



**DIS-CONNECTED:  
DISABILITY-BASED CONNECTED  
FACILITIES AND PROGRAMMES  
FOR PREVENTION OF VIOLENCE  
AGAINST WOMEN AND CHILDREN  
IN HUNGARY**

101049690- DIS-CONNECTED

National Findings Report: Hungary

Validity Foundation



## **Acknowledgments**

We are grateful to all the persons with disabilities and the professionals who shared their stories and experiences with us. It is their contributions which make this report so valuable.

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## **Dis-Connected: Disability-based Connected Facilities and Programmes for Prevention of Violence against Women and Children**

Gender-based violence and violence against children in vulnerable situations is both overlooked and under-reported, and the recent COVID-19 pandemic further aggravated these issues. The global report of the COVID-19 Disability Rights Monitor recorded numerous testimonies suggesting a dramatic increase in gender-based violence against women and girls with disabilities, including rape, sexual assault, and harassment at the hands of law enforcement authorities and family members.

This project focuses on improving ways that women and children can report violence and abuse, can access support services, and can move to a safer place. The project will create a multi-disciplinary cooperation and response protocol with law enforcement, service providers and victim support workers to enable prevention, early identification, and protection against violence that women and children with psychosocial and/or intellectual disabilities face.

### **Consortium Partners**

Each participating country is represented in the consortium by an experienced NGO involved in the implementation of the project, as follows:

- Validity Foundation – Project coordinator, Hungary
  - KERA Foundation, Bulgaria
  - Mental Health Perspectives, Lithuania
  - Fenacerci – Federação Nacional de Cooperativas de Solidariedade Social, Portugal
  - Fórum pro lidská práva, Slovakia
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# EXECUTIVE SUMMARY

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## **Aims of the DIS-CONNECTED project**

Gender-based violence and violence against women and children with disabilities in vulnerable situations are both overlooked and under-reported. The recent COVID-19 pandemic further exacerbated the levels of abuse taking place and highlighted the complete lack of adequate responses. DIS-CONNECTED: Disability-based Connected Facilities and Programmes for Prevention of Violence against Women and Children (101049690) is an EU co-funded project taking place in five countries: Bulgaria, Hungary, Lithuania, Portugal, and Slovakia. It focuses on improving the prevention, early identification, reporting and responses to gender-based violence that women and children with mental health conditions, psychosocial and/or intellectual disabilities experience.

## **Research questions**

This national briefing paper seeks to respond to the following questions:

- 1) What monitoring mechanisms, processes and protocols are in place within mental health services in Hungary to prevent and identify domestic violence and assist reporting, taking on an intersectionality perspective?
- 2) What support measures are in place to enable women and children with mental health conditions, psychosocial and/or intellectual disabilities to report domestic violence and access help, support, remedies, and reparations, including to leave their situation of violence?

## **National context**

The legal and policy landscape in Hungary concerning gender-based violence against persons with disabilities reveals significant shortcomings, as emphasised by the CRPD Committee's 2022 concluding observations. From legislative gaps addressing gender-based discrimination to concerns about abuse within institutional care, the findings underscore systemic issues, urging reforms and improved oversight mechanisms.

## Key findings

- Existing legal and institutional frameworks and regulations exhibit shortcomings in effectively preventing, identifying, and reporting gender-based violence in Hungary. Women and children with disabilities often struggle to identify abuse due to a lack of accessible information and resources. Prejudice, societal misconceptions, and disability- and gender-based stereotypes further hinder comprehensive sex education by the infantilisation of women with disabilities and the denial of their agencies over their own bodies, perpetuating their vulnerability.
- Institutional settings emerge as fertile ground for violence, where in some cases even normalisation of violence takes place due to inadequate staff training, staff shortages, and overcrowding. Social care institutions, characterised by inefficient complaint mechanisms and limited external oversight, contribute to an environment where violence against women and children with disabilities often goes unreported.
- Support services, while making positive strides, reveal significant weaknesses. Gaps in the child protection system, deficiencies, and a lack of accessible shelters for women with intellectual and psychosocial disabilities are notable challenges. The impact of the COVID-19 pandemic has strained support services, exacerbating tensions in residential institutions, and creating breakdowns in personal and professional relationships for those living independently.

## Key Recommendations

- **Implement deinstitutionalisation in line with the UN CRPD Committee's guidelines on deinstitutionalisation.** Placing a person with disabilities under guardianship can neither be considered a form of independent living nor a form of protection. Reporting and support should not be dependent on guardians or the family. Member states should set up a system of supported decision-making, and female and child victims of crime living in institutions need to be given support and

the means to live independently in the community to prevent further victimisation.

- **Provide education and training for professionals working with people with disabilities with a focus on the prevention of violence and other forms of ill-treatment, as well as on the right of all persons with disabilities to live in the community.** All professionals working with people with disabilities should have training on preventing and addressing violence. Education and training could be provided by government institutions, higher education institutions and NGOs, with the involvement of persons with disabilities and their organisations.
- **Provide education and training for people with disabilities on rights, sex education, violence and boundaries.** People with disabilities often do not recognise when violence occur to them due to barriers related to the lack of access to information available on rights, violence and sex education. Education on these topics should be accessible in an age-appropriate and gender-sensitive way. Women with disabilities should be empowered and supported in an age-appropriate manner to make decisions about their lives.
- **Establish clear protocols on reporting violence in institutions including social care homes, educational institutions and other relevant institutions.** Establishing external means for reporting violence, without dependence on staff, family or guardians, is essential, especially since violence against women and children tend to be perpetrated by family, guardians or carers. Protocols and a clarification of responsibilities are also needed for authorities. Family advisory centres and victim support centres would be better placed to help clients with disabilities if they had protocols on how to address their cases.
- **Establish accessible reporting mechanisms to enable victims to report crimes.** Women and children should be supported to autonomously report crime and obtain support, especially in situations of conflict of interest of violence perpetrated by guardians/carers. Reporting mechanisms to obtain reparations should also be accessible to victims, and developed in cooperation with persons with disabilities and their organisations

- **National and independent human rights organisations should carry out regular monitoring visits to institutions and community-based services.** Monitoring should be done unannounced and by and with the participation of persons with disabilities and external organisations, using the CRPD framework. This would facilitate the identification of violence against women and children with disabilities within facilities and programmes.
- **Establish a victim-centred justice system.** It is crucial that victims' access and full participation in the judicial process is guaranteed. Victims should have access to clear information in accessible language on the next steps awaiting them, on their rights and available services, as well as to procedural accommodations. The criminal justice procedure should allow for a trauma-informed treatment of child and female victims and witnesses with disabilities.
- **Enhance the capacity of (victim) support services to provide age-, gender- and disability- appropriate and accessible services to women and children with disabilities.** Women with intellectual and psychosocial disabilities experience additional challenges regarding access to placements in the victim support system and access to trauma-informed care. The number of placements in shelters is very limited and there are not enough professionals who can provide disability-appropriate trauma-informed care.
- **Collect disaggregated data by age, gender and disability across the justice system to obtain a better understanding of the phenomenon of violence against women and children with disabilities.** Disaggregated data could help shed more light on the scale of identified cases of violence against women and children with disabilities, expose hidden trends and provide more visibility to the issue that could facilitate new policies.

# 01

**INTRODUCTION**

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The purpose of DIS-CONNECTED project is to find ways to identify and respond to violence wherever it has occurred and to help improve the systems and processes for prevention, reporting and responding. The primary target audience of our report is policymakers, justice, child protection, advocates, service providers, and individuals committed to creating a safer and more inclusive environment for women and children with disabilities and willing to tackle gender- and disability-based violence.

To provide a more comprehensive picture, the report is based on a comprehensive examination including desk research and interviews with women with intellectual disabilities, professionals supporting them and facilitating their access to information and assisting them to reporting violence, as well as professionals in the criminal justice system. The interviews explore the extent to which the resources available according to the legal and policy framework are accessible and utilised by women and children with disabilities. Based on the interviews, we provided an analysis of the gaps in detecting the abuse, barriers to reporting and responses from authorities. Through the synthesis of the information gathered, the report aspires to provide a comprehensive understanding of the current landscape and outline pathways towards systemic improvement of the situation of women and children with disabilities in Hungary.

Women experience gender-based violence in various forms in any and all life-settings, such as residential institutions, psychiatric hospitals, community-based services and the wider community, and in domestic settings. Violence is experienced to a different degree and in various forms, that is why taking an intersectional approach and focusing on both gender- and disability-related aspects was crucial in the research.

Violence against women and children is often overlooked, and in many cases these violations are not just unreported, but not even recognised as crimes either by the authorities, employees from facilities and programmes that aim to serve them or even victims themselves. The intention is, on the one hand to help victims understand better what they are experiencing, what it means, and what their rights are. We also aim to assist public authorities and service providers for women and children with intellectual and psychosocial disabilities to gain a better understanding of the extent and forms of violence taking place,

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and to equip them with the tools they need to prevent, detect, report and respond to violence, as well as provide support to the women and children.

In Hungary, women and children with disabilities face a complex set of challenges based on their intersectional disadvantages: gender-based violence are present, - including physical, verbal, and sexual abuse - and extend across various spheres, including residential institutions, healthcare and educational facilities, public spaces, and private homes.

Our report sheds light on the national context of available support infrastructure, legal and policy framework and the everyday realities of women and children with disabilities. Exploring the institutions and infrastructure supporting women and children with disabilities was a key focus of the report. This includes victim support services, the child-protection signalling system, elements of the social care system, and authorities including the police, the Guardianship Authority and the Ombudsperson's Office.



# 02

**RESEARCH AIMS AND  
METHODOLOGY**

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## Research questions and objectives

The research design was based on a qualitative explorative methodology. Both quantitative and qualitative data drawn from a range of sources was used to ensure richness and variety of data relating to policy, practices, and experiences, and in order to substantiate and triangulate findings and provide a strong basis for recommendations. Our methodology also provided the flexibility for application in all five partner countries and was tailored as necessary to the particular national context, with a specific thematic focus. Quantitative data was collected from existing datasets and sources, whereas qualitative data was collected through semi-structured interviews.

### **The research was designed to address the following aims:**

- To hear from women and children about their experiences, how existing monitoring, reporting and support systems serve or fail them, and what is required for their rights to be fully respected and violence to be identified and addressed.
- To analyse the Hungarian legal framework regarding responses to gender-based and disability-based violence against women and children with psycho-social and intellectual disabilities.
- To identify types of existing victim support services and community-based services which target or are accessible to women and children with disabilities.
- To make recommendations and directly inform the development of a monitoring methodology, monitoring tools and cross-disciplinary protocols for identifying, reporting and responding to gender-based and disability-based violence in residential institutions, community-based services and domestic settings.

This national briefing paper seeks to respond to the following questions:

1. What monitoring mechanisms, processes and protocols are in place to prevent and identify gender-based and disability-based violence and assist reporting, taking on an intersectionality perspective?
2. What support measures are in place to enable women and children with intellectual and psychosocial disabilities to report a crime and access remedies and reparations, including to leave their situation of violence, taking on an intersectionality perspective?

### **Research design**

The research design is a mixed methodology making use of both quantitative and qualitative data drawn from a wide range of sources. As an exploratory research study, it aims to shed light on the phenomenon of violence against women and children with intellectual and psychosocial disabilities in Hungary. The research consists of two parts: desk research and semi-structured interviews.

