

AUSTRIAN
OMBUDSMAN BOARD



Annual Report

on the activities of the Austrian
National Preventive Mechanism (NPM)

2024

Protection & Promotion
of Human Right

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Preface

The Austrian Ombudsman Board is the Human Rights House of the Republic of Austria. Together with its commissions, it forms the National Preventive Mechanism (NPM). The Austrian Ombudsman Board received its constitutional mandate to protect human rights in 2012. The mandate is based on two important legal acts of the United Nations: the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and the Convention on the Rights of Persons with Disabilities (UN CRPD).

In order to ensure the protection and promotion of human rights in Austria, the NPM has been monitoring facilities throughout the country where people are or may be deprived of their liberty. These include correctional institutions, police stations, but also retirement and nursing homes, child and youth welfare facilities and psychiatric institutions. In addition, the NPM investigates facilities for persons with disabilities and observes police operations during large-scale raids, major events, assemblies, demonstrations and forced returns.

At the core of the NPM's activities is the early identification and elimination of risk factors for human rights violations. For this reason, the NPM visits a large number of facilities every year, usually unannounced, and monitors the prevailing framework conditions. A total of 458 such monitoring visits took place in 2024.

The NPM regularly reports on these monitoring visits to the National Council and the Federal Council. This report provides an overview of the prevailing living and residence conditions in the various facilities, identifies problem areas and weaknesses. The Austrian NPM also highlights best practice examples and makes recommendations on how the general conditions and thus the human rights of people living and working in the facilities can be improved.

The current challenges in politics and the economy are also being felt in the facilities. They are making it more difficult to enforce human rights. The NPM has been pointing out the deteriorating situation for some time now. One of the main reasons is the continuing shortage of staff in nursing homes, child and youth welfare facilities and correctional institutions, which makes it even more difficult to meet these growing challenges. The NPM therefore once again recommends that the legislature provides facilities and institutions with sufficient financial resources and appropriately qualified staff. Both are essential factors in creating humane conditions.

The members of the Austrian Ombudsman Board would like to thank the NPM commissions for their commitment and the Human Rights Advisory Council for its advisory support. Our thanks also go to the staff of the Austrian Ombudsman Board, whose work contributes to the strengthening and protection of human rights on a daily basis.

This report will be translated into English and submitted to the UN Subcommittee on Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (SPT).



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Vienna, March 2025

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Introduction

This report provides an overview of the activities of the Austrian National Preventive Mechanism (NPM) in 2024. In this year, the NPM commissions carried out a total of 458 monitoring visits, 435 of which were in facilities and 23 during police operations. The focus was on monitoring focal points that were defined in advance together with the commissions and agreed with the Human Rights Advisory Council. In addition, the NPM dealt with other unplanned but equally important issues that arose in the course of its monitoring activities.

458 Monitoring visits

A number of monitoring focal points were completed and new ones started or were prepared in the year under review. In hospitals and psychiatric clinics, the new monitoring focal points mainly centred on the „discharge management system of psychiatric clinics“. Initial trends can already be identified on the basis of the visits carried out to date: In most of the facilities visited, a structured discharge management system is being implemented in line with requirements. In all *Laender*, however, the commissions have so far observed that patients are often discharged much later than would be necessary from a medical point of view. One of the most common reasons for this is that there is often a lack of suitable non-hospitalised care and/or residential facilities for people with chronic mental illnesses (see chapter 2.2.1).

Monitoring focal points

In 2023, the NPM agreed on a new monitoring focal point for child and youth welfare facilities as well as for unaccompanied minor refugees in the primary care system of the *Laender*. Over the course of 2024, the NPM worked out the details of the new monitoring focal point „The Facility as a Safe Place“ and launched it in October 2024. For one year, the commissions will now record their nationwide observations in a standardised survey form. The AOB will then analyse the results and make recommendations to the decision-makers. For more details, see chapter 2.3.2.

In the area of the rights of persons with disabilities, the NPM once again had to observe that Austria still does not fulfil its obligations in implementing the UN CRPD. It is therefore one of the NPM's main concerns to continuously point out that the required measures must be realised quickly nationwide. In doing so, the NPM is not only in dialogue with the federal as well as the *Laender* public administration, but also with those affected and their interest groups (see Chapter 2.4).

The NPM completed the monitoring focal point „violence in detention“ during the year under review. The results are summarised in chapter 2.5.2. In autumn 2024, the NPM decided on a new monitoring focal point in the facilities of the penitentiary system and forensic institutions. The NPM will focus on detainees who have specific treatment and care needs due to their

mental health condition. The competent commissions will begin their visiting activities in a timely manner.

