

Home for the elderly generally takes care for institutionalized safety of the elderly (over 65).

Special social security institution for adults performs special forms of institutional care for mentally and physically disabled adults.

Institutional care for elderly people is performed as a public service by public social security institutions (public service network) and also by legal or natural persons with a concession, while outside of the public service network by persons with working permit of the ministry responsible for social welfare.

Total capacity: 20.227 places

- Public (state): 49
- With concession: 38
- Special: 5
- Mixed: 6
- Total: 98 homes for elderly

Institutes Act, Social Security Act, Mental Health Act (MHA)...

Requests: to amend and supplement the Mental Health Act

Rules on staff, technical and premises requirements for institutional care providers and Social Work Centres providing mental health services, and on the verification procedure thereof.

Mental Health Act: Social security institution means the general or special public social security institution or a concession operator which performs services within the public service network and is intended for the protection, residence and living of persons whose acute hospital treatment related to a mental disorder has been concluded or they no longer require hospital treatment.



HOME!



Different departments – open : closed (in practice with different names)

Mental Health Act:

Secure ward means a department in a social security institution where, due to their needs, persons receive continuous special protection and safety, and **which they cannot leave of their own free will.**

NPM Visits – homes for elderly with closed departments (secure wards) – Numbers?

De facto - de jure closed departments

When to restrict freedom of movement – persons with dementia?

New concept of care – the concept of personal monitoring?

The more specific issue of the person's actual wish or consent in the case of a person with dementia who wants to leave, should this be considered as their **true wish or merely a consequence of their disease**, and

if we discourage or prevent them from leaving, do **we speak about the restriction of their freedom of movement** or pursuit of their actual wish)?

There is also the issue of the person's **prior consent to placement** in a secure (closed) ward and the question of what is in practice considered **a special protection measure** in the case of persons with mental health problems, and where to draw the line between special and other protection measures.



VAROVANI ODDELEK 1









KODA DVIGALO

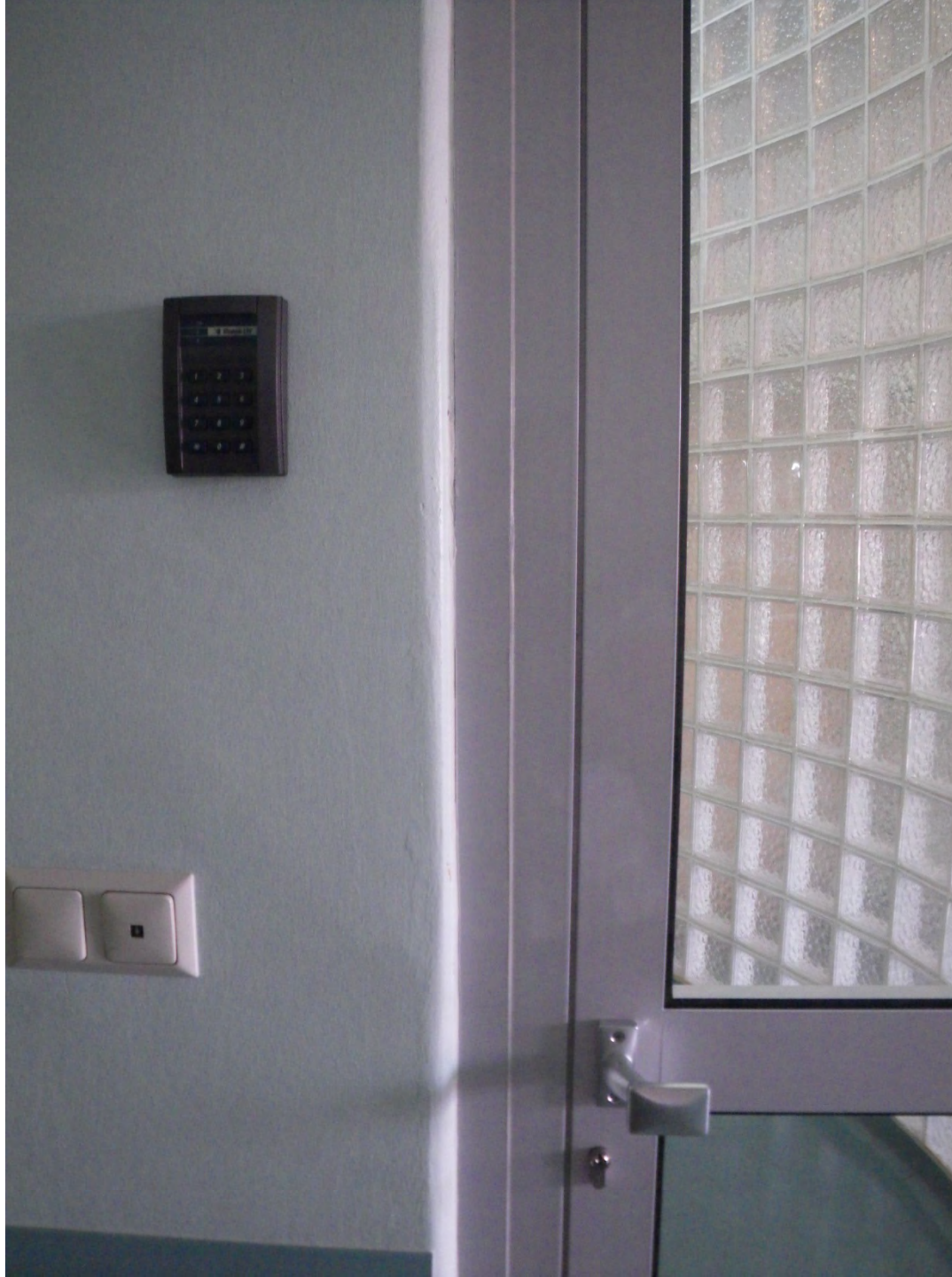
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PREPOVEDANO
KADENJE