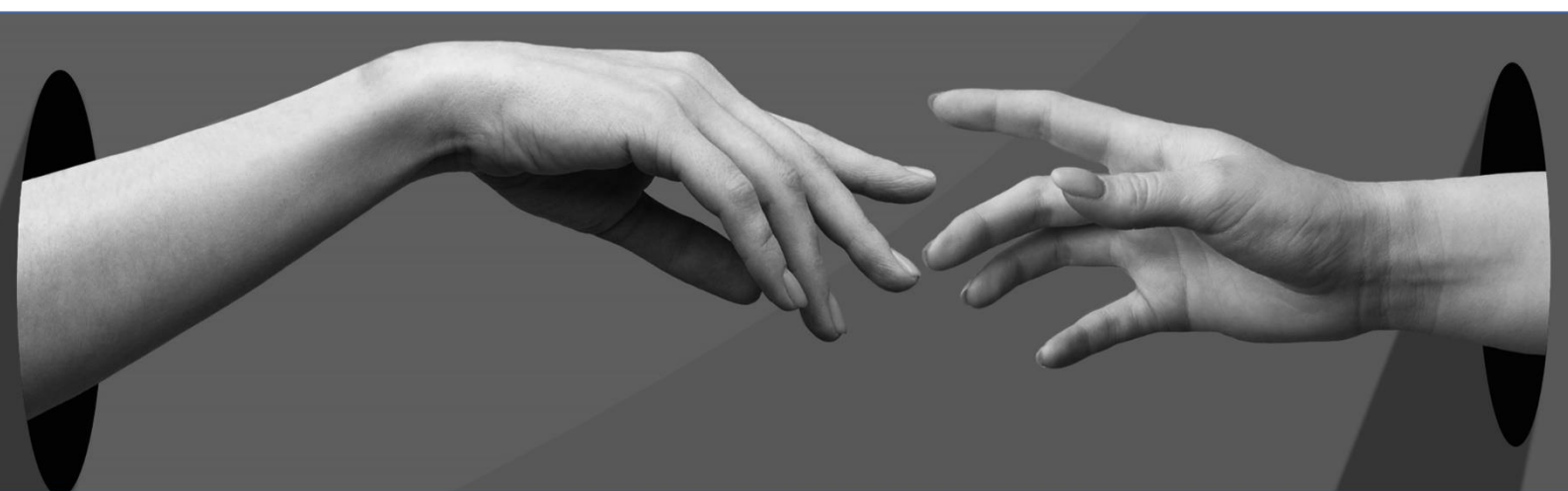
The desk research is based on the review of Hungarian legislation and policy framework, information about the transposition of international law and reviews, statistical data and secondary use of existing research reports. Collecting the experiences of women and children with psychosocial and/or intellectual disabilities who have experienced violence or abuse has taken place primarily through semi-structured interviews. Interview guides were designed for different target groups, including women with intellectual and/or psychosocial disabilities; criminal justice professionals; and service providers, social workers, victim support professionals and people in different roles having direct contact with women and children with intellectual and psychosocial disabilities who can also have a role in facilitating reporting and support. The interview guide served to help facilitate conversations to cover all relevant topics, while researchers also had the flexibility to pose additional questions based on the direction of the discussions.

Based on the sensitivity of the research topics and the availability of the different members of the target group, interview participants were selected through a mixture of convenience

sampling and snowball sampling. Interview participants were primarily selected from Validity's professional network. Secondly, further interview participants were recommended by interview participants. Overall, 19 semi-structured interviews with 22 persons were conducted between July and December 2023. The interviews, 16 individual and 3 paired interviews, were conducted with 2 women with intellectual disabilities and 20 experts.

According to the original methodology of the DIS-CONNECTED project, we envisaged to interview members of the target group: women and children living with disabilities who had firsthand experiences with various emotional, physical, and sexual forms of abuse. The research team put considerable effort into recruiting participants by reaching out to professionals and organisations who work with people with disabilities and faced significant challenges in reaching women and children with disabilities who suffered abuse. We completed interviews with two women with disabilities -unfortunately, we did not manage to recruit more participants willing to recount these traumatic experiences.

Additionally, it was inherently challenging to track the complete trajectory of violence cases within the criminal justice system that interview participants recounted. Although there was information about violent cases in different stages of reporting and the criminal procedure, many participants lost contact with the cases after a certain period. Therefore, the study could not include a full case study that showcases all stages of the process. Finally, as the research aimed to provide in-depth insights into participants' first-hand experiences, it is essential to acknowledge that the study is not statistically representative of the broader population.



# 03

**LEGAL AND POLICY  
FRAMEWORK**

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This chapter will provide a summary of the available services and current policies for supporting women and children with disabilities, followed by an overview of the specific implementation of international law aimed at the prevention of violence against persons with disabilities in general, and women and children more specifically. We also examined the ongoing process of deinstitutionalisation, available alternatives to guardianship and the prevalence of using these in the context of violence. Monitoring and complaint mechanisms focused on women and children with disabilities were also explored, as well as the activities of the Ombudsperson's' Office within the National Preventive Mechanism. We finish the chapter by describing available remedies for woman and children with disabilities and the legal institution of special treatment for vulnerable victims in the criminal procedure.

## **Legislation and policy - transposition of international law regarding the prevention and addressing violence**

### **Violence against persons with disabilities**

Among its principal areas of concern, the CRPD Committee's concluding observations from 2022 mark the lack of recognition of multiple and intersectional forms of discrimination against persons with disabilities, including gender-based discrimination against women with disabilities in the Hungarian legislative and

policy framework<sup>1</sup>. Recalling its comment from the previous report (comment No.6. 2018) the Committee recommends that the State party recognises multiple and intersectional forms of discrimination in its anti-discrimination legislation, including all forms of gender-based discrimination against women with disabilities.

Referring to Art. 15. of the CRPD, regarding the freedom from torture or cruel, inhuman or degrading treatment or punishment the Committee's concluding observations raise concerns about the existing practice of placing children with psychosocial disabilities in isolation as a form of punishment. It recommends the State party to prevent all forms of violence and exploitation against children by abolishing the use of isolation rooms for children with psychosocial disabilities in institutions.

Concerning violence and abuse, the CRPD Committee's concluding observations raise attention to the systematic abuse of people with disabilities, particularly of children within the framework of institutional forms of care for persons with disabilities; as well as the lack of independent monitoring of residential care and psychiatric institutions.<sup>2</sup>

### **Violence against children with disabilities**

Concluding observations by the UN Committee on the Rights of the Child summarise observations on the sixth periodic report of Hungary in 2020<sup>3</sup>. The CRC Committee welcomes the achievement that the State party reached in various areas, including the protection against Sexual Exploitation and Sexual Abuse via the entry into force of the Lanzarote Convention.<sup>4</sup> An important institutional achievement acknowledged by the CRC Committee's concluding observations is the implementation of the Barnahus model<sup>5</sup>, a child-friendly and trauma informed institutional hub that protects children affected by violence in criminal procedures. Although it also raises concerns regarding the effective, default access

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<sup>1</sup> UN CRPD, Concluding observations on the combined second and third periodic reports of Hungary. Specific rights The UN CRPD Committee issued a combined periodic report of Hungary in 2022 May. arts 5-30. P.3 (CRPD/C/HUN/CO/2-3)

<sup>2</sup> "Concluding observations on the combined second and third periodic reports of Hungary. UN CRPD. 20. May. 2022.", Concluding observation: 33. p: 8.

<sup>3</sup> Convention on the Rights of The Child: Concluding observations on the sixth periodic report of Hungary. March 3. 2020. (RC/C/HUN/CO/6)

<sup>4</sup> Council of Europe, Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, 2007, available at: <https://www.coe.int/en/web/children/lanzarote-convention>

<sup>5</sup> Barnahus Hungary. Available at: <https://barnahus.hu/>

of child victims to the Barnahus-based services.

Children deprived of a family environment are among the main areas of concern addressed by the CRC Committee's concluding observations. The Committee expresses its concerns about the increasing number of children in alternative care, many of whom still living in institutional settings and the violence and abuse suffered by children in alternative care settings. Among other issues, the CRC Committee urges the deinstitutionalisation of children while redirecting funds towards families in order to promote and support care in a family environment, and to prevent entering alternative care.

Further concerns of the 2020 report are the lack of information on a national strategy to prevent and address all forms of violence against children (including sexual abuse) and the low level of effectiveness of the procedures for reporting cases of violence against children. The lack of child-sensitive mechanisms was also mentioned, especially concerning mechanisms to facilitate and promote the reporting of violence in alternative care settings, including homes for children with disabilities. The CRC report also called for tools to ensure that complaint mechanisms are safe, and for measures to motivate better identification, documentation and prosecution of violence cases against children.

The previously mentioned CRPD periodic report 2022 calls attention to the insufficient consideration of the recommendations raised by the Committee on the Rights of the Child in 2020 on cases of child sexual abuse and maltreatment of children with disabilities in institutional care. The Committee recommends that the State party develop a comprehensive strategy and legal safeguards to prevent and combat all forms of violence and exploitation against persons with disabilities.

#### **Violence against women with disabilities**

Currently Hungary is among the few countries among EU member countries, which signed, but has not ratified the Istanbul Convention, the Council of Europe Convention on Preventing and Combating Violence Against Women and Domestic Violence since 2014. The lack of ratification gives a special emphasis to the proposed EU Directive of the European

Parliament and of the Council on combating violence against women and domestic violence<sup>6</sup>. As part of the concluding observations on the ninth periodic report of Hungary<sup>7</sup>, the CEDAW Committee invited the Hungarian State party to reconsider its position concerning ratification of the Istanbul Convention, arguing that the lack of ratification further weakens protections for women and girls, deprives them of acquired rights and is incompatible with the standards and principles of international human rights law. The CEDAW Committee recalled its general recommendation No. 33 (2015) on women's access to justice, and recommended that the State party address the barriers to women's and girls' access to justice, *"including by: (a) Conducting a study to identify barriers faced by women and girls, in particular those who experience intersecting forms of discrimination, in accessing justice, and by taking effective measures to remove those barriers, including by raising the awareness of women of their rights and improving the accessibility of the judicial system"* (Recommendation 14. (a) p.: 4). The Committee also called attention to the necessity of raising *"awareness among women and girls, including in rural areas and among Roma women, women with disabilities and older women, on the legal remedies available to claim violations of their rights"* (Recommendation 14. (c) p.: 4).

One amongst those issues that are discussed regarding guardianship is closely connected to violent reproductive health practices. Forced sterilisation and forced contraception are existing violent practices concerning women with disabilities.<sup>8</sup> According to the field-experience of Hungarian disability-right experts, forced contraception is an everyday practice of institutions where persons with disabilities live. If contraception is not an option, institutions resort to sterilisation. Hungary is among the one of the three countries in the EU that does not criminalise the sterilisation of minors. The law is very restrictive, and gives permission to sterilisation only in special cases, based on the decision of the judge. But in case the woman with disabilities has difficulties in expression, the judge might base his

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<sup>6</sup> Proposal for a directive of the European Parliament and of the Council on combating violence against women and domestic violence, 2022. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52022PC0105>

<sup>7</sup> Committee on the Elimination of All forms of Discrimination against Women: Concluding observations on the ninth periodic report of Hungary, March 2. 2023.

<sup>8</sup> Ibid, p12

decision on the opinion of the guardians.<sup>9</sup>

## **Overview of the system of victim support services and policies supporting women and children with disabilities**

### **Services for victims of violence**

Since 2017 Victim Support Centres were established in Hungary, operated by the Ministry of Justice.<sup>10</sup> There are 15 Victim Support Centres in 2023<sup>11</sup>. Their crucial task is to inform victims of crimes about the system of victim support and connect them with available services. They provide special assistance to victims of violent acts, including psychological help, legal help, information about the various forms of financial and legal aid for victims. A network of Information and Coordination Points assisting people with disabilities have been opened across the country in 2018, as part of child welfare centres, staffing disability advisers. The long-term aim is to develop a nationwide system that supports barrier-free access to information and services. These points are possible interfaces that may receive signals of victims of violence.<sup>12</sup>

Crisis Ambulances were established in 2020.<sup>13</sup> Crisis Ambulances provide psychological, legal, and social aid for citizens, primarily women who are victims of domestic violence, as well as to help people's access to further crisis-management services. Nine ambulances operate in Hungary that cover all regions, victims can access them in person, via phone, or email on an anonym base.<sup>14</sup> Services are available for women and men, but male victims rarely access them. Due to the shortage of placements, there are very few shelters open for male victims of violence.<sup>15</sup>

If a victim of domestic violence is identified by the police, or by a member of the child

<sup>9</sup> Amendment of Act CLIV of 1997 on Health Care.; Section 8.

