

## **Jõhvi Youth Treatment and Rehabilitation Centre**

On 16 February 2010, the Chancellor carried out an own-initiative unannounced inspection visit to Jõhvi Youth Treatment and Rehabilitation Centre which provides rehabilitation services for children with addiction problems.

Jõhvi Youth Treatment and Rehabilitation Centre began operating in 2004. It is an establishment owned by the private limited company Corrigo and its main objective is to provide treatment and rehabilitation services to children with drug addiction problem aged 14–18. Exceptionally, children aged 11–14 are also admitted. The centre provides treatment and rehabilitation services on the basis of a contract for the use of national budgetary allocations concluded with the National Institute for Health Development. Thus, the service is funded from the state budget. According to the contract, children referred to Jõhvi Youth Treatment and Rehabilitation Centre must be aware of the conditions of treatment and rehabilitation and sign a written consent for stay in the centre. Then, a contract for the provision of treatment and rehabilitation services is concluded between a child's guardian and OÜ Corrigo.

The inspection visits to Jõhvi Youth Treatment and Rehabilitation Centre and the follow-up visit carried out in 2010 revealed once again that the main problem hindering the provision of the necessary rehabilitation service to children with addiction is the absence of the legal regulation.

The legislator has not established, either in the Juvenile Sanctions Act, the Social Welfare Act or any other Acts, the definition of the rehabilitation service applied in respect of minors with addiction problems under § 3(1) clause 8 of the Juvenile Sanctions Act. There are no Acts regulating the types of assistance that children referred to a provider of a rehabilitation service are entitled to receive (health services, rehabilitation services, education). There are no compulsory requirements for institutions applying the sanction prescribed under § 3(1) clause 8 of the Juvenile Sanctions Act (i.e. requirements for the rooms and staff of the rehabilitation service provider, the number of children participating in a programme or service, etc). Currently there are also still no provisions regulating whether and to what extent the institutions applying the sanction are allowed to restrict fundamental rights of children if this proves to be essential for guaranteeing the success of the rehabilitation process. There is no effective system of follow-up care for young people who have undergone the rehabilitation process. The provision of the rehabilitation service established under § 3(1) clause 8 of the Juvenile Sanctions Act is also significantly hampered by the absence of a financing model for the service.

As the state has not established any guidelines or requirements for the providers of the rehabilitation service, it is not possible to verify the quality of the rehabilitation service provided to children with addiction problems. Due to the absence of service guidelines and a supervisory mechanism no state supervision over the existing service providers has been carried out. Also, no comprehensive external assessment of the existing institutions has taken place. Thus, it is not possible to be convinced about the quality and efficiency of the service offered by the existing service providers.

The Chancellor has repeatedly drawn attention to this problem, most recently in his report No 1 to the Riigikogu, "The availability of the rehabilitation service for children with addiction problems". At the joint meeting of the Riigikogu legal affairs committee and the social affairs

committee on 10 December 2009 where the Chancellor's report was discussed both committees asked the Ministry of Social Affairs to analyse in the first quarter of 2010 what the justified restrictions of fundamental rights in the rehabilitation of children with addiction problems could be, and draw up in the first half of 2010 draft legislation regulating the substance of the rehabilitation service and establishing the relevant financing model and submit the draft to the Riigikogu before the end of the spring session of 2010. However, the Ministry of Social Affairs had not drawn up the draft legislation regulating the provision of rehabilitation services to children with addiction problems by the end of 2010. Thus, the providers of rehabilitation services still have to operate in a non-existing legal environment.

The following part contains a brief overview of other shortcomings not mentioned above but found during the inspection visit.

The inspection revealed that Jõhvi Youth Treatment and Rehabilitation Centre is a closed establishment from which children are not allowed to leave at will. The examination of children's files revealed that in most cases there was no child's written consent for the stay in a closed rehabilitation establishment. The majority of children with whom the Chancellor and his advisers talked also claimed that they had not given a written informed consent to stay in the establishment for the provision of the service and for the restriction of their freedom.

The Chancellor reached the conclusion that according to the legal regulation valid at the time of the inspection visit Jõhvi Youth Treatment and Rehabilitation Centre did not have a legal basis for restricting the freedom of children against their will. Thus, a child has to give a written informed consent for receiving the rehabilitation service and restricting their freedom. An informed consent presumes that prior to giving their consent a child has been explained, taking into account the child's age and level of development, which rules and restrictions of the rights apply in the rehabilitation centre, what is the duration of stay in the establishment and what are the conditions for living and studying in the establishment. The child should also be notified of the possibility to withdraw their consent.

On this basis, the Chancellor recommended to the head of Jõhvi Youth Treatment and Rehabilitation Centre to ensure that all the children referred to the centre to receive the rehabilitation service are familiarised with the conditions for the stay and the rules and restrictions applicable in the centre, and based on this provide a written informed consent for stay for the provision of the service.

The Chancellor recommended to the National Institute for Health Development to verify regularly that all the children referred to the rehabilitation service provider have given their written informed consent for receiving the treatment and signed an agreement to comply with the rules and conditions applicable in the treatment and rehabilitation centre, as required by the contract for the use of national budgetary allocations concluded with Jõhvi Youth Treatment and Rehabilitation Centre.