BP



OBVESTILO
ZAVRŠENO
OBVEŠČILO
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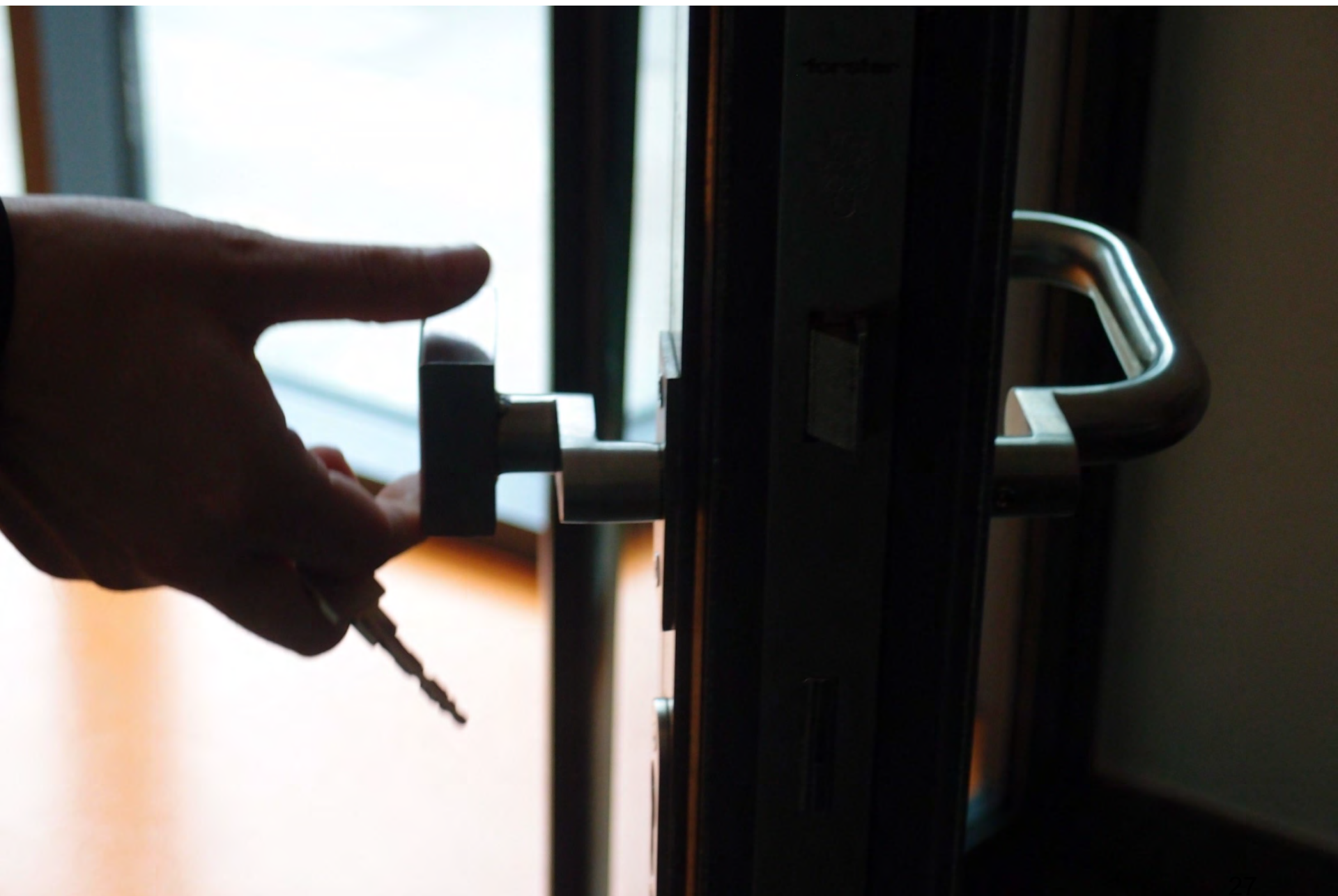