<sup>10</sup> Áldozatsegítő Központ. List of victim support centres. Available at:

<https://vansegitseg.im.gov.hu/aldozatsegito-kozpontok/>

<sup>11</sup> Kormányhivatalok. Áldozatsegítő szolgálatok. Available at:

<https://kormanyhivatalok.hu/kormanyhivatalok/zala/megye/aldozatsegito-szolgalatok>

<sup>12</sup> Egységes Fogytékosságügyi Információs Portál. Információs és koordinációs pontok. Available at:

<https://www.efiportal.hu/hir/informacios-es-koordinacios-pontok/>

<sup>13</sup> Kríziskezelő hálózat. Available at: <https://tudunksegiteni.hu/kriziskezelo-halozat/>

<sup>14</sup> Országos Kríziskezelő és Információs Telefonszolgálat. Kríziskezelő szolgálatok. Available at:

<https://okit.hu/kriziskezelo-szolgalatok>

<sup>15</sup> Information shared by a social worker expert, employee of the crisis ambulance network.

protection signalling system, the victim is directed to the National Crisis Management and Information Telephone Service<sup>16</sup> (OKIT, a non-stop available, free of charge helpline), which is responsible for risk assessment, and in case of emergency and coordinates the placement of victims in protected accommodations. Types of protected accommodations include Temporary Homes for Families, Secret Shelter Homes, Crisis Centres and Children's Home of the Child Protection Services. According to data from 2020, there are 20 Crisis Centres, 8 Secret Shelter Homes, 2 Temporary Homes for families, which all together ensure 320 placements for victims of domestic violence.<sup>17</sup> The professional protocol that offers rules and guidelines for service providers who operate Crisis Centres mentions that placements for families should "consider special needs of the clients, including accessibility and other needs due to a disability."<sup>18</sup> But according to the experience of national experts, lack of reasonable accommodations is an existing problem in case of victims of domestic violence with disabilities.

This opinion is strengthened by the Concluding Observations of the second and third CRPD periodic report of Hungary, issued in 2022 May. Concerning 'Freedom from exploitation, violence and abuse'<sup>19</sup>, the report raises the problem of the lack of accessibility and required accommodations for women with disabilities in services for victims of domestic violence and recommends the state to '34.(d) ensure that all services for girls and women with disabilities who are survivors of domestic violence, including support centres and emergency shelters, are accessible and the required support is provided'<sup>20</sup>; - but in fact, according to the experiences shared by crisis-service providers,<sup>21</sup> the system lacks unified protocols and policies regarding the placement of people with various disabilities in crisis-institutions. They do not have resources to employ medical personnel and remedial teachers. Thereby admission of a person with disability to a shelter is decided on a case-by-case basis. There

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<sup>16</sup> Országos Kríziskezelő és Információs Telefonszolgálat. Available at: <https://okit.hu>

<sup>17</sup> Clerget-Tasi, B. (2020) Titkos menedékház: lehetőség a gyógyulásra és az újrakezdésre. Available at: <https://csalad.hu/csaladban-elni/titkos-menedekhaz-lehetoseg-a-gyogyulasra-es-az-ujrakezdesre>

<sup>18</sup> Protocol for Crisis Centres Operating in the System of Temporary Family Homes (Szakmai Protokoll Családok Átmeneti Otthona Keretében Működtetett Krízisközpontok számára) EMMI, 2018

<sup>19</sup> Article 16 of the UN Convention on the Rights of Persons with Disabilities

<sup>20</sup> Concluding Observations of the second and third UN CRPD periodic report, Hungary. May 20.2022. p: 8.

<sup>21</sup> Experiences were shared anonymously by a director of a crisis centre and secret shelter as well as a director of a crisis ambulance.

are shelters that are more inclusive to place women and children with disabilities, some cities have their own, local solutions and protocols.

National Crisis Management and Information Telephone Service as well as family advisory and child protection institutions know these shelters and protected accommodations and usually call them if they meet a family or person with disability who needs to be accommodated due to violence. As the system lacks financial and human resources for accommodating persons with disabilities, the head of the protected accommodation makes a decision on a case-by-case basis whether they can take the responsibility and satisfy the needs of women and children with disabilities sufficiently. Otherwise, placement of children may depend on a parent's resources and information about the child's needs. Sheltering women with disabilities, especially with intellectual or psychosocial disabilities is more difficult. It is a general tendency that persons who require personal assistance, older persons and persons with psychosocial disabilities are in the most disadvantaged situation.<sup>22</sup> According to the information provided by the shelter and crisis ambulance leaders, the situation of persons with disabilities is a hot topic in the discourse of crisis management experts.

The Hungarian Child Protection Act<sup>23</sup> created the national legal framework for the child protection signalling system. The Act prescribed for certain institutions and professionals to report a suspected or confirmed endangerment of a child to the local family advisory and child protection centres, or in case of serious endangerment to the police. Based on the Child Protection Act, a mandatory reporting mechanism of children at risk was established. All cases need to be reported, where a child is "endangered" or a risk of endangerment of a child occurs, regardless of the perpetrator (child or adult) and the place of the occurrence (physical space or online acts).

Endangerment is defined as a behaviour of a child or another person or an omission or condition that hinders the physical, mental, emotional, or moral development of a child.

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<sup>22</sup> According to the information shared by the head of the Crisis Ambulance, crisis experts try to advocate towards the Ministry of Interior that the legislative environment and protocols should be created for the scenario to place older persons and persons with psychosocial disabilities who are victims of violence in other institutional settings, e.g.: elderly homes and psychiatric departments.

<sup>23</sup> Act XXXI of 1997 on the Protection of Children and the Administration of Guardianship, Sec:17

Endangerment is a wider phenomenon than abuse, but it covers all forms of neglect, emotional, physical and sexual abuse. The signalling system contains all institutions and employees of those institutions that are in contact with children, including: health care providers, police, prosecutors' office, court, educational institutions, and all governmental bodies that act for child welfare and child protection, family support services as well as civil foundations, faith-based organisations). Reported cases are handled by the local and territorial family advisory and child protection services.

#### **Deinstitutionalisation and guardianship in the context of violence**

The UN Guidelines on Deinstitutionalization (from hereinafter: DI Guidelines)<sup>24</sup> provide important standards, principles and concrete recommendations about access to support and justice in emergency settings, in line with deinstitutionalisation processes. The guidelines establish that State parties should recognise institutionalisation as a form of violence against persons with disabilities for several reasons. Furthermore, institutionalisation expose persons with disabilities to forced medical intervention with psychotropic medications, to the administration of drugs and other interventions without their free, prior and informed consent, and it contradicts the right of persons with disabilities to live independently and be included in the community. Due to that reason, state parties should abolish all forms of institutionalisation and end new placements in institutions and refrain from investing in institutions (DI Guidelines, p:1-2).

As the CRPD 2019 report states, institutionalisation is still present as a practice and the implementation of moving persons with disabilities from large-scale institutions to community-based services is insufficient. According to a social-policy focused study issued by TASZ<sup>25</sup>, persons with disabilities who live in institutionalised settings have few human contacts and few ties with the local community, as well as little or no contact with their family members. Those circumstances, as well as their dependence on the institution and the custodial settings of these large-scale institutions make them more vulnerable to abuse and

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<sup>24</sup> Committee on the Rights of Persons with Disabilities: Guidelines on deinstitutionalization, including in emergencies; 10 October, 2022.

<sup>25</sup> TÁRKI (2006). Fogyatékosággal élő emberek életminősége és ellátási költségei különböző lakhatási formákban. Available at: [https://www.tarki.hu/hu/news/2016/kitekint/20160408\\_fszk.pdf](https://www.tarki.hu/hu/news/2016/kitekint/20160408_fszk.pdf); p:16

violence from fellow residents and from the staff. Numerous Ombudsman reports reveal living conditions in large-scale institutional settings that violate human dignity and point to inadequate material and personal conditions, ill-treatment and abuse is also an existing phenomenon in large-scale institutional settings<sup>26</sup>. One report mentions that in the Residential Home for Psychiatric and Mentally Disabled People in Bács-Kiskun County, one of the residents of the home with mental disability is living in complete isolation, under permanent restriction, in Ward 7 (e.g. being tied to a table leg, not being allowed to leave her room, being taken on a leash to bathe). These restrictive measures were not included in the patient's records.<sup>27</sup>

Criminal procedures were initiated, and several cases were prosecuted against more than one large-scale residential institution in the country. Among them, the Szigetvár District Prosecutor's Office has brought charges of physical assault committed by a public servant against two residents of a social home, according to news publicly shared by the Baranya County Prosecutor's Office in 2019. The "Topház" case that received the highest publicity was revealed by Validity Foundation in 2017. According to the charges, people – among them children – were seriously malnourished, suffering from signs of neglect, surrounded by locks and bars. The malfunctioning of the judicial system and the extreme vulnerability of the victims is illustrated by the fact that, despite the well-founded accusations in that prosecuted case, there has been no first-instance verdict for five years. From time-to-time new cases of sexual and other violence cases emerge in institutional settings,<sup>28</sup> with ongoing criminal proceedings against staff. However, due to the absence of a comprehensive survey of abuse in institutions and of adequate complaint mechanisms (see more in 'Monitoring and complaint mechanisms'), abuse is only detected on an ad hoc, case-by-case basis.

Women with disabilities are especially vulnerable to sexual harassment compared to other

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<sup>26</sup> Among other references, the Ombudsman has carried out several investigations in residential institutions and found instances of ill-treatment and abuse. (AJB 3330/2010., AJB 4304/2010., AJB 4906/2010., AJB 3167/2011.)

<sup>27</sup> AJBH 4304/2010

<sup>28</sup> Átlátszó - a Hungarian investigative and watchdog online journal and NGO - revealed a sexual harassment case in 'Gesztenyeliget Otthon', Csongrád-Csanád, which was also reported to TASZ (<https://atlatszo.hu/kozugy/2023/01/19/puszild-meg-a-fost-videon-alaztak-az-apoltat-a-nagymagocsi-szocialis-otthonban-ahol-szexualis-zaklatas-miatt-is-nyomoz-a-rendorseg/>). The local police station gave an official notice that they initiated an ex officio criminal procedure in 2021. December.

women.<sup>29</sup> This is more so for those, who live in institutionalised settings. According to the reports' findings, internal complaints are hindered by patients' fears and dependency, judicial inspections are only formal.

Supported housing suffers from problems of lack of choice and limited autonomy.<sup>30</sup> This raises concerns from the point of violence, because if a woman or a child becomes a victim of violence in a large institution, the chances of leaving the violent settings depend largely on the conditions and possibilities of alternative housing.

Deinstitutionalisation processes in Hungary do not comply with international standards, some of them stated in the DI Guidelines<sup>31</sup>, the most important of which are: the process of deinstitutionalisation should be led by persons with disabilities and not by those involved in managing institutions. Replacing large institutions with smaller ones should be avoided, autonomy, choice and control should be restored and given to persons with disabilities as to how, where and with whom they decide to live. Multiple options should be provided for those who leave institutionalised settings, and the opportunity of individual decision-making should be provided, and support should be given to persons with disabilities if needed when making these individual decisions. The need for free choice should be even more evident when someone becomes a victim of violence in an institutionalised setting. The guidelines point out women and children as groups who require special attention and whose rights to choose should be respected regarding their living circumstances and access to housing.