With regard to police detention, the commissions monitored three focal points in 2023 and 2024. These related to (replacement) clothing for destitute inmates, detainees' access to medical doctors of their own choice and de-escalating interactions with detainees. Further details on the evaluation can be found in chapter 2.6.1 „Monitoring focal points“. The definition of new monitoring focal points regarding detention centres for 2025 was still in progress at the time of going to press. The NPM will therefore present the new monitoring focal points, including their evaluation, in the next report.

The monitoring focal points defined in 2023 were continued during visits to police stations in 2024. They dealt with communication and alarm protection in custody cells and the proper documentation of detention. The evaluation can be found in chapter 2.7.1 „Monitoring focal points“. The definition of new monitoring focal points for 2025 in the area of short-term police detention had not yet been finalised at the time of going to press. The new priorities, including the evaluation, will therefore be presented in detail in the next report.

NGO Forum on children's rights

In addition to the monitoring visits, the AOB continued its dialogue with NGOs in 2024. In May, it organised its annual NGO Forum, which this time focused on the implementation of children's rights in Austria. The topic had previously been determined in consultation with the NGO Sounding Board. In working groups on the topics of environment/participation, child health, child poverty, education/inclusion and protection against violence, the AOB discussed with representatives of the competent authorities and NGOs where the greatest difficulties currently exist in guaranteeing children's rights (Chapter 2.3).

Exchange of experience with NPM commissions

A constant exchange with experts is particularly important for the work of the NPM, not only on current topics, but also with regard to the further development of preventive activities. For this reason, a two-day event is organised every year for all members of the NPM commissions to discuss the experience gained from its monitoring activities. In addition to current challenges, the monitoring focal points, the methodology of the monitoring visits and their findings are analysed and discussed. In addition to collecting proposals, suggestions for improvement and feedback on the further development of the NPM, one focus in October 2024 was on the activities of the Investigation and Complaints Office for Allegations of Police Ill-treatment (*Ermittlungs- und Beschwerdestelle Misshandlungsvorwürfe*) at the Federal Bureau of Anti-Corruption. An employee of the Federal Bureau of Anti-Corruption presented the structure of the Investigation and Complaints Office and its working methods. A member of the Investigation and Complaints Office introduced the legal basis of the office and what it does

and can do, and took stock of its implementation to date. Both presentations were discussed with the participants. Another point was dedicated to the topic of „racism in facilities“. An expert gave an overview of her experiences, which were then reflected on in a round table with regard to the NPM's monitoring activities. Another presentation focussed on psychiatric caregivers in the context of coercive measures. An expert discussed the paradigm shift away from biomedical and towards human rights-based psychiatry and showed how coercive measures can be further reduced in the future. The exchange with the commissions as well as the presentations and discussions on the various human rights aspects provided the participants with important new input for their work.

The following pages of this report are dedicated in detail to the findings and observations of the monitoring visits in 2024. Chapter 1 contains an overview of the NPM with the most important key data on the mandate and a statistical evaluation of the monitoring visits. In addition to information on the budget and staffing, this chapter contains a summary of the most important events in the area of international cooperation and the NPM's cooperation activities as well as a report by the Human Rights Advisory Council.

Overview of the NPM

Chapter 2 deals with observations on the types of facilities and findings during the individual monitoring visits. Due to the high number of visits carried out, not all results can be presented in this report. For this reason, the focus is on circumstances that are critical in terms of human rights and cases of maladministration that go beyond individual incidents and point to system-related deficiencies. As in previous years, the chapter is organised by type of facility.

Findings during the monitoring visits

At the end of each sub-chapter, the observations from the commissions' activities and the NPM's recommendations derived from them are listed in grey. The recommendations collected since the start of the mandate in 2012 are available on the AOB website (<https://volksanwaltschaft.gv.at/en/for-human-rights/recommendations-reports/>).

Recommendations

1 Overview of the National Preventive Mechanism

1.1 Mandate

Since 1 July 2012, the AOB has been competent for the protection and promotion of human rights in the Republic of Austria. The constitutional mandate as the „National Preventive Mechanism“ (NPM) is based on two important legal acts of the United Nations: On the one hand, the UN Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) and, on the other hand, the UN Convention on the Rights of Persons with Disabilities (UN CRPD). On the basis of these treaties, the NPM monitors facilities in which a person's liberty is or may be deprived or restricted, such as correctional institutions, barracks, police detention centres, police stations, psychiatric facilities, retirement and nursing homes, crisis centres and shared accommodation for children and adolescents. The NPM also monitors facilities and programmes designed to serve persons with disabilities. The activities of the police are also observed when direct administrative power and coercive measures are exercised – for example during forced returns, demonstrations and police operations. Essentially, the aim is to recognise and stop risk factors for human rights violations at an early stage

Mandate

The AOB appoints and entrusts commissions with the monitoring visits. Together they form the NPM. Each commission consists of a head and members appointed by the AOB in accordance with international standards and taking gender parity into account. They are multi-ethnic and multi-disciplinary in composition. There is currently a Federal Commission for the enforcement of penalties and measures and six regional commissions. They are headed by individuals recognised in the field of human rights.