VAROVANI ODDELEK

PROSIMO VAS, DA NE
PUŠČATE ODPRTIH VRAT
IN DA STANOVALCEV NE
SPUŠČATE VEN!

CS TRNOVO





Ustavne in druge pravice in temeljne svoboščine, ne gre za neustavne in druge pravice in temeljne svoboščine, ne gre za neustavne in druge pravice in temeljne svoboščine, ne gre za neustavne in druge pravice in temeljne svoboščine.

Pomembnejše listine, ki govorijo o pravicah in svoboščinah ostarelih oseb v domovih so šir: Evropska listina o pravicah in svoboščinah ostarelih ljudi v domovih iz leta 1993, podpisane s strani Evropskega združenja države članice, delavke/ci na področju socialnega varstva varstvu (5.7.2002). Šledijo govori naslednje: »Delavke/ci na področju socialnega varstva spoštujate vse z Ustavo in zakoni RS zajamčene pravice ter vse mednarodne dokumente s področja človeških pravic (Evropske listine), ki jih je sprejela in ratificirala RS, ter Kodeks etike medicinskih sester in zdravstvenih tehnikov Slovenije, ki pravi: »Temeljna naloga medicinske sestre je krepitev zdravja, preprečevanje zdravja, obravnavanje zdravja ter lajlanje trpljenja. ... nedeljivo povezane z zdravstveno nego je spoštovanje življenja, dostojanstvo in pravice človeka».

Opredeležimo le najpomembnejše pravice, ki poleg ostalih bistveno vplivajo na kakovost življenja stanovalcev v našem domu:

- pravico do upoštevanja in spoštovanja osebne integritete,
- pravico do stikov z zunanjim svetom (uporaba telefona, stiki s svojci, prejemanje in pošiljanje pošilk),
- pravico do zasebnosti in zasebne lastnine,
- pravico do osebnega dostojanstva in varnosti,
- pravico do izbire,
- pravico do duhovnega življenja,
- pravico do prostovoljnega sodelovanja pri družabnih in drugih dejavnostih,
- pravico do realizacije osebnih prizadevanj in zmožnosti v vseh pogledih vsakdanjega življenja,
- pravico do socialne varnosti,
- pravico do soglasja k medicinskim posegom ter pravico do odklonitve posegov,
- pravico do vpisa v zdravstveno dokumentacijo,
- pravico do seznanitve s stanjem zdravljenja,
- pravico do varstva in nege,
- pravico do zaštite proti ponizujočemu ravnanju in vsakršnemu nasilju,
- pravico do razgovorov,
- pravico do premestitve v drugi zavod in
- pravico do ugovora.

Vse zgoraj navedene pravice pomembnosti pri svojem izvajanju ne smejo kršiti pravice drugega.

Delavci Doma starih Rakičanov in ostalih stanovalcev spoštujemo, obenem pa se obvezujemo, da bomo stanovanjem pridali vsaj eno izmed etičnih načel.

Vsak stanovalec ali njegov družnik ima pravico do ugovora na pristojni organ nadzora, če meni, da so bile kršene njegove pravice. Najpogostejše je, da se spor skla razreši tam, kjer je nastal, to je v zavodu, kjer se storitev izvaja. Izvajalec storitve osnovne in socialne oskrbe ter zdravstvene nege je Doma starih Rakičanov, izvajalec zdravstvene dejavnosti je Zdravstveni dom Murska Sobota, na katere naslov gredo tudi naslovi ugovor.