According to the Action Plan, basic services for people with disabilities should be provided in their own homes, in particular support service and day care, and deinstitutionalisation needs

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<sup>29</sup> Several international studies support that argument. A few of them are: "European Union Agency for Fundamental Rights (2015). Violence Against Women: An EU Wide Survey". The research found that 61% of women with disabilities experienced sexual harassment since the age of 15, as opposed to 54% of women without disabilities. p:189; [https://fra.europa.eu/sites/default/files/fra\\_uploads/fra-2014-vaw-survey-main-results-apr14\\_en.pdf](https://fra.europa.eu/sites/default/files/fra_uploads/fra-2014-vaw-survey-main-results-apr14_en.pdf); An other study emphasizes the same phenomenon is "Stepping up to the challenge: Towards international standards on training to end sexual harassment". UN, 2020. p:2.; <https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2020/Discussion-paper-Towards-international-standards-on-training-to-end-sexual-harassment-en.pdf>;

<sup>30</sup> UN Committee on the Rights of Persons with Disabilities (CRPD), Inquiry concerning Hungary carried out by the Committee under Article 6 of the Optional Protocol to the Convention, Report prepared by the Committee, points 57-73.

<sup>31</sup> UN Committee on the Rights of Persons with Disabilities Guidelines on deinstitutionalization, including in emergencies, October 10. 2022.

to be further continued<sup>32</sup> Although there is a reported departure<sup>33</sup> in the approach of the government from largescale institutions to smaller institutions, these solutions are not sufficient alternatives which mostly maintain the problematic settings of bigger institutions, which give a basis for right violations, including violence and other forms of inhuman, degrading treatment – considered as a form of discrimination by the UN Guidelines on Deinstitutionalization, Including in emergencies.<sup>34</sup> On 5 March 2020, the Hungarian Government announced a new call for tenders to close large-scale institutions and develop community-based services. The budget of the call is of nearly EUR 150 million. But – according to the experts’ opinion<sup>35</sup> – the government builds deinstitutionalisation on an approach which does not meet international human rights standards and violate rights established by the CRPD, especially the right to independent living in the community.<sup>36</sup> With this recent call, ‘the Hungarian government will sustain and reinforce institutional culture by building mini-institutions across the country.’<sup>37</sup>

According to the Social Statistics Yearly Booklet from 2019, altogether 16516 persons with disabilities lived in different forms of homes for disabled persons.<sup>38</sup> Recent statistical data from 2022 shows that execution of the long-term plan for deinstitutionalisation is still left behind. There are all together 3474 placements in small-scale institutions, which means that the vast majority of people still live in large-scale institutions. The following table offers an overview of the various forms of large-scale and small-scale residence available for people living with disabilities in Hungary, with an approximate ratio of people living in each setting.

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<sup>32</sup> UN Committee on the Rights of Persons with Disabilities (CRPD), Inquiry concerning Hungary carried out by the Committee under Article 6 of the Optional Protocol to the Convention, Report prepared by the Committee, points 5.4-5.5.

<sup>33</sup>[https://www.parlament.hu/documents/10181/63291245/Infojegyzet\\_2022\\_21\\_intezmenyi\\_ferohely\\_kivaltas.pdf/87b55ec7-c947-d421-0b24-1fa72ac7d000?t=1666699769421](https://www.parlament.hu/documents/10181/63291245/Infojegyzet_2022_21_intezmenyi_ferohely_kivaltas.pdf/87b55ec7-c947-d421-0b24-1fa72ac7d000?t=1666699769421)

<sup>34</sup> UN CRPD: Guidelines on deinstitutionalization, including in emergencies. 2022.

<sup>35</sup> Környei Kristóf: "Kitagolás felülnezetből. Stratégiai újragondolásra volna szükség." TASZ (2022). Available at: <https://tasz.hu/cikkek/kitagolas-felulnezetbol-strategiai-ujragondolasra-volna-szukseg>

<sup>36</sup> UN CRPD. Article 19.

<sup>37</sup> Kristóf Környei, TASZ. At: Validity’s Press Release: <https://validity.ngo/2020/04/16/press-release-un-finds-hungary-responsible-for-grave-and-systematic-violations-of-disability-rights-condemns-mass-institutionalisation-funded-by-the-eu/>

<sup>38</sup> KSH (2020). Szociális Statisztikai Évkönyv, 2019. Available at:

[https://www.ksh.hu/docs/hun/xftp/idoszaki/evkonyv/szocialis\\_evkonyv\\_2019.pdf](https://www.ksh.hu/docs/hun/xftp/idoszaki/evkonyv/szocialis_evkonyv_2019.pdf)

Placements in small-scale institutions <sup>39</sup>	
2292	persons with disabilities
390	addicted patients
792	psychiatric patients
Sum: 3474	

The system of guardianship is also a form of systematic discrimination in Hungarian law, policy and practice, going against CRPD requirements.<sup>40</sup> This creates situations where persons with disabilities are deprived of their legal capacity and are possibly exposed to various forms of violence without sufficient protection and no access to legal remedies. The current system of guardianship is not in accordance with the principles of supported decision making. Supported decision-making is a more humane and support-based alternative to guardianship, also available in the Hungarian legislation.<sup>41</sup> If someone needs support to make decisions about their lives or live independently, a support person can be assigned. It might be a relative or acquaintance who assists decision-making of the person concerned in housing, healthcare, financial issues and in any other official procedures. It is also possible to assign an official support person at the guardianship authority, but the latter option does not correspond to the essence of supported decision-making, which is based on a confidential relationship.

The main advantage of supported decision-making compared to guardianship is the trust-based relationship between persons with disabilities and the support person, and the possibility to act autonomously, with appropriate help in difficult situations. The supporter is appointed for an indefinite period, but the need for a supporter is reviewed every 5 years by the guardianship authority. Due to the personal relationship between a supporter and the person with disabilities it is more likely that a fact of abuse is disclosed and shared with the supporter than in case of a guardian.

Supported decision-making seems to be very rarely used as a practice in Hungary.

<sup>39</sup> Hungarian Central Statistical Office. Table on Supported housing.

[https://www.ksh.hu/stadat\\_files/szo/en/szo0028.html](https://www.ksh.hu/stadat_files/szo/en/szo0028.html)

<sup>40</sup> UN Convention on the Rights of Persons with Disabilities, 2008. Article 12.

<sup>41</sup> Act V of 2013 on the Civil Code./Title IX.: 'Supported decision-making without prejudice to capacity to act'

According to the latest publicly available data on guardianship and supported decision-making, in 2017 there were 57983 people under full<sup>42</sup> or limited guardianship. There has been a steady increase in the number of people under guardianship.<sup>43</sup> At the same time, there were only 167 people under supported decision making in 2017.<sup>44</sup>

#### **Monitoring and complaint mechanisms**

Metropolitan and County Government Offices (“kormányhivatal”) - territorial administration bodies, structurally belonging to the Prime Minister’s Office - are the authorities responsible for the lawful operation of residential institutions (including residential care homes and rehabilitation institutions for people with disabilities).<sup>45</sup> Based on the parliamentary adoption on the Promulgation of the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT protocol)<sup>46</sup> the Hungarian State implemented the ban on torture, and other cruel, inhuman or degrading treatment or punishment in the domestic legal framework. As part of the adoption, the National Preventive Mechanism has been established, within which independent international and national bodies may regularly inspect those places where people are deprived of their liberty.<sup>47</sup>

In Hungary the Office of the Commissioner for Fundamental Rights shall proceed as a National Preventive Mechanism within the OPCAT framework. Article 33 (2) of the CRPD also refers to the necessity of independent monitoring mechanisms. The CRPD Committee’s second and third periodic reports from 2022 appreciate the participation of the Commissioner for Fundamental Rights in his capacity of independent monitoring

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<sup>42</sup> Full guardianship meaning complete authority over an incapacitated person to manage healthcare, housing, and financial issues while limited guardianship only covers certain areas of a person’s decision making.

<sup>43</sup> UN CRPD, Inquiry concerning Hungary under article 6 of the Optional Protocol to the Convention. Para: 25.: “According to official statistics, the number of persons with disabilities placed under guardianship has increased steadily from 54,656 in 2008 to 55,056 in 2017.”

<sup>44</sup> Gulya, F., & Hoffman, I. (2019). A támogatott döntéshozatal sorsa Magyarországon. Available at: [https://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/12/2019\\_2\\_NT\\_v-02.pdf](https://fogyatekossagtudomany.elte.hu/wp-content/uploads/2019/12/2019_2_NT_v-02.pdf)

<sup>45</sup> Országos Betegjogi, Ellátottjogi, Gyermekjogi és Dokumentációs Központ (2015). Szociális intézmények hatósági engedélyezési és ellenőrzési rendszere. Available at: [https://www.obdk.hu/UserFiles/antus\\_livia\\_-\\_szocialis\\_intezmenyek\\_hatosagi\\_engedelyezesi\\_es\\_ellenorzesi\\_rendszere\\_.pdf](https://www.obdk.hu/UserFiles/antus_livia_-_szocialis_intezmenyek_hatosagi_engedelyezesi_es_ellenorzesi_rendszere_.pdf)

<sup>46</sup> Act CXLIII of 2011

<sup>47</sup> The Sixth annual report of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment suggests to give a broad interpretation to the term „places of detention” – in article 4 of the OPCAT protocol and include among other places social care institutions, where women and children with disabilities live.

mechanism. According to the information publicly available and shared by the Hungarian Commissioner for Fundamental Rights, monitoring work is executed based on the international OPCAT protocol, and there is no information about the existence of a special, national monitoring protocol.

Nevertheless, the Global Alliance Of National Human Rights Institutions (GANHRI), an international body of the National Human Rights Institutions (NHRI), which is in charge of the accreditation of national NHRIs suggested<sup>48</sup> to downgrade the Hungarian Commissioner for Fundamental Rights from „A” to „B” status, due to the non-compliance with the Paris Principles, which set out minimum standards that NHRIs have to meet in order to guarantee credibility and independence. One amongst other areas where the GANHRI found the current Ombudsperson and his office ineffective was the lack of being engaged with vulnerable groups. One target-area, where the report identifies omission is not stepping up in support of the ratification of the Istanbul Convention.

The Hungarian Civil Liberties Union (TASZ) made an analysis focusing on OPCAT visits during the COVID epidemic. They reviewed all reports from 2020 to 2021 from child protection institutions and social care homes. According to their observations, the Commissioner tended to make more and more previously announced visits. This essentially makes it challenging for the Ombudsman to have a valid picture of the functioning of an institution, as it allows the institution under investigation to prepare for his visit - even though during the epidemic there was an even greater need for thorough investigation, effective action, and public communication of the results. To assess the quality of the OPCAT visits, the research used the Association for the Prevention of Torture (APT) guidelines, which are international guidelines for monitoring places of detention during an epidemic context. Based on the examination of those criteria developed by the APT, they concluded that, overall, the majority of the OPCAT reports did not meet the APT recommendations, and it is unlikely the reports provided a true and accurate picture of the visit sites. Of the 9 visits, 7 were pre-announced and only 2 were recorded as not pre-announced.

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<sup>48</sup> GANHRI Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA) 14-24 June 2021.

The two unexpected visits were the ones where the Ombudsman was not present, only the Office's experts. During these visits, 37 inhabitants were interviewed, while when the Ombudsman was present, on an average only 4-6 inhabitants were interviewed. As TASZ claims in their analysis<sup>49</sup>, the visits, which were carried out in the presence of the Ombudsman, did not examine in depth the enforcement of the right to complain, the real difficulties of contact and alternative solutions. The reports do not clarify the criteria for the selection of the sites. Only in the case where the Ombudsman was not present during the visit, the report makes specific, substantive recommendations which have a significant impact on the functioning of the institution, while in other cases the report does not contain any such recommendations. Although in many cases the purpose of the visit to the children's homes was to assess the condition of the children, the children's opinions and difficulties are hardly reflected in the reports.