7 Commissions

Following public advertisements on the website, in specialist journals and daily newspapers, three new heads of commission and 28 new commission members were appointed for the next six years with effect from July 2024. The NPM would like to take this opportunity to thank all departing members for their dedicated work. The NPM considers the partial renewal of commissions through personnel changes to be essential in order to maintain methodological pluralism and avoid being stuck in routines. It is precisely the diversity of approaches, theories and methods that characterises the work of the NPM commissions as a team effort.

The commissions' monitoring visits to facilities and the observation of coercive acts are generally unannounced. They are carried out on the basis of an inspection scheme developed jointly with the AOB and a monitoring methodology (<https://volksanwaltschaft.gv.at/en/for-human->

rights/procedure/). In their activities, the commissions are also guided by the monitoring focal points specified by the AOB. The commissions have unrestricted access to all institutions and facilities. They receive all information and have access to all documents required to fulfil their mandate. They conduct confidential interviews with detainees, patients and residents. They report directly to the AOB on their visits and observations and include assessments of human rights violations and recommendations for their prevention.

Human Rights Advisory Council

In addition, the NPM is assisted by the Human Rights Advisory Council, who acts as an advisory body. The members are appointed by the AOB. The Human Rights Advisory Council is headed by a Chairperson and a Deputy Chairperson with proven expertise in the field of human rights and consists of representatives from civil society, the Federal Ministries and the *Laender*.

Intensive monitoring activities

In 2024, the commissions carried out a total of 458 monitoring visits (2023: 505). In addition to these activities, the commissions held 9 round-table interviews with facilities and their higher-level departments. A large number of visits is important in order to be able to investigate facilities regularly and comprehensively. However, it is not only the quantity but also the quality of the visits that plays a role. In order to gain a more comprehensive insight, visits lasting several days with larger delegations can be useful for larger facilities.

Contribution to the training of police and prison guards

The knowledge of staff in the individual facilities about human rights and their protection plays an important role in prevention. For this reason, employees of the AOB and members of the NPM commissions have been involved in training the police and prison guards for years. As the trainees may also come into contact with the NPM and the commissions later in their careers, the NPM and its work are presented in these teaching modules. In addition, the participants discuss with the lecturers how human rights can be protected and promoted using concrete examples. In 2024, the NPM taught 48 basic police training classes throughout Austria. The training took place in person at the Security Academy's training centres in the *Laender*. As part of the basic training for prison officers, 15 units were held at the Correctional Services Academy in Vienna and at the training centres in Stein, Graz and Linz over the course of the year under review.

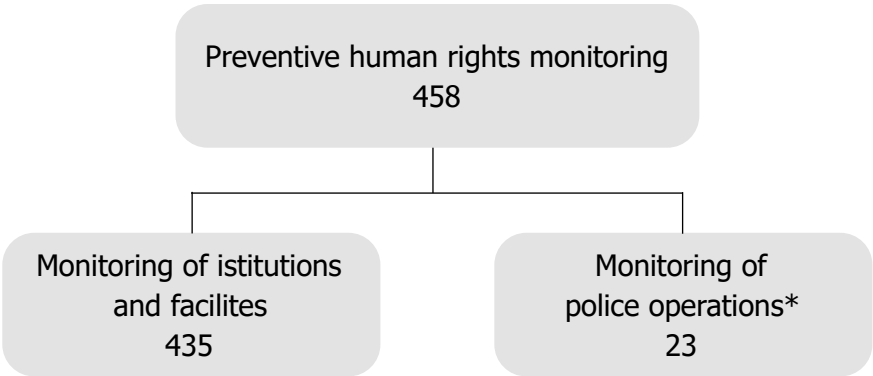
1.2 Monitoring activities in numbers

In 2024, the commissions conducted 458 visits throughout Austria. 95 % of the visits took place in facilities, 5 % involved the observation of police operations. As a rule, the visits were unannounced; only 13 % were announced. On average, the monitoring visits lasted three hours.

The majority of the 435 monitoring visits to facilities took place in so-called „less traditional places of detention“. These include over 5,300 different places throughout Austria, such as retirement and nursing homes, child and youth welfare facilities and institutions for persons with disabilities. The commissions conducted 283 visits to these types of facilities, 82 of which were visits to facilities for persons with disabilities.

