

Conclusions of the summary report on the jurisprudence relating to ordering treatment in an emergency psychiatric hospital

The jurisprudence-analysing working group which was set up to examine the jurisprudence relating to ordering treatment in an emergency psychiatric hospital has revealed several deficiencies in the judicial practice on ordering such treatment.

The working group has established that the identified deficiencies were due to the following factors:

- the procedural guarantees, the time limit for the completion of the proceedings resulted in a high daily caseload at the institutions, the courts and the experts;
- the problems, which also affected patients' fundamental rights, were partly due to inadequate staffing and material conditions, and to shortcomings in the organisation of work;
- the current staffing, material and technical conditions are insufficient to meet the safeguard requirements;
- the inadequate regulation of the procedural aspects of the Health Act questions the applicability of the rules of the Code of Civil Procedure to such proceedings;
- in light of the identified problems there is a risk of formalistic application of the law;
- to eliminate the deficiencies, both the objective and the subjective conditions, and the uniform application of the law must be ensured.

The jurisprudence-analysing working group has stated that in such cases the courts can fulfil their obligations set out under international law and constitutional law by way of a more detailed regulation than the one available at present, by observing the procedural protocol, and by ensuring full respect for the procedural rights of the persons concerned. This requires, in addition to the proper organisation of the courts' work, to fully ensure the requisite human and material resources within the health institutions. The working group has drawn the attention of the heads of the courts and the health care institutions – who are responsible for creating the requisite conditions and are empowered to take the necessary actions – to the importance of cooperation, which is essential in such cases, and to the need to ensure that human resources and material conditions are adjusted to the caseload.

For these reasons, the jurisprudence-analysing working group has formulated proposals to the legislator for incorporating additional rules in the Health Act, made recommendations in relation to the protocol of the relevant court procedure, and called for the inclusion of training on the procedure to be followed by guardians *ad litem* in the curricula of the bar associations.