Within the framework of the present research, we reviewed all those OPCAT visits that targeted social-care homes for persons with disabilities between 2019-2023. The Table shows that there were maximum two visits per year to residential care homes and rehabilitation institutions. While examining the content of the reports, we identified similar problems as the above mentioned TASZ analysis: Several important criteria of OPCAT protocols is missing from the reports, among others: the criteria for the selection of the sites, the lack of comprehensive, meaningful recommendations focusing on the operation of the institution. Although, some examinations are briefly targeting issues of inhuman, degrading treatment.

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<sup>49</sup> TASZ (2023). A legkiszolgáltatottabbak védelme helyett csak látszatintézkedéseket végez a nemzeti megelőző mechanizmus. Available at: <https://tasz.hu/cikkek/a-legkiszolgáltatottabbak-vedelme-helyett-csak-latszatintezkedeseket-vegez-a-nemzeti-megelozo-mechanizmus>

Year	OPCAT Reports and visits of the Commissioner for Fundamental Rights of Hungary of residential and rehabilitation care homes for persons with disabilities		OPCAT visits to residential and rehabilitation -care homes for disabled people
2019	number of visits	2	OPCAT visit to EMMI's (Ministry of Human Capacities) Special Children's Home Center, Primary School and Trade School, 4-5 September, 2019 <sup>50</sup>
	number of reports	0	OPCAT follow-up visit to the Platán Integrated Care Center of Bács-Kiskun County <sup>51</sup>
2020	number of visits	2	Integrated Care Center in Fejér County, Polgárdi – Tekerospuszta, 7 May 2020 <sup>52</sup>
	number of reports	4	OPCAT visit to the Living Home of the Integrated Care Center of Tolna County, 4 June 2020 <sup>53</sup>
2021	number of visits	1	OPCAT visit to the “Napsugár” Home of “Szivárvány” Joint Social Institution of Zala County, 23 November 2021 <sup>54</sup>
	number of reports	1	
2022	number of visits	2	OPCAT visit to the Reménysugár Habilitative Institute, 30 May 2022 <sup>55</sup>
	number of reports	1	OPCAT visit to the “Viktória” Integrated Care Center of Szabolcs-Szatmár-Bereg County in Mándok and Fülöpösdaróc, and at the Supported Living House No. 6 in Fülöpösdaróc <sup>56</sup> , 24 March 2022 and 5 April 2022

<sup>50</sup> OPCAT visit to EMMI's (Ministry of Human Capacities) Special Children's Home Center, Primary School and Trade School. September 4-5. 2019.; available at:

<https://www.ajbh.hu/documents/14315/2953436/OPCAT+I%C3%A1togat%C3%A1s+Esztergomban.pdf/c482706e-5ce7-a065-a983-7beaec5024c3>

<sup>51</sup> OPCAT utóvizsgálat a Bács-Kiskun Megyei Platán Integrált Szociális Intézményben. 2019. október 21-22.; available at:

[https://www.ajbh.hu/documents/10180/2953404/Plat%C3%A1n\\_3++r%C3%B6vid+h%C3%ADr.pdf/e606639d-2029-cb49-9dad-8dadba03c999](https://www.ajbh.hu/documents/10180/2953404/Plat%C3%A1n_3++r%C3%B6vid+h%C3%ADr.pdf/e606639d-2029-cb49-9dad-8dadba03c999)

<sup>52</sup> OPCAT látogatás a Fejér Megyei Integrált Szociális Intézmény Polgárdi - Tekerospuszta telephelyén 2020. május 7.; available at:

[https://www.ajbh.hu/documents/10180/3240964/Tekerospuszta\\_r%C3%B6vid\\_h%C3%ADr.pdf/9d4ddd23-6de5-efd0-4c1f-dd8f2fb707d8](https://www.ajbh.hu/documents/10180/3240964/Tekerospuszta_r%C3%B6vid_h%C3%ADr.pdf/9d4ddd23-6de5-efd0-4c1f-dd8f2fb707d8)

<sup>53</sup> OPCAT visit to the Living Home of the Integrated Care Center of Tolna County 4 June 2020.; available at:

[https://www.ajbh.hu/documents/14315/3240940/Tolna\\_r%C3%B6vidh%C3%ADr\\_EN.pdf/ecd80e4e-7327-98d7-18c0-2b79b090cd0f](https://www.ajbh.hu/documents/14315/3240940/Tolna_r%C3%B6vidh%C3%ADr_EN.pdf/ecd80e4e-7327-98d7-18c0-2b79b090cd0f)

<sup>54</sup> OPCAT visit to the “Napsugár” Home of “Szivárvány” Joint Social Institution of Zala County 23 November 2021.; available at:

[https://www.ajbh.hu/documents/14315/3656590/Zala\\_Megye\\_Napsug%C3%A1r\\_r%C3%B6vid\\_h%C3%ADr\\_EN-lekt.pdf/24b13a7c-daf7-487c-0d2d-f2797f110a6f?t=1638267942903](https://www.ajbh.hu/documents/14315/3656590/Zala_Megye_Napsug%C3%A1r_r%C3%B6vid_h%C3%ADr_EN-lekt.pdf/24b13a7c-daf7-487c-0d2d-f2797f110a6f?t=1638267942903)

<sup>55</sup> OPCAT visit to the Reménysugár Habilitative Institute 30 May 2022.; available at:

[https://www.ajbh.hu/documents/14315/7316489/Rem%C3%A9nysug%C3%A1r\\_Bp\\_rh\\_EN.pdf/78304fa8-c254-3fef-3f88-0a3c9b0680b2?t=1682412218389](https://www.ajbh.hu/documents/14315/7316489/Rem%C3%A9nysug%C3%A1r_Bp_rh_EN.pdf/78304fa8-c254-3fef-3f88-0a3c9b0680b2?t=1682412218389)

<sup>56</sup> OPCAT visit to the “Viktória” Integrated Care Center of Szabolcs-Szatmár-Bereg County in Mándok and Fülöpösdaróc, and at the Supported Living House No. 6 in Fülöpösdaróc.; available at:

[https://www.ajbh.hu/documents/14315/7316489/Mandok\\_Fulposdaroc\\_roid\\_hir\\_ENG.pdf/84f67e40-29da-2197-f8c8-02f78880444f?t=1659620957828](https://www.ajbh.hu/documents/14315/7316489/Mandok_Fulposdaroc_roid_hir_ENG.pdf/84f67e40-29da-2197-f8c8-02f78880444f?t=1659620957828)

## Available remedies for children and women living with disabilities

### External monitoring and reporting to the Police or the Ombudsperson

In connection with legal protection against institutional conditions and misconduct in institutional settings, people living with disabilities, including women and children could turn to the Ombudsperson, and as an international forum to the Equal Treatment Authority (EBH), which was a state administrative body with national competence. EBH ceased to exist on January 1, 2021, and its duties were taken over by the Office of the Commissioner for Fundamental Rights Hungary. This administrative change eliminated one of the pillars of domestic law enforcement. In practice, this also means that it is more difficult for children and women to take action against violations of their rights, for several reasons. One is the problems related to the quality and independence of AJBH's monitoring activity. The other reason is that the role and position of the ombudsman is completely different from an official authority. Furthermore, it is more difficult to submit a complaint to the AJBH than in the previous EBH system. Their complaint handling practices are less transparent. As TASZ<sup>57</sup> points out, legal cases issued between 2005 and 2011 are not publicly available since the termination of the EBH. Even for the currently available period, it is not possible to search effectively on the AJBH website according to the protected characteristics (e.g.: disability) and the type of complaint. The general information sheets available on the website of the former authority and accessible contents are also missing. According to the Freedom of Information Act, the legal successor of an organisation is obliged to publish data of public interest<sup>58</sup>.

Partly as a result of the above mentioned changes, it is much more difficult for the women, children, and their supporters to gain information about how to submit a complaint and understand the complaint procedure. In order to prevent exploitation, abuse and violence

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<sup>57</sup> TASZ (2022). Törvénytelenül működik az egyenlő bánásmódot felelős főigazgatóság. Available at : <https://tasz.hu/cikkek/torvenytelenul-mukodik-az-egyenlo-banasmodert-felelos-foigazgatosag>

<sup>58</sup>Section 32 of Act CXII of 2011 on the right to informational self-determination and freedom of information provides in general terms that public bodies shall promote and ensure that the general public is promptly provided with accurate information with regard to matters falling within their functions. In this regard, the TASZ has also made a public interest submission.; available at: [https://tasz.hu/a/img/Egyenlo-Banasmodert-Felelos-Foigazgatosag\\_kozerdeku-bejelentes\\_-jogesetek-nyilvanossaga.pdf](https://tasz.hu/a/img/Egyenlo-Banasmodert-Felelos-Foigazgatosag_kozerdeku-bejelentes_-jogesetek-nyilvanossaga.pdf)

against persons with disabilities, reflecting on the shortcomings of sufficient monitoring mechanisms, the above mentioned CRPD Committee periodic report of Hungary, 2022. recommends the State party to ensure that all facilities, residential care, and psychiatric institutions are subjected to independent monitoring, in line with article 16 (3) of the Convention, through the involvement of NGOs, including disability rights-based organisations. Target group -sensitive methodologies are available at NGOs. E.g.: Validity established a protocol and a monitoring toolkit for identifying and preventing violence against children with mental disabilities in institutions as part of CHARM project.<sup>59</sup>

### **Internal Complaint Mechanisms of institutional care**

Social care institutions have to operate inner complaint and remedy mechanisms<sup>60</sup>, which mechanisms have to be examined as part of the OPCAT visits. But in practice these mechanisms work also insufficiently. The head of the institution, the Maintainer of the institution (state authority, parochial or civil actor) and the 'Patients' advocate'<sup>61</sup> are authorised to investigate cases of violence and abuse. However, residents are primarily able to report their problems to those people who are accompanying them in their daily lives, on whom they are dependent, or who even not interested in making a complaint due to conflict of interests.

### **Issue of personal reporting under guardianship**

The legislation of external reporting of violence to the Police or to the Ombudsman- both in case a victim of violence live with disability is a resident of an institution or lives in a family or in supported housing facilities - faces significant problems. The vast majority of people with mental disabilities are under guardianship, which means the law does not allow them to make a report on their own, which also applies for situations when they are victims of violence. Only their official guardian, who is a family member or a designated professional guardian, can act on their behalf. However, in the experience of disability experts, the legal representative or caretaker often fail to comply with its duty to protect the victim and report

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<sup>59</sup> Mental Disability Advocacy Centre (2017). The CHARM Toolkit. Available at: <http://www.mdac.org/en/charm-toolkit>

<sup>60</sup> Constitution of Hungary, Article XXV.; 1997. évi CLIV. törvény az egészségügyről (Eü tv.)Section 30.

<sup>61</sup> The network of 'Patients' advocates is operated by an autonomous unit of the Ministry of the Interior (EMMI).

misconduct<sup>62</sup>. For many other reasons the guardian won't help the victim due to other reasons, such as fear of a criminal procedure or conflict of interest.

In the Hungarian Criminal Code, 'intimate partner violence' - is defined as a criminal offence. Among the cases under 'intimate partner violence' violence committed by a guardian of the victim is listed as a category of crime.<sup>63</sup> Although proceedings in 'intimate partner violence' may only be brought upon a complaint by the victim or its representative. Victims who are dependent on their guardians won't have means and helpers to file complaints against their guardians.

#### **Victims and witnesses of violence with disabilities in criminal procedures**

The Code of Criminal Procedure (CCP) specifies those groups of victims and witnesses involved in procedural acts in the case of whom special treatment is mandatory or suggested. The general rule is that the court, the prosecutor and the investigating authority decide on a case-by-case basis whether a victim or a witness requires 'special treatment', on the basis of the following criteria: the age of the person concerned; the mental, physical or medical condition of the person concerned; the flagrantly violent nature of the underlying offence; or the relationship between the person concerned and another person participating in the criminal procedure.<sup>64</sup>

According to the CCP, persons with disabilities are one among those groups that automatically qualify as persons requiring special treatment. Persons who require special treatment in the criminal procedure must be interrogated in special interrogation rooms<sup>65</sup> in police premises, where audiovisual recording of the interrogation shall be executed- as a procedural safeguard. To ensure persons procedural rights, these special interrogation rooms also have to fulfil certain other requirements, related to the physical and emotional needs of the interrogated persons who require special treatment. Persons with disabilities

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<sup>62</sup> Gondnokság és emberi jogok Magyarországon. A gondnokság jogintézményének és gyakorlatának elemzése. 2007. p:12.