435 Monitoring visits to facilities

**Monitoring activities of the commissions in 2024
(in absolute numbers)**



* these include: forced returns, demonstrations, assemblies

The total number of monitoring visits carried out does not correspond to the number of facilities visited, as many facilities were visited several times. These so-called follow-up visits are necessary in order to verify whether the deficiencies identified have already been remedied or whether urgently needed improvements have been made. Correctional institutions and police detention centres in particular are monitored several times a year.

Numerous follow-up visits

The table below indicates how the monitoring activities were spread over the different types of institutions and police operations in each of the *Laender*. The total line of the table shows how often which types of facilities or police operations were monitored in total. The differences in the number of visits and observations of police operations can be explained by the different number of types of facilities and the different population densities. The following table shows the distribution of the monitoring visits to the various facilities and the police operations observed in each *Laender*.

Number of visits in 2024 in the individual <i>Laender</i> by type of institution									
<i>Land</i>	PS	PD	RNH	CYW	FPD	PW	CI	others	PO
Vienna	4	3	11	34	11	9	2	2	6
Burgenland	9	0	8	8	6	1	0	1	4
Lower Austria	0	0	22	13	35	10	5	0	1
Upper Austria	16	1	11	7	5	8	6	1	3
Salzburg	14	1	5	4	2	4	2	0	3
Carinthia	9	1	11	9	9	4	0	0	2
Styria	8	1	11	6	6	9	2	0	2
Tyrol	2	2	22	11	8	4	2	1	2
Vorarlberg	0	1	6	2	0	6	1	0	0
TOTAL	62	10	107	94	82	55	20	5	23
of which unannounced	62	10	107	91	81	19	20	5	3

Abbreviations:

PS = police stations

PDC = police detention centres

RNH = retirement and nursing homes

CYW = child and youth welfare facilities

FPD = facilities for persons with disabilities

PW = psychiatric wards in hospitals & medical facilities

CI = correctional institutions

others = police dep., Schwechat Special Transit, etc.

PO = police operations

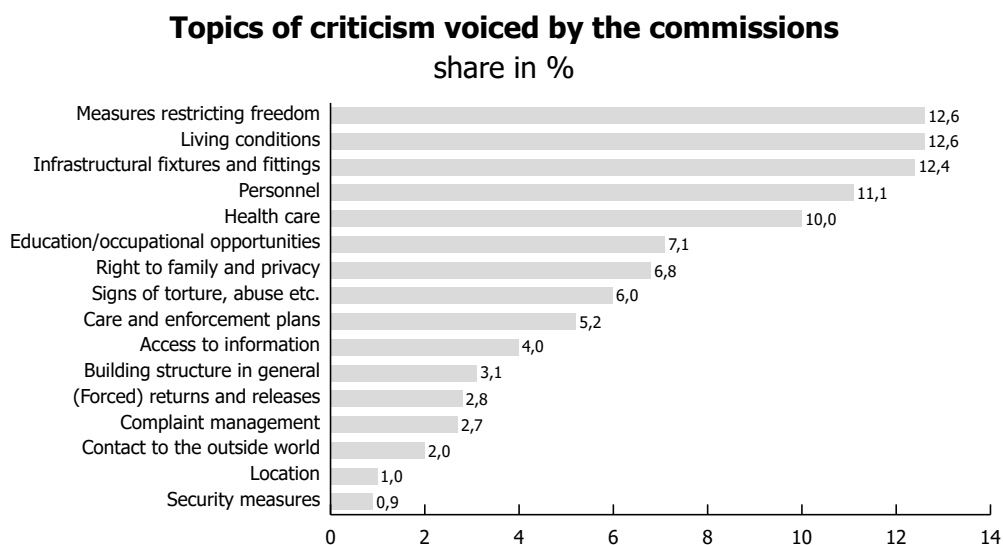
Number of visits	
<i>Land</i>	2024
Lower Austria	86
Vienna	82
Upper Austria	58
Tyrol	54
Styria	45
Burgenland	45
Salzburg	37
Carinthia	35
Vorarlberg	16
TOTAL	458

The results of all 458 monitoring visits are made available to the AOB in the form of comprehensive visit reports from the commissions. The commissions identified shortcomings in the human rights situation during 304 visits to facilities. There were no shortcomings identified in 149 of the visits (131 to facilities and 18 of 23 police operations). The commissions thus identified deficiencies in 67 % of the monitoring visits.

**Deficiencies
observed in around
67 % of the visits**

Proportion of visits in 2024		
Visits	with criticism	without criticism
institutions and facilities	70 %	30 %
police operations	22 %	78 %
TOTAL	67 %	33 %

During the visits, the commissions monitor various areas. The following chart illustrates how the findings are distributed across the individual topics. It should be noted that several areas are monitored during one and the same visit and that the identified shortcomings therefore relate to several different topics.