Interviews with children as well as staff in the centre showed that the staff were inspecting the content of children's correspondence. Children could not send letter though the Internet but could read letters sent to them. At the same time, a staff member of the centre was standing by the child and reading the letters sent to the child. The interviewed children had not sent or received many letters by post but allegedly a staff member also read letters sent on paper. An incoming letter was opened in the presence of a child, the staff member read the letter and then decided whether to give it to the child or not.

The Chancellor reached the conclusion that the activities of Jõhvi Youth Treatment and Rehabilitation Centre concerning the opening of children's personal letters, inspecting the content of the correspondence and restricting the correspondence has no legal basis. Such an activity is arbitrary and in conflict with § 43 and § 26 of the Constitution.

However, if in the interests of success of the rehabilitation process, restricting the correspondence of children proves to be essential, a separate agreement on this should be concluded with the children referred to the service and their guardians. Such an agreement may, for example, be drawn up as an appendix to the treatment agreement.

On this basis, the Chancellor recommended to the head of Jõhvi Youth Treatment and Rehabilitation Centre to discontinue restricting the right to children to the confidentiality of messages and inviolability of private life without a legal basis.

The Chancellor recommended that in case of a need a separate written agreement with children and their guardians for restricting the correspondence should be concluded.

The inspection also revealed that opportunities for spending free time and engaging in hobby activities in the rehabilitation centre were fairly limited. Many children with whom the Chancellor and his advisers talked complained about the limited opportunities to engage in hobby activities and expressed the wish to expand such opportunities. Several children also mentioned that, for example, on weekends only one instructor was present in the centre and therefore children could go outdoors only if all the children agreed to this. If some children did not wish to go outside, the others could not go either, as the instructor could not leave any children alone in the centre.

Children with addiction problems receiving a service in the rehabilitation centre are not comparable to adults by their physical or mental development and are therefore in need of assistance and support from adults for their development. Providing children with opportunities for activities corresponding to their age is extremely important for their development.

Although at the time of the inspection visit there were no legal acts regulating how many staff members per certain number of children should be present in the rehabilitation centre at any time, the number of staff in the centre at any time should be sufficient to enable ensuring the rights of children arising from international and domestic legislation.

On this basis, the Chancellor recommended to the head of Jõhvi Youth Treatment and Rehabilitation Centre to offer additional possibilities for spending free time and engaging in hobby activities for children in the centre. The Chancellor also recommended to the head of the centre to ensure that at any moment, regardless of the time or day of the week, there is a sufficient number of staff in the centre to ensure the rights of all the children staying in the centre. In addition, the Chancellor proposed to ensure that children have a daily opportunity to spend time in the fresh air.

The Chancellor recommended to the National Institute for Health Development to supervise regularly whether children in the centre can spend time every day in the fresh air and whether they have sufficient possibilities for engaging in hobby activities and spending free time.

As a result of the inspection, the Chancellor made recommendations and proposals to the head of Jõhvi Youth Treatment and Rehabilitation Centre, the National Institute for Health Development and the Minister of Education and Research, and sent the summary of the inspection visit to the Minister of Social Affairs for taking note of.

The head of Jõhvi Youth Treatment and Rehabilitation Centre replied with regard to the Chancellor's recommendations and proposals that the conditions for admission of young people to the rehabilitation service were changed, so that upon their arrival in the centre they are explained the purpose of referral to treatment and rehabilitation, the restrictions applicable in the centre, the internal rules and daily schedule of the centre, and the rights and duties of young people during the stay in the centre. A young person would sign an affirmation that they have been provided the information and also sign an informed consent. According to the head of the centre, in the future an agreement would be drawn up as an appendix to the treatment and rehabilitation agreement, stating that the centre has the right to inspect a young person's communication with persons outside the centre. The young person and their guardian would sign the informed consent. According to the head of the centre, in the future all the reasons for cancelling of classes would be recorded in the relevant journal. The head of the centre also promised that the centre would guarantee the presence of at least two staff members on the premises 24 hours day.

The director of the National Institute for Health Development explained that in the future the Institute would supervise more frequently the activities of Jõhvi Youth Treatment and Rehabilitation Centre and the existence of a written informed consent by young people referred to receive the service. The Minister of Education and Research replied that he had asked Ida-Viru County Governor to carry out state supervision of the educational activities provided in the rehabilitation centre by Jõhvi Upper Secondary School.

In a conclusion with regard to the results of state supervision, the Minister admitted that currently there was no legal regulation of the organisation of education in rehabilitation establishments for children with addiction problems. At the same time, the Minister noted that the results of the supervision performed by Ida-Viru County Administration allow for a conclusion that the organisers of educational activities in the rehabilitation centre have tried to proceed from the individuality of pupils, their state of health as well as their ability and readiness to learn, but the organisation of education does not conform to the legislation.

The Chancellor of Justice carried out a follow-up inspection visit on 30 December 2010 to verify compliance with his proposals and recommendations. The follow-up inspection revealed that Jõhvi Youth Treatment and Rehabilitation Centre had implemented almost all the proposals and recommendations made as a result of the visit of 16 February 2010. Problems still existed with finding the sufficient number of qualified staff. But the head of the centre affirmed that they were actively looking for new instructors.