<sup>63</sup> Act C of 2012 on the Criminal Code. Section 212/A. 'Domestic Violence'

<sup>64</sup> Act XC of 2017 on the Code of Criminal Procedure. Section 82 (b)

<sup>65</sup> Decree 13/2018. (VI. 12.) of the Minister of Justice on Establishing, Operating and Monitoring the Use of Special Interrogation Rooms in Police Units for Conducting Procedural Acts that Involve a Person Requiring Special Treatment

are provided with the opportunity to participate at procedural acts via a telecommunication device. (e.g.: remote hearing<sup>66</sup>). It is a rule, which makes the procedure more accessible for persons living with certain disabilities. Although research studies form critical concerns regarding remote hearings, which might not match with some criminal procedural guarantees for victims, witnesses, and defendants alike.

In accordance with international guidelines<sup>67</sup>, several, further procedural guarantees are defined in the CCP to ensure accessibility of the criminal procedures, which also concerns accessible language use and special safeguards to people who are living with disabilities.<sup>68</sup> Various, empirical research studies conducted by the Hungarian Helsinki Committee<sup>69</sup> illustrate that the rights are harmonised with the international guidelines only ex officio. Serious deficiencies can be identified regarding the implementation of rights.

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<sup>66</sup> Act XC of 2017 on the Code of Criminal Procedure. Chapter XVI. Section 85 (1) k)

<sup>67</sup> DIRECTIVE 2010/64/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 20 October 2010 on the right to interpretation and translation in criminal proceedings

<sup>68</sup> Act XC of 2017 on the Code of Criminal Procedure. Section 78 (6) '. If the person to be interrogated is unable to communicate or his capacity to communicate is considerably limited for a reason not specified in paragraphs (3) to (5), he shall be interrogated using a sign language interpreter, or communication shall be enabled by other appropriate means'

<sup>69</sup> Although the problems regarding the accessibility of the Hungarian criminal procedure mainly focus on the rights of the defendants, problems identified in the following reports can also apply to victims and witnesses in criminal procedures: [https://helsinki.hu/wp-content/uploads/IPC\\_Country\\_Report\\_Hungary\\_Eng\\_fin.pdf](https://helsinki.hu/wp-content/uploads/IPC_Country_Report_Hungary_Eng_fin.pdf); [https://helsinki.hu/wp-content/uploads/research\\_report\\_mid\\_term\\_FINAL.pdf](https://helsinki.hu/wp-content/uploads/research_report_mid_term_FINAL.pdf);

04

**INTERVIEWS**

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## **Detection of violence: The main barriers**

Interview participants shared a variety of forms of violence they have observed in social care homes, children's homes, schools and in domestic environments. These include verbal and physical abuse, degrading or dehumanising treatment, forced contraception, sexual violence and human trafficking. The two women with intellectual disabilities shared personal experiences of verbal abuse, while professionals discussed other forms of violence they had witnessed against women and children with disabilities.

According to most interview participants, the lack of detection of violence against women and children with disabilities is a systemic problem. In this section, we shed light on the key barriers both on the micro- and macro-level that hinder the identification of violence cases.

### **Lack of recognition and knowledge gaps**

Firsthand accounts from professionals working directly with people with disabilities indicate that victims often fail to recognise violence as such. This stems partly from the lack of available information and resources available to people with disabilities on their rights, violation of their boundaries and especially sex education.

*“So I think they have little knowledge, little confidence, and they are more dependent on those who might be hurting them. And this is just as true in adulthood, whether it's in an institution or at home.”* - Special education teacher and researcher (F)

The lack of knowledge regarding appropriate actions and reliable avenues for reporting were emphasised by several interview participants. This is true for both the victims and the staff or caretakers. This issue stems from inadequate training for staff members as well as the absence of established protocols for violence prevention and reporting within institutional settings.

*“The problem that I see in the social care institutions as well is that these conflicts are handled very, very poorly, they are not prepared enough, the care staff are not properly prepared for this.”* - Lawyer at legal aid service (F)

### **Societal stereotypes**

On a societal level, the interplay of prejudice and misconceptions about people with disabilities, coupled with gender stereotypes, adds another layer of complexity to the problem. Taboos and stereotypes surrounding the (lack of) sexuality of persons with disabilities hinder comprehensive sex education. Moreover, individuals with disabilities often face infantilisation, with their environment reinforcing a perpetual childlike state, which also does not support the disclosure of abuse.

*"Yes, and what I really, really don't like is my adult peer being kept in a child's role. I really, really do not like that. Being coddled, being talked to like a child. [...] being pigeonholed. And my peer can't even break out of it, because she doesn't know what she's allowed to do. She only knows of the information that her parents tell her. But I don't think that's good, I think she should be supported in her decision-making. And that's also important in human life, to support people's decisions. Even if she makes a bad decision, in my opinion. Because she can decide what's good for her. Of course we try to lead her to the right thing but we don't tell her what to do."* - Woman with intellectual disabilities

Another illustrative example of infantilisation is the restriction on couples in institutions, who are, in many cases deprived of the opportunity to live together. Also, access to private rooms is typically granted only after a prolonged period together. These societal dynamics that are reflected in the treatment within institutional frameworks as well, further contribute to the overarching challenge of detecting violence against women and children with disabilities.

### **Normalisation of violence in institutional settings**

In institutional settings, violence can easily become normalised. In schools, teachers may overlook instances of violence. This is particularly true for social care institutions, which seldom allow outsiders to visit, while complaint mechanisms for residents and staff are inefficient. Many interview participants agreed that large, closed institutions were fertile ground for violence and abuse. This is due to operating understaffed and overcrowded, leading to residents becoming bored and aggressive, and staff lacking skills and capacity to prevent violence. Furthermore, the ombudsperson's office has been criticised as inefficient and slow to respond.

*"Typically, those who are hit are those who can't report it, and those who have some kind of noticeable behaviour or challenging behaviour are more likely to be hit. For example, those who wander around or interfere with other people's space are more often tied up. And I think that it's not necessarily out of malice, but out of a lack of tools or a lack of methodological knowledge of what else to do."* - Special education teacher and researcher (F)

*"[Within large institutions] they are not properly staffed, they get bored, et cetera., et cetera, they become aggressive and then the disabled people in residential institutions become aggressive towards each other."* - Disability expert at national human rights institution (F)

### **Intersectionality and normalisation of gender-based and ethnic discrimination**

The interviews underscored the interplay of disability, gender, race, and sexual orientation in shaping individuals' experiences of mistreatment and discrimination. This impact is conceptualised through the lens of intersectionality, a term coined by Kimberlé Crenshaw, highlighting the interconnected nature of multiple disadvantages<sup>70</sup>.

Women and girls with disabilities face multiple disadvantages, exposing them to higher risks of social exclusion, discrimination, and violence. A female representative of a disability association expressed this dual challenge: *"And first, we are women, so even if we get a job we don't get paid the same as men. And we get rated lower socially. What's bad too, is that we are people with intellectual disabilities, so we start from a double disadvantage."* The detection of gender-based violence is often hindered due to gender-based stereotypes and victim-blaming attitudes, which sometimes characterises even the attitudes of the official authorities.

Within institutional settings, conservative ideas about the role of men and women in society and gender-based, men-centred power dynamics are replicated, with women and girls often positioned at the lower end of the internal hierarchy. This affects their reproductive rights as well. Notably, many social care institutions apply the unwritten rule to order contraception for female residents, a practice conducted without formal documentation or residents' informed

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<sup>70</sup> Crenshaw, K. (1989). Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics. University of Chicago Legal Forum, 1989:139-168.

consent. Many women receive regular birth control injections, while those exempted for medical reasons are provided with IUDs. An interview participant who used to carry out monitoring visits to social care institutions revealed instances where female residents expressed a desire to have children, not aware that it would be impossible within the institutional setting.

*"For women, again as I see it, what they do is they give these long-term contraceptive injections, which are effective for about a month. Now, there have been examples that they don't know what they're getting, what injection they're getting and that it's a contraceptive injection [...] So, there have been several interviews in these institutions where the residents say, yes, they want to have a baby, they want to have children, but so the reaction or what they add to that is often, that you can't have a baby here, it is going to be scraped here. I remember this word, scraping, that they'll take it anyway, and so it was reinforced." - Lawyer at disability rights NGO (M)*

Ethnicity introduces an additional layer of discrimination for people with disabilities who become victims of violence. In the Hungarian context, several interview participants highlighted the challenges Roma people with disabilities face. A special education teacher stated that many children with disabilities come from underprivileged families, many from Roma families, with no access to prenatal care. Roma people with disabilities also often encounter prejudices and discrimination. A lawyer (M) mentioned having heard a psychiatrist describe a resident as a "typical Roma, who behaves as such". He wondered if these comments translate to verbal abuse of Roma residents. A special education teacher and researcher (F) referred to an interview she had carried out with a psychiatrist who said that "there are more problems with the Roma because they are hysteroids".

One interview participant also mentioned sexual minorities also being in an especially difficult situation.

In addition, the disparity of services available in Budapest and everywhere else in the country was also highlighted by a special education teacher. In the capital, there are more trainings and engagement opportunities for persons with disabilities, with significantly less opportunities in other settlements, due to the lack of capacity and funding.

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## Reporting violence: Barriers and challenges

The preceding chapter shed light on how limited tools and resources lead to violence against women and children with disabilities largely a hidden phenomenon. This section scrutinises the complexities surrounding the reporting of violence, exploring the barriers, processes, and challenges inherent in the reporting mechanisms.

### Barriers to reporting

Firsthand accounts from professionals working directly with people with disabilities indicate that victims often fail to recognise the occurrences as instances of violence. This stems partly from the lack of available information and resources available to people with disabilities on their rights, violation of their boundaries and especially sex education:

*"It's a very strong dependency situation. They're more afraid of the uncertainty of, if I report and say I'm out of this family or I'm out of this institution, what's in store for me? Or they are afraid of retaliation. But I think it's the lack of information anyway. I think in many cases they are not even sure if they are victims of abuse here."* - Special education teacher and researcher (F)

When victims acknowledge violence, emotional barriers, including feelings of shame, self-blame, fear, and a lack of confidence in seeking help pose substantial obstacles to reporting. Insufficient awareness of available resources as well as victims' dependence on the perpetrators can also deter them from reporting. A further challenge that often hinders effective identification and reporting of violence by people around victims is the absence of a trusted person victims could confide in to share their experiences.

*"And well, the whole institutional atmosphere is such that the residents are so vulnerable that everyone says they are afraid that if they do anything, not even taking legal action, but if they just speak up or make a complaint, they won't be cared for. That it will have a negative consequence on them."* - Disability expert at human rights NGO (M)

Persons with intellectual disabilities are in extremely vulnerable situations due to communication difficulties, resulting in a heightened barrier to accessing necessary support. Finding information about available organisations who could help can be challenging,

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residents of institutions often lack access to essential communication tools, such as laptops or internet connection. Moreover, using available communication methods, such as typing or using the phone may also be impeding for people living with certain disabilities.

A lack of trust in authorities also emerges as a critical barrier. Interview participants with experience in victim support and reporting highlight that the credibility of victims with intellectual or psychosocial disabilities is often questioned by authorities, especially if the victim is a woman. According to an interview participant from a victim support organisation (F): *“In our experience, whether we are talking about the criminal justice system or the social care system, it is enough that someone is a woman, and a double standard is instantly activated.”* These experiences can further reinforce distrust.

Distrust in the police in particular and criticism towards their practices was noted in several interviews. One social worker (M) remarked that the police “do not like to investigate”, and rather “outsources” the investigation process to him and his colleagues at the family counselling and child protection centre. Concerns were also raised regarding the police’s ability to provide protection to victims and their tendency to interrogate victims more than perpetrators. An interview participant with victim support experience argued that on the short term, a criminal report can even increase danger and she criticised the limited application of restraining orders, only issuing them in extreme life-threatening situations. At the same time, several interview participants highlighted positive progress in police investigations, especially in relation to progress on child-friendly justice.

### **Gaps in child protection hindering addressing violence**

Overall, the interviews highlighted that a high number of cases of violence, even if detected, do not get reported due to the individual, community-related and systemic barriers described in the preceding subchapter.

The reporting avenues for children differ significantly from that of adults. As described in the introduction of the policy framework, a child protection signalling system mandates institutions and professionals to report suspected or known endangerment of a child. However, challenges in cooperation between authorities, bureaucratic delays, cases being passed between authorities and a lack of a holistic approach impede the effective reporting

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and progression of cases. Professionals in the field expressed frustration concerning the system's limitations, with a child psychiatrist (M) underscoring that *“the system is incapable to help these children”*. He would welcome a more holistic approach, pointing out that case workers or social workers working with children are often unaware what happens with the child in other institutional settings, such as at school or in the hospital.

*“Social work at schools is not holistic, so to speak, because it only focuses on what happens in the school. [...] we also want to see what happens to the child at home. And it's very rarely written in the educational opinion what might be happening at home. It's also possible that the school is afraid of the parents, unfortunately.”* - Child psychiatrist (M)

In children's homes, the primary obstacle lies in addressing and reporting such incidents. Interview participants with work experience in children's homes emphasised that children in institutions are particularly vulnerable to human trafficking and sexual exploitation. Staff members may feel powerless, with limited capacity and no systemic response framework.

*“I feel very sorry for the child protection workers because they work in very, very bad conditions, with zero appreciation, either financially or socially, so I'm not even inadvertently criticising them. They simply do not have the capacity to tackle a problem for which there really is no institutional background.”* - Child psychologist (F)

Beside systemic deficiencies, many cases remain unreported due to stigma. As a child psychiatrist (M) who have worked with many children in vulnerable situation, including with child victims of sexual exploitation, highlighted the attitude of the authorities and the social care system as well: *“the more these girls are seen as criminals by the police, the healthcare system, education, the more they are stigmatised.”*

A child protection researcher (F) captured the dissonance related to children's protection within the existing system: *“What is the message to these children? If they do something wrong, the system intervenes immediately, yet when something happens to them, they are somehow not valuable enough to be protected.”*

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## **Pathways of response in violence cases**

In this section we will focus on responses to violence against women and children with mental and psychosocial disabilities. Interview participants were asked about how professionals and different institutional settings handle violence against women and children with disabilities, whether there are unified protocols, and what are the typical pathways of cases inside and outside of the institutions as well as the available resources and support for the victims of reported violence.

### **Responses in institutional settings**

Several interview participants reported the absence of unified protocols for dealing with violence in residential institutions, which makes accountability unclear and hinders effective reactions from staff members. During the interview process, we also heard of cases where, although sexual abuse was suspected by staff members, residents were not taken for medical examination in time, and evidence could not be collected. Similarly to larger institutions, small group homes were also reported to lack procedures for addressing abuse including complaint mechanisms with clear protocols where and how to ask for help.

While the lack of well-defined protocols seems to be a systematic problem, interview participants also recalled small-scale “promising practices” that indirectly support victims to share their experiences and facilitate reporting of violence. An interview participant (F) from an NGO that provides legal assistance mentioned that they have specific guidelines for working with clients in vulnerable situations, and their lawyers do participate in trainings, including easy-to-read and plain language communication.

### **Covering up violence, perpetrators going unpunished**

An unexpected, but unfortunately recurring response to violence was covering up these cases. Two of our interview participants mentioned that they are aware of instances where the management of residential institutions decided not to investigate the violence reported by staff members. Staff members are often also motivated in hiding the problem, if they think that reporting the cases would have a high price: a fear of negative judgements, losing their job opportunity, losing funds or professional support are a few of those concerns that can lead to secrecy, especially in communities of small settlements.

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*"Obviously a big part of it is that people who work there have their livelihoods completely tied to this. Well, if it is a place with few job opportunities in a small settlement, the difficulty is that because it is a highly underfunded and not well cared for situation, the employees do not have the necessary support, and professional and personal supportive environment to be able to get into these situations."* - Representative of victim support NGO (F).

In other cases, rather than aiming to directly cover up violence, staff do not report due to major capacity issues. Even if the abuse is detected and cases are reported, further consequences are often missing. Interview participants refer about cases where there was no formal or informal consequence of violence for the perpetrators. In other cases, if the perpetrators were fellow residents of institutions, they were simply moved elsewhere. Concerning staff members of institutions who committed violence, cases were mentioned where they have been dismissed, but police complaints were not filed.

### **Responses from the authorities**

When it comes to making progress on the cases that were reported to the authorities, interview participants had mixed experiences. A special educator (F) mentioned that *"in theory, the police are very well prepared. The law is there, on paper everything is fine. I don't know about any special educators working with the police. I also don't know if professionals working at the justice system or at the police receive any formal training on how to work with people with disabilities."* A representative of a victim support NGO (F) also described the centralised setup of the police as a challenge but mentioned that her organisation provided trainings for the police to better support victims of domestic violence. Other interview participants mentioned that a DPO did provide occasional trainings for the police on working with persons with disabilities. An interview participant (F) reported that police have a local protocol for cases of intimate partner violence in general, focusing on how to apply a restraining order and connecting the victim with victim support services.

A reoccurring problem was that competences are debated between authorities and lack of coordination hinders effective intervention-. Better cooperation would help victims receive legal protection sooner, as well as access support. An interview participant (M) with legal background had the impression that *"structural changes are needed in legislation and in the*

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*implementation of the law in practice.”*

A social worker (M) we interviewed complained that the police was inefficient and unable to provide sufficient protection to victims. Furthermore, his impression was that the police interrogated the victim more than the abuser. *“The abusers are not so much interrogated, rather the abused are. I am not saying that there is victim-blaming, somehow the whole protocol is simply inefficient.”* - Social worker at family advisory and child protection centre (M) Another social worker (M) was discouraged by the police from reporting a case of sexual violence in a residential institution, despite having evidence.

A common problem raised by the interview participants was that cases rarely get further than the investigation phase. An interview participant working as a lawyer at a disability rights NGO (M) recalled that while he spent several years in the field, he could only remember one case *“where the victim was a person with disabilities and the police investigation turned into criminal prosecution, largely because my [advocacy] organisation was involved. But it wasn’t the police who involved us, it was the victim’s mother.”*

### **Accommodating women and children with disabilities**

Looking at the specific situation of women with intellectual and psychosocial disabilities, the lack of accessible shelters was brought up repeatedly by interview participants. A special education teacher working with people with disabilities (F) recalled a case where she struggled to find a shelter that accepted a client of hers, a refugee woman with severe psychosocial disabilities. Although the interview participant was able to utilise her contacts and find a placement for the client, the victim was refused by several shelters based on the circumstance that she required an interpreter and a psychiatrist.

Finding alternative or temporary placement for victims of domestic violence who have disabilities is nearly impossible in other cases too. An interview participant (M) summarised their situation: *“they could get a guardian and moved to an institution as the only form of help available.”* The same interview participant also pointed out that the typical attitude at the Guardianship Authority *“is that if a person has disabilities or lives in an institution, they should be put under guardianship in order to protect them. Placing them in institution is [viewed as] protection.”* These outdated practices violate the UN CRPD and the most recent

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Guidelines on Deinstitutionalization, including in emergencies - described more in details at the Legal and policy framework chapter.

As for children, a child rights expert (F) who carried out a research project with guardians found them unprepared and untrained to support children with disabilities as victims of violence in the criminal justice system. She also pointed out that child protection authorities are mostly focused on protecting the child from secondary victimisation and the police tend to concentrate on collecting evidence. Other interview participants pointed out positive developments, such as the implementation of the Barnahus model on a national level, a special arrangement for questioning children and good cooperation with national human rights institutions. The importance of cooperation between the police and the child protection authorities was also emphasised by a police officer (F) we interviewed. A psychiatrist working with children (M) explained that social workers are an important link between police officers and doctors who “speak a different language”.

Child protection authorities were described as inefficient, underfunded and suffering from a serious shortage of labour, as well as considerable fluctuation of the workforce. Due to these reasons, they often do not have enough information, personnel and time to properly fulfil their tasks. Several interview participants mentioned that the child protection authorities have no capacity to solve problems on a systemic level, and individual efforts are not sufficient to cover the gaps in the social care system. The child protection signalling system was mentioned by several interview participants as an important tool. A judge (F) we interviewed remarked that while there are undeniable gaps, the signalling system is useful, and judges also report through it. Cooperation between the different authorities can also become complicated due to debated responsibilities between different branches. A social worker (M) from a family advisory and child protection centre described their relationship with the guardianship office as *“the working relations are better with them, but not always easy”*.

### **Redress and compensation**

Regarding redress for the victims, our interview participants were not aware of cases where victims received formal compensation. A legal professional (M) who participated in a monitoring visit of a large institution, which later led to a criminal complaint, mentioned that

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after the complaint, some residents were moved to supported living arrangements. Our interview participant from the victim support centre (F) explained that there is financial support available to victims if they report the crime- which is an aid provided by victim support services in general. Other forms of help, including emotional support and legal assistance are also available for victims who did not file an official report of the crime yet.

### **Supportive factors in preventing and addressing violence**

During the interviews, we also inquired about what types of support would actually help the victims either in preventing or addressing the abuse. Some protective factors mentioned by a social worker were a connection to the community and supportive network. A university researcher working with adults with psychosocial disabilities (F) also highlighted the role of community-based services, the power of peer support and the importance of connecting and interacting with local communities. (Having an “outside” job and visiting church if the person is religious were her examples.) Social workers (F and M) with experience from residential institutions, group homes and supported living underlined that the client must feel safe in the environment and with the people (including staff members) around them, then they would be more encouraged to report the abuse. A judge (F) we interviewed recommended to use “special treatment” more proactively if professionals within the system recognise the victim’s disability. The legal framework and conditions of special treatment in criminal procedures are described in the legal and policy framework chapter.

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## How did the COVID-19 pandemic affect the situation?

As noted in the 2020 Disability rights during the pandemic report<sup>71</sup>, children and women and girls with disabilities belong to particularly marginalised groups that have been disproportionately affected by the pandemic. Thus, it was especially important to capture their experiences related to the COVID-19 pandemic in our research.

Many of the professionals we spoke to were in regular contact with women and children with intellectual or psychosocial disabilities, and they seemed to have very mixed experiences during the pandemic. For adults living in residential institutions, the lockdowns created lots of tension, despite attempts made in several institutions to allow the residents to stay in contact with their families and guardians. Interview participants explained that *“it was confusing for persons with mental disabilities to follow the changing rules”* of who is allowed to leave/visit and when, and who is to cover the cost of the mandatory PCR tests. Moreover, a report by the ombudsperson’s office found that several deaths of institutionalised persons with disabilities could have been prevented. Overcrowding and labour shortage in residential institutions created additional danger for the residents during the pandemic.

For persons with disabilities who lived autonomously, the lockdown caused a severe breakdown of personal and professional relationships. Persons with disabilities living independently struggled with finding personal assistants and feared being institutionalised. The pandemic affected some groups stronger than others: *“I interviewed several people with psycho-social disabilities and asked them how the isolation and social distancing affected them. They said not much – their life is like this anyways.”* – said a researcher (F).

Professionals working directly with persons with disabilities seemed to agree that violence against women and children increased during the pandemic. The lockdown also affected schools’ ability to act as part of the child protection signalling system. Generally, schools play a

<sup>71</sup> Brennan, C. S., S. Allen, R. Arnold, I. Bulic Cojocariu, D. C. Milovanovic, S. Gurbai, A. Hardy, et al (2020). Disability Rights during the Pandemic. A Global Report on Findings of the COVID-19 Disability Rights Monitor. Available at : <https://www.covid-drm.org/en/statements/covid-19-disability-rights-monitor-report-highlights-catastrophic-global-failure-to-protect-the-rights-of-persons-with-disabilities>

large role at detecting, recognising, and reporting violence against children. Online education removed this possibility which led to higher latency of abuse and to the lack of consequences for perpetrators. This was a general consequence of the pandemic to families' safety, which more severely affected women and children with disabilities.

Regarding familiar and intimate partner violence, interview participants reported that a lot of the already ongoing abuse worsened as the lockdown period was a trigger for perpetrators. Professionals from a variety of fields confirmed that gender- and disability-specific violence increased, and many of them remarked that it was especially hard to detect and address: "*it became much worse and even harder to detect anything*". While some interview participants felt that the actual reported cases of abuse against women and children with disabilities did increase, others noted that the victims were extremely isolated, and this might have caused an even higher under-reporting than in "normal times". It is hard to draw conclusions from official criminal statistics on domestic violence, where cases appear with a delay, depending on if and when charges are pressed, and as pointed out earlier, many of these cases went unreported.

# 05

## CONCLUSIONS AND RECOMMENDATIONS

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## Conclusions

Our findings illustrate the diverse forms of violence, including verbal and physical abuse, forced contraception and sexual violence that women and children with disabilities encounter. We began the report by exploring the legal landscape and available remedies for children and women with disabilities facing institutional conditions and misconduct. This legal analysis serves as a foundation, complementing the subsequent interviews, which directly captured the experiences of professionals and individuals with disabilities, providing a comprehensive understanding of the barriers, challenges, and recommendations regarding violence prevention, detection, and response in various settings.

Victims often struggle to identify abuse due to a lack of accessible information and resources. Prejudice, societal misconceptions, and disability- and gender-based stereotypes further hinder comprehensive sex education, perpetuating the vulnerability of women and children with disabilities. Institutional settings emerge as fertile ground for violence, where it can become normalised due to inadequate staff training, understaffing, and overcrowding. Social care institutions, characterised by inefficient complaint mechanisms and limited external oversight, contribute to an environment where violence often goes unreported. If violence is reported, many of the complaints stay within the institutions, most likely due to the lack of independent evaluation of the complaints and the multiple powerless situation of the clients.

Women with disabilities need to be given more opportunities to leave social care institutions, especially in situations when violence happens inside these facilities. Continuing the campaign for deinstitutionalisation and support for independent living is still essential and aligns with the UN CRPD's guidelines.

Placing persons with disabilities in residential institutions offers no real protection to women with disabilities who are victims of violence and contradicts their right to live independently and to be included in the community.

Existing frameworks and regulations exhibit shortcomings in effectively preventing, identifying, and reporting gender-based violence. The lack of coordinated efforts between

authorities, coupled with a child protection system that is systematically underfunded and overworked, further impedes the reporting and progression of cases involving the abuse children with disabilities.

The findings underscore the need for following CRPD principles guiding the development of monitoring mechanisms. A victim-centred justice system, clear reporting protocols in institutions, external reporting mechanisms independent of staff, and comprehensive education and training for professionals and community members are crucial. The intersectionality of gender, disability, ethnicity, and sexual orientation must be considered in shaping these principles to address the multiple disadvantages faced by women and children with disabilities.

Support services, while making positive strides, reveal significant weaknesses. Gaps in the child protection system, deficiencies, and a lack of accessible shelters for women with intellectual and psychosocial disabilities are notable challenges. The impact of the COVID-19 pandemic has further strained support services, exacerbating tensions in residential institutions, and creating breakdowns in personal and professional relationships for those living independently. Per the recent UN Guidelines on Deinstitutionalization, support services must be accessible and available to persons with disabilities, even during emergency settings.

The recommendations emphasise the importance of deinstitutionalisation, education and training, clear protocols for reporting abuse, and an enhanced capacity for victim support services. A victim-centred justice system, disaggregated data collection, and a comprehensive, collaborative approach are crucial to understanding and addressing the scale of violence against women and children with disabilities. We advocate for a paradigm shift towards independent living, breaking free from the confines of institutionalisation and its culture, and fostering a safer environment for all vulnerable individuals.

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## Recommendations

**Implement deinstitutionalisation in line with the UN CRPD’s Guidelines on Deinstitutionalization.** *“Institutionalization contradicts the right of persons with disabilities to live independently and be included in the community.”*<sup>72</sup> Placing a person with disabilities under guardianship can neither be considered a form of independent living nor a form of protection. Reporting and support should not be dependent on guardians or the family. Member states should set up a system of supported decision-making to enable all women and children with disabilities to make decisions about crime reporting, where to live and what kind of support should access (in line with Article 12 UNCRPD). Deinstitutionalisation processes should also consider the doubled discrimination and heightened risk of violence and exploitation that women and girls with disabilities face. Female and child victims of crime in facilities and programmes that aim to serve them need to be given support and the means to live independently in the community to prevent further victimisation.

**Provide education and training for professionals working with people with disabilities with a focus on the prevention of violence and other forms of ill-treatment, as well as on the right of all persons with disabilities to live in the community.** Many interview participants emphasised that allocating more efforts to prevention is key in combatting violence against women and children with disabilities. All professionals working with people with disabilities should have training on preventing and addressing violence. The UN Guidelines recommend that *“authorities and personnel responsible for running institutions and justice and law enforcement personnel should receive training on the right of persons with disabilities to live in the community”*. Education and training could be provided by government institutions, higher education institutions and NGOs with the involvement of persons with disabilities and their organisations.

**Provide education and training for people with disabilities on rights, sex education, violence and boundaries.** People with disabilities often do not recognise when violence occur to them due to barriers related to the lack of access to information available on rights,

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<sup>72</sup> UN CRPD/C/5 (2022). Guidelines on deinstitutionalization, including in emergencies.

violence and sex education. Education on these topics should be accessible in an age-appropriate and gender-sensitive way. Women with disabilities should be empowered and supported in an age-appropriate manner to make decisions about their lives.

*"What gives me great heartache these days is the real prevention. Whether we actually see how and what prevention could be. So, in the case of sexual abuse, prevention is not only about how I can protect myself in the street which also contains victim blaming. It is rather that we don't teach children, about sex education, about boundaries."* – Police officer (F)

**Establish clear protocols on reporting violence in institutions including social care homes, educational institutions as well as facilities and programmes that serve people with disabilities.** Establishing external means for reporting violence, without dependence on care staff, family or guardians, is essential, especially since violence against women and children tend to be perpetrated by family, guardians or carers. Protocols and a clarification of responsibilities are also needed for authorities. Family advisory centres and victim support centres would be better placed to help clients with disabilities if they had protocols on how to address their cases.

**Establish accessible reporting mechanisms to enable victims to report crimes.** Women and children should be supported to autonomously report crime and obtain support, especially in situations of conflict of interest of violence perpetrated by guardians/carers. Reporting mechanisms to obtain reparations should also be accessible to victims, and developed in cooperation with persons with disabilities and their organisations.

**National and independent human rights organisations should carry out regular monitoring visits to institutions and community-based services.** Monitoring should be done unannounced and by and with the participation of persons with disabilities and external organisations. This would facilitate the identification of violence against women and children with disabilities within facilities and programmes.

**Establish a victim-centred justice system.** Several interview participants expressed criticism related to gaps in cooperation mechanisms between various authorities and a lack of clear protocols. While practitioners also acknowledged progress in recent years in several areas, such as child-friendly justice, navigating the justice system for victims can still be

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difficult. It is crucial that victims' access and full participation in the judicial process is guaranteed. Victims should have access to clear information in accessible language on the next steps awaiting them, on their rights and available services, as well as to procedural accommodations. The criminal justice procedure should allow for a trauma-informed treatment of child and female victims and witnesses with disabilities.

**Enhance the capacity of (victim) support services in a way that they provide specialised mainstream services accessible to people with disabilities.** Women with intellectual and psychosocial disabilities experience additional challenges regarding access to placements in the victim support system and access to trauma-informed care. The number of placements in shelters is very limited and there are not enough professionals who can provide disability-appropriate trauma-informed care.

*"And the other thing, which is a challenge in this [victim support] system, is that since only a fraction of the places are available, it must be strongly prioritised in certain directions. So the selection is very strong, so usually a woman with 3-5 children has a good chance, for example, of being admitted to a crisis shelter, which is, after all, a short-term care, from which she should be able to go somewhere further. And that's not really covered here either."*

– Representative at victim support NGO (F)

*"I don't know how Hungary-specific this is, but it's certainly the case here that the health system itself is not fit for anything. So, on the one hand, there are so many clients, that if I have to go to a psychologist, they tell me to come in 3 months or 6 months. So for crisis-based, there are a few places who try to do something, such as these autism foundations, but they don't have... And I know because we were also looking for one for a client and it was not easy to find a specialist who was disability-specific, maybe had worked with people with disabilities, was willing and had the capacity, and not pro bono, it was also the case that the client could arrange and pay for it themselves. So, the specialist was not doing it pro bono but just like as if it as another client, but at least he was taking on a client with a disability exceptionally. But this was only possible thanks to personal contacts. Otherwise, they could tell me to come back in six months." - Social worker working with people with*

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disabilities (M)

**Collect disaggregated data across the justice system to get a better understanding of the phenomenon of violence against women and children with disabilities.**

Disaggregated data could help shed more light on the scale of identified cases of violence against women and children with disabilities, expose hidden trends and provide more visibility to the issue that could facilitate new policies.



## **Annex 1: Interview participants and research ethics**

### **Interview participants**

The expert interview participants included:

- Three special education teachers and researchers
- Special education teacher & ETR expert
- Special education teacher working with people with disabilities
- Two social workers working with people with disabilities
- Sociologist & child protection expert
- Two disability experts from national human rights institution
- Lawyer at legal aid service
- Lawyer at disability rights NGO
- Disability expert at human rights NGO
- Child psychiatrist at a children's hospital
- Representative of victim support NGO
- Police officer
- Social worker at family advisory and child protection centre
- Judge
- Child psychologist
- Representative of national victim support organisation

12 interviews were conducted online through Zoom, 6 in person and one through email based on the interview participants' preferences. The interviews lasted an average of 63 minutes. The shortest interview lasted 36 minutes, while the longest lasted 90 minutes.

All interviews conducted on Zoom and in person were recorded, transcribed and interview summaries prepared. The data was analysed using thematic analysis. Interview data was stored in Validity's private platform, only accessible by the research team.

### **Research ethics**

Research ethics is a crucial aspect of the research process, and the safety and well-being of

participants were always the top priority. The following ethical considerations were of outmost importance throughout the research:

- Informed consent: All interview participants were thoroughly informed about the research project and its aims and their participation in it. They were given the opportunity to ask questions and were informed that they could withdraw from the study at any time.
- Confidentiality: All information collected during the interviews were kept confidential. Participants were informed about how their information would be used. Participants were also offered to check the draft report before publishing to make sure that all information was presented in an anonymised way and no personal information on cases mentioned or the interview participants were shared.
- Safety: Women and children participating in the research who have experienced abuse and violence may be at risk of further harm. Researchers ensured that participants were safe during and after the interview.
- Respect: Research participants were treated with respect and dignity throughout the research process. Researchers reflected critically on their communication throughout the process and refrained from asking insensitive questions or ones that could cause distress.
- Empowerment: Research participants should be empowered to make decisions about their participation in the research project. Researchers aimed to ensure that participants had access to reasonable accommodations if needed.
- Child protection policy: The research team was familiar with the organisation's child protection policy and were aware of the processes to follow should there be any concerns.