Compared to previous years, the order of the topics hardly differs. The areas listed are those with the highest intensity of interfering with human rights. As a result, 12.6 % of the shortcomings identified related to measures, which restrict freedom. Living and accommodation conditions were criticised just as frequently. These included, for example, sanitary and hygiene standards, food and the range of leisure activities on offer. The infrastructural fixtures and fittings were often criticised as well (12.4 %). Problems with staff were

identified in around 11 % of the visits, followed by complaints about health care (10 %), educational and occupational activities (7.1 %) and the right to family and privacy (6.8 %).

**Observation of
23 police operations**

In addition to monitoring visits to institutions and facilities, the commissions observed 23 police operations in the year under review, in particular during demonstrations and large-scale police operations.

**9 Round table
interviews**

Furthermore, the commissions conducted 9 round-table interviews with facilities and higher-level department units.

1.3 Budget

In the year under review, EUR 1,700,000 was available for the heads of commission, the members of the commission and the members of the Human Rights Advisory Council. The majority of this was budgeted for remuneration and travel expenses for the commission members.

1.4 Human resources

1.4.1 Personnel

In order to fulfil the new tasks of the OPCAT mandate, the AOB received additional permanent positions in 2012. The staff at the AOB entrusted with NPM activities are legal experts and have expertise in the areas of the rights of persons with disabilities, children's rights, social rights, police, asylum and justice. The „OPCAT Secretariat“ coordinates the cooperation with the commissions. It also reviews international reports and documents to support the NPM with information from similar mechanisms.

1.4.2 Commissions

**6 Regional
commissions**

The AOB must set up at least six multi-disciplinary commissions to fulfil its tasks. These can be organised according to regional or factual aspects. The AOB currently has established six regional commissions. Each of these commissions is competent for monitoring visits in a defined geographical area, where it visits retirement and nursing homes, child and youth welfare facilities, psychiatric wards and psychiatric hospitals, facilities for persons with disabilities and police facilities. It also observes police operations.

**Federal Commission
for the Penitentiary
System and Forensic
Institutions**

In addition, a Federal Commission monitors facilities of the penitentiary system and forensic institutions throughout Austria. This commission was set up to obtain a comprehensive overview of all facilities the penitentiary system and forensic institutions and to be able to better compare the framework conditions with one another. The number of facilities is comparatively small

and the competent responsibility lies with one ministry. The correctional institutions are managed centrally by the General Directorate for Facilities of the Penitentiary System and Forensic Institutions established within the Federal Ministry of Justice. The Federal Ministry is also responsible for implementing the recommendations of the NPM. In this way, both best practice examples and deficiencies can be better identified.

Every three years, half of the heads of commission and half of the commission members are to be newly advertised and appointed after consultation with the Human Rights Advisory Council. The last reappointment of three regional heads of commission and their members for the next six years took place on 1 July 2024.

1.4.3 Human Rights Advisory Council

The Human Rights Advisory Council supports the NPM as an advisory body. It consists of representatives of the Federal Ministries, the *Laender* and civil society. The Chairperson must have specific skills and expertise in the field of human rights. All members are appointed by the AOB on the recommendation of NGOs and ministries. The deputy Chairperson of the Human Rights Advisory Council was reappointed for a period of six years from 1 July 2024. The Human Rights Advisory Council supports the NPM in identifying monitoring focal points, determining cases of maladministration and making recommendations, ensuring uniform courses of action, and monitoring standards and selecting commission members.

1.5 International cooperation

1.5.1 United Nations

With the entry into force of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), Austria has undertaken to implement it. Implementation is monitored periodically by the UN Committee against Torture as part of a country review. As an A-status accredited National Human Rights Institution (NHRI), the AOB has the right to participate in these country reviews and contribute its observations.

**7th Country review
before the UN
Committee against
Torture**

In April 2024, the then Ombudsperson Rosenkranz took part in a preliminary meeting before the Committee against Torture in Geneva. He presented the shadow report submitted by the AOB. Particular attention was paid to the inappropriate placement of unaccompanied minor refugees and the blatant lack of specialist staff in correctional institutions, detention centres and retirement and nursing homes. The expertise collected in the shadow report was used by the committee to prepare for the 7th country review of Austria,

which took place the following day and in which the delegation of the Federal Government was questioned on the implementation of the Convention.

**Preparation of
state party report
on ICCPR**

In preparation for Austria's 6th Periodic State Party Report on the International Covenant on Civil and Political Rights (ICCPR), the Federal Chancellery requested assistance in answering a list of questions that will be given priority in the 2025 country review in Geneva. The NPM used the invitation to raise the most important concerns in this area. In the area of correctional institutions, these included demands for better infrastructural fixtures and fittings and an improvement in the staffing situation. Complaints about the police were also mentioned, ranging from unfriendliness and a lack of investigative activity to allegations of misconduct.