Ugovor oziroma pritožbo lahko predložite pisno v okviru »pritožb ali pohval«, pripombe in predloge prav tako lahko uradno ustno pri izvajalci storitve, njegovim nadrejenim, socialni službi ali pa direktorju Doma.

Na podlagi 94. člena Zakona o socialnem varstvu (U. l. RS, št. 36/2004 – uradno prečiščeno besedilo) ima upravičenec v primeru, če ni zadovoljen s posamezno storitvijo pravico do ugovora neupr. delo strokovnega delavca ali strokovnega sodelavca v roku 8 dni od opravičene storitve na Svet zavoda Doma starih Rakičanov.

Nadzor nad delom javnih socialno varstvenih zavodov na podlagi 102. člena Zakona o socialnem varstvu organizira in izvaja socialna inspekcija v okviru organa v sestavi ministrstva, pristojnega za socialno varstvo. Zahtevo za nadzor nad delom Doma starih Rakičanov lahko v skladu s 105. členom Zakona o socialnem varstvu poda upravičenec do storitve, njegov zakoniti zastopnik oz. druga oseba, ki je imela v postopku položaj stranke, utemeljeno podlaga pa tudi državljanski član upravičenca ali uporabnika združenja, na naslov Inspektorat Republike Slovenije za delo SOCIALNA IN SPEKCIJA

Parmova 33
1000 LJUBLJANA

Stanovalci ali njegov zakoniti zastopnik ima v primeru nezadovoljstva pri nudenju storitve možnost podati pripombo, mnenja in predloge tudi:

SOCIALNA ZBORNIKA SLOVENIJE
Kosovska cesta 8
1000 LJUBLJANA

da ocenijo morebitno kršitev Kodeksa etičnih načel v socialnem varstvu. V kolikor meni, da so mu bile nudene neustrezne zdravstvene pravice, pa se lahko poda ugovor ali pritožbo na Ministrstvo za zdravje, Štefanova 5, 1000 Ljubljana.

Uporabnik ima pravico vložit zahtevek pri VARHU ČLOVEKOVIH PRAVIC
Dunajska cesta 56
1000 LJUBLJANA

Za pregled zadeve, v kolikor meni, da so mu kršene ustavne pravice in svoboščine.

Uporabnik se lahko obrne tudi na ZASTOPNIKA PACIENTOVIH PRAVIC, ki mu lahko svetuje, pomaga ali ga po pooblaščenju zastopa pri urejanju pravic po Zakonu o zdravstveni negi, pomaga ali ga po pooblaščenju zastopa pri urejanju pravic po Zakonu o zdravstveni negi, pomaga ali ga po pooblaščenju zastopa pri urejanju pravic po Zakonu o zdravstveni negi.



















OBISKANE USTANOVE	število lokacij	PRIPOROČILA				
		uresničena	sprejeta	nesprejeta	ni podatka	SKUPAJ
policijske postaje	23	84	52	8	2	146
center za tujce	1	3	6	3	/	12
psihiatrične bolnišnice	3	29	22	4	1	56
socialno-varstveni zavodi	21	29	84	2	/	115
posebni socialno-varstveni zavodi	5	15	25	10	37	87
zavodi za prestajanje kazni zapora in prevzgojni dom	7 + 1 dva krat	45	59	15	/	119
vzgojni zavodi	4	3	32	1	12	48
vstopno-sprejemni center za begunce/migrante	1	3	6	8	/	17
SKUPAJ	67	211	286	51	52	600

Focal points of NPM visit to elderly home

- premises of the security wards must be such as to provide the persons a domestic environment – staffing levels, attitude of the staff
- providing sufficient possibilities for emergency calls
- necessity of ensuring that persons from the security wards spend time outdoors (fresh air), and other activities
- medicine prescription “on a need-to basis” must be specified more accurately (aspect of quantity and time)
- consistency in notifying the court about detention of persons, who are incapable or unwilling to consent to it
- timely response to complaints of the persons

- Dr Peter Pregelj, specialist – psychiatrist
- Dr Milan Popovič, specialist in general surgery.
- Dr Zdenka Čebašek-Travnik, specialist - psychiatrist (former Human Rights Ombudsman).

Doctors are listed as physician experts and **agreements on cooperation** are concluded with them.

An individual expert is selected from the list by the Ombudsman as per the type and place of an individual visit performs the tasks according to the orders and instructions of the Ombudsman and in cooperation with the Ombudsman's expert colleagues by participating in planned visits and providing written replies to the Ombudsman's questions in the role of the NPM and providing their own findings, particularly on the suitability of medical care and the treatment of people deprived of liberty.

Admission of the person to a social security institution :

- voluntary or involuntary (to a secure ward) on the basis of a court order – court procedure
- with or without the person's consent under the conditions provided for by Mental Health Act.

MHA: The person shall be provided protection of his/her **personal dignity and other human rights** and fundamental freedoms, individual treatment and equitable access to the treatment.

A person shall be ensured respect for human rights and fundamental freedoms, in particular for the person's personality and dignity, and physical and mental integrity.

Other rights from MHA: right to correspondence and use of electronic mail, right to send and receive postal consignments, right to receive visitors, right to use the telephone, right to movement, right to a representative.

- **Special protection measures:** physical restraint with belts and movement restricted to one room.
- Nature: security or health? Inspection (health or social)
- Definition: A special protection measure shall be an urgent measure used with the aim of providing for the treatment of the person, or to eliminate or control the dangerous behaviour of the person, when the person's life or other persons' lives are threatened, when the person's or other persons' health is severely threatened, or when such behaviour causes severe pecuniary loss to the person concerned or to other persons, and when such threats may not be prevented by undertaking any other milder measures.
- Requirements MHA: only in exceptional cases, ordered by a doctor, time limitation (4 or 12 hours, permanent supervision, recordings, evidences, report to a director, the next of kin, a lawyer and a representative in writing.

Practical experience

- Special protection measures are often applied contrary to the legal requirements (missing doctor's approval, records not being kept, no notification)
- Open issues:
 - applying physical restraint while being on the wheelchair or recliner
 - physical restraint during medical measures (infusion)

MHA: The treatment of a person shall comply with methods that have been peer reviewed and with **internationally recognised standards.**

An intervention in the health field shall be **proportionate** to its purpose.

Among several possible interventions in the health field with comparable effects, an intervention shall be chosen or proposed that **least interferes with the person's personal integrity, least restricts the person's personal liberty** and entails the **least unfavourable effects.**

Special treatment methods MHA:

- treatment by electroconvulsive therapy,
- hormone treatment,
- administration of psychotropic drugs in amounts that exceed the maximum prescribed dosage. ???

But: All special treatment methods may be applied only exceptionally under the conditions provided for by Mental Health Act, and only in psychiatric hospitals.

- Medical care in the visited homes is in general good, including the availability of a general practitioner, a psychiatrist and a dentist .
- General practitioners are present in the majority of elderly homes every working day (some hours), and psychiatrists are available 2- to 3-times a month; consultations by phone are also possible. **A need for standards? Also for other staff?**
- Psychiatrists examine the residents of secure wards at regular intervals and more frequently if necessary.

We established a potential risk of incorrect dosage during the distribution of medication.

We noticed several recordings of incorrect medicament therapy. The staff distributing medications made a mistake and gave medication intended for a certain resident to another resident, morning and evening dosages were mixed up and similar.

We pointed out that when prescribing medications with recommended maximum daily doses, the provisions of the MHA must be observed or lower dosages must be used.

Regarding medications prescribed “when needed”, we proposed that it be recorded in the medical documentation of a resident when such medications are to be prescribed and how many times the person may take such medications per day (preventing excessive dosage).

We believe that when prescribing psychopharmacotherapy for residents who are unable to give their consent to accommodation in secure wards or to such treatment, the consent of relatives should be obtained in non-urgent cases and suitable procedures should be instigated – MHA

Other opened questions:

- leave from the institution - free will of person with mental disorders? Consent for a placement in secure ward – for a future, dementia?
- De facto deprivation of liberty – different practise in elderly homes
- Admission to a secure ward – full, extra beds in living rooms, corridors – special press conference!
- Placement or/and supervision „former forensic patients“ ?
- Admission of a person who has been deprived of his/her legal capacity - the consent shall be given by the person's legal representative (only, without his/her consent or court supervision or procedure)!
- Payment for a stay in secure ward?
- Where is a difference between special (MHA) and other measures ?

MHA: Non-litigious civil court proceeding:

- only procedure for admission for treatment to a secure ward in a social security institution without consent on the basis of a court order,
- *procedure for admission for treatment to a secure ward in a psychiatric hospital without consent on the basis of a court order or in urgent cases*
- Involuntary placement – involuntary treatment

Informed consent?

How to solve conflicts between residents – when to call a police?

Thanks!