**SPT webinar on
NPM independence**

The European regional group of the UN Subcommittee on Prevention of Torture (SPT), which focuses on the practical implementation of the Convention, organised a webinar for NPMs on their independence. The aim was to discuss weaknesses that can influence or even limit the independence of NPMs.

**Webinar on NPM and
NHRI cooperation**

In 2023, the Global Alliance of National Human Rights Institutions (GANHRI) adopted a declaration to promote the work of NHRIs in the prevention of torture (see NPM Report 2023, p. 123). The kick-off event for the implementation of the declaration on „Strengthening cooperation between NHRIs and the NPM“ took place in October 2024.

**OHCHR survey on
violence against
women and girls
in detention**

The NPM participated in a survey conducted by the UN Office of the High Commissioner for Human Rights (OHCHR) on the topic of violence against women and girls in detention. It made clear that women and girls are a minority in correctional institutions and that their conditions of detention are therefore only moderately adapted or not adapted at all. This is particularly evident in the employment and educational opportunities on offer, but also in the protection of privacy and intimacy.

1.5.2 European Union

**Prison conditions
in Europe**

In June 2024, the European Economic and Social Committee organised an online exchange on detention and the conditions for detention on remand in Europe. The participants discussed the existing problems in correctional institutions, such as overcrowding, the lack of medical care and staff shortages. The event focused on finding solutions to harmonise prison conditions within the European Union.

**Event on the right
of women with
disabilities**

An expert from the Austrian NPM gave a presentation at an online event organised by the European Economic and Social Committee, which was dedicated to the topic of „Ensuring sexual and reproductive health rights of women with disabilities“. She presented the results of the NPM monitoring

focal point on the sexual self-determination of persons with disabilities (see NPM Report 2023, p. 103) and emphasised the importance of concepts for the protection against violence and concepts for love, sexuality and partnership in the facilities as well as well-trained social pedagogical staff.

1.5.3 Council of Europe

The European NPM Forum – a joint project of the European Union and the Council of Europe – organises regular meetings and discussion forums to strengthen NPM cooperation in the Member States.

The annual meeting of the NPM Forum took place in Strasbourg in September 2024. Around 120 participants from 38 member states came together to gain an overview of the adequate treatment of inmates with substance use disorders through expert presentations and dialogue with colleagues from other NPMs.

Dealing with inmates with substance use disorders

In addition to the NPM Forum, the Council of Europe also organised an expert conference to provide information on the legally compliant execution of court judgments concerning persons of unsound mind. The background to the conference was the new case law of the European Court of Human Rights (ECHR). Members of the Council of Europe's Committee for the Prevention of Torture (CPT) explained the current minimum standards for forensic and psychiatric facilities. The handling of coercive treatment and de-institutionalisation were also discussed.

Execution of judgment for persons of unsound mind

1.5.4 SEE NPM Network

The Austrian NPM organised the annual meeting of the South-East Europe NPM Network (SEE NPM Network) in the year under review. The meeting focussed on the conditions for detainee on remand. NPM representatives from Austria, Bulgaria, Croatia, Greece, Montenegro, North Macedonia, Romania, Serbia, Kosovo and Slovenia came together in Vienna in November to exchange views. Special thanks are due to the Council of Europe, which provided financial support for the event.

Austria hosts SEE NPM Network meeting

The participants presented their topic-related observations. Overcrowding, staff shortages and healthcare are a problem in all of the participating countries.

Overcrowding in detention on remand

The SEE NPM Network ended its meeting in Vienna with the publication of final conclusions recommending that, despite the difficulties caused by overcrowding and structural conditions, the protection against violence, minimum standards for living conditions and health care for detainees should be guaranteed accordingly.

The SEE NPM Network also agreed that additional places in correctional institutions will not solve the problem of the constantly increasing number of inmates in the long term. Alternatives to detention must be available in the near future in order to prevent overcrowding and the associated staff shortages.

1.5.5 Network meeting of German-speaking NPMs

Meeting in Berlin Since 2014, the Austrian NPM has been a partner in a programme for the exchange of experiences between NPMs in German-speaking countries (Germany, Austria, Switzerland, Luxembourg and Liechtenstein). As part of this network, the German NPM organised an annual exchange of experience in Berlin in 2024. Austria was represented at this meeting by Ombudsperson Achitz and members of the commissions.

Focus on police work Ombudsperson Achitz used the exchange to present the latest findings and developments in the police sector, above all the newly established Investigation and Complaints Office for Allegations of Police Ill-treatment in the Federal Ministry of the Interior. In return, the German NPM spoke about the examination of police work during the football games of the European Championship 2024. Both NPMs observed that the cooperation between the NPMs and the police in this area works well for the most part.

Detention in forensic institutions Another focus of the meeting was on observations in relation to detention in forensic institutions. The NPMs spoke about living and accommodation conditions, suicide prevention, privacy and restraints. The German NPM also addressed advanced healthcare directives in connection with forced medication. In Austria and Switzerland, there are no advanced healthcare directives for this area.

Focus on child and youth welfare services The role of closed child and youth welfare centres in the prevention of juvenile delinquency was also discussed. The Austrian NPM reported on the political debate on lowering the age of criminal responsibility for adolescents. The representatives from Switzerland stated that delinquent adolescents are not placed in correctional institutions for adults.

1.5.6 Bilateral und multilateral cooperation

Accompanying visit of German NPM The network meeting of NPMs from German-speaking countries gave the Austrian NPM the opportunity to accompany a visit of the German NPM to a child and youth welfare facility in Würzburg. The focus was on the examination of a therapeutic residential group, which also provides for the possibility of being placed in closed wards. Children and adolescents between the ages of 11 and 18 who pose an acute risk to themselves or others are

placed there. The visit included interviews with the centre management, the staff and the children and adolescents.

Together with NPMs from 45 countries, Austria contributed to the development of the „Global Report on Women in Correctional Institutions“, which was coordinated by the Association for the Prevention of Torture (APT) and published in December 2024. Thanks to the NPM's data and observations, the report is the first global analysis of women in detention. It highlights the major challenges and systemic discrimination faced by women in correctional institutions around the world and calls for urgent reforms and increased use of alternatives to imprisonment.

Situation of women in detention

For the second time, an expert from the Austrian NPM gave a lecture at the Prison Medicine Days in Germany. The symposium serves as a forum for medical professionals and caregivers working in facilities of the penitentiary system and in forensic institutions. One of the focal points of the conference was psychiatric care in the penitentiary system. On the topic of „Human rights aspects of psychiatric care in detention“, the presentation from Austria dealt with the NPM's observations during its visits to correctional institutions from a preventive human rights perspective.

9th Prison Medicine Days in Germany

An international conference in Germany focussed on the direct administrative power and coercive measures exercised by the police. The focus of this annual police conference in 2024 was on interrogation for investigative purposes. It dealt with the implementation of the United Nations Méndez Principles, which set out standards for human rights-compliant investigations.

International Police Conference in Berlin

In December, a delegation from the German Institute for Human Rights came to Vienna for a work meeting. The institute investigates the implementation of the UN CRPD in accordance with Art. 33 (2). In contrast, the Austrian NPM examines facilities for persons with disabilities in accordance with Art. 16 (3) of the UN CRPD. In addition to these differences and their significance, the colleagues from Germany and Austria discussed the challenges posed by federalism in both countries when implementing the UN CRPD. The experts also exchanged views on measures that restrict the freedom in facilities for persons with disabilities and de-institutionalisation.

Work meeting with German Institution for Human Rights

The traditionally good cooperation with the NPMs of neighbouring countries enabled an in-depth exchange with colleagues from the NPM in Slovenia in 2024. As part of this exchange, an expert from the Austrian NPM was able to accompany a visit to a regional court prison in Slovenia. Here, too, the problem of overcrowding, which is prevalent in many countries, became apparent. In this case, the result was that this detention centre – which is primarily intended for the placement of adolescents – almost exclusively accommodates adult detainees.

Bilateral exchange with Slovenian NPM

NPM Czech Republic in Vienna	Another work meeting took place in September 2024 with colleagues from the Czech NPM. The focus was on the methodology of NPM visits and the special features that need to be taken into account during inspections of different facilities. The preparation of visit reports after the visits was also a topic of the exchange.
Delegation from Uzbekistan	In November, Ombudsperson Schwarz received the Uzbek Ombudswoman in Vienna. In addition to a presentation of the various mandates of both institutions, the focus was on cooperation and exchange in the field of preventive activities to protect against violence and torture. During the three-day visit, the delegation gained insights into the work of the Austrian NPM. The programme also included talks with representatives of the Federal Ministry of the Interior and the Human Rights Advisory Council as well as a visit to the Korneuburg correctional institution.
Visit by the Egyptian Human Rights Council	Ombudsperson Schwarz also received a delegation from the Egyptian Human Rights Council, which used a three-day study visit to Austria to also meet the Austrian NPM and learn more about the handling of the penitentiary system in Austria.

1.6 Report of the Human Rights Advisory Council

New members The Human Rights Advisory Council met six times for ordinary plenary sessions in 2024. The 34-member body of the council (Chairperson, Deputy Chairperson, 16 members, 16 substitute members) was reappointed by the AOB on 1 July 2024, with four new members and seven substitute members in addition to the Deputy Chairperson.

Renate Kicker remains Chairperson, while medical law expert and former Head of the Public Health Section at the Ministry of Health Gerhard Aigner has been appointed as the new Deputy Chairperson. He took over this role from university professor Andreas Hauer, who had been working for the Human Rights Advisory Council since 2014. The NPM would like to expressly thank Andreas Hauer for his many years of commitment and support as Deputy Chairperson.

The Human Rights Advisory Council played an advisory role in the process of appointing new heads and members of the NPM commissions as of 1 July 2024 by:

- Drafting tender texts for the positions of heads and members of the commissions and
- preparing the hearings of applicants.
- Two members or substitute members of the Human Rights Advisory Council took part in each of the hearings as observers.

The establishment of six thematic working groups (police and military, justice, psychiatry and hospitals, retirement and nursing homes, child and youth welfare facilities, and facilities for persons with disabilities) has intensified the advisory activities and relieved the burden on the plenary meetings. The thematic working groups consist of seven to ten members, who are recruited from the members and substitute members of the Advisory Council and can contribute their own special expertise or that of their sending organisations. Essentially, the thematic working groups become active in the following circumstances:

Activities of the thematic working groups

- Relevant submissions by the NPM with requests for statements of opinion on issues related to human rights;
- Advising the NPM on the selection and conclusion of monitoring focal points;
- Dealing with relevant topics on initiative of the thematic working groups.

In 2024, the thematic working groups dealt with the topics mentioned below. Subsequently, the plenary session of the Human Rights Advisory Council made recommendations to the NPM, some of which were published on the AOB website (available on the AOB website in German: <https://volksanwaltschaft.gv.at/praeventive-menschenrechtskontrolle/der-menschenrechtsbeirat>):

Topics 2024

- Statement of opinion on the NPM's report on the results of the monitoring focal points in police stations and police detention centres from 2023 and 2024 and advice on the monitoring focal points proposed for 2025 (thematic working group – police and military)
- Statement of opinion on the NPM's submission on „Absolute medical grounds for exclusion from basic police training“ (thematic working group – police and the military)
- Advising the NPM in connection with the introduction of the new monitoring focal point „The facility as a place of protection“ in the area of child and youth welfare services (thematic working group – child and youth welfare facilities)
- Supplement to the statement of opinion on „Scope of the voluntary nature and possible toleration obligations of operators of retirement and care homes as well as necessary accompanying measures on the subject of „assisted suicide““ (thematic working group – care facilities)
- Advising the NPM in connection with the introduction of the new monitoring focal point „Augmentative Communication and Alternative Communication (AAC) and supported decision-making in facilities

for persons with disabilities” (thematic working group – facilities for persons with disabilities)

- Advising the NPM in connection with the new monitoring focal point „Inmates who have specific treatment and care needs due to their mental health condition” (thematic working group – justice)
- Continuation of the topic of „Uniform federal care standards” (thematic working group – geriatric and care facilities.

The Advisory Council also dealt with the following topics:

- Participation in the visit of the Group of Experts on Action against Trafficking in Human Beings (GRETA) to the AOB
- In November 2024, the Chairperson and the Deputy Chairperson gave a presentation on the activities of the Human Rights Advisory Council as part of a study visit by a delegation from the Uzbek Ombudsman institution.

2 Findings and recommendations

2.1 Retirement and nursing homes

Introduction

In 2024, the NPM commissions conducted 107 unannounced visits to institutions and facilities providing care for the elderly. They gained the impression that the NPM mandate is largely known and established.

107 Visits to nursing homes

The presentation of the results of the monitoring focal points „pain management and palliative care in retirement and nursing homes“, which was completed at the end of 2023, took place at a press conference in April 2024. As a result, the media also picked up on other topics covered in the previous year's report, such as palliative care. Reports on self-determination at the end of life and the legal requirements for assisted suicide were also initiated. Effective decrees for assisted suicide are the only way to legally obtain a lethal compound for suicide in Austria (see NPM Report 2023, p. 30 et seq. and the statement of opinion of the Human Rights Advisory Council available on the AOB website in German: <https://volksanwaltschaft.gv.at/downloads/e1r6/erweiterte-stellungnahme-zu-assistierten-suizid-unbrk-beschluss-2024-06-18-1.pdf>).

Media reaction to the 2022–2023 monitoring focal points

Organisations that are intensively involved in pain and palliative care, also commented on the findings and recommendations of the NPM. The Austrian Pain Society, for example, saw the NPM's recommendations as confirmation of its demands for more trained staff and regular further education in the field of pain management. In a press release, the federal association *Lebenswelt Heim* also fully agreed with the NPM's recommendations and called on the Federal Government and the *Laender*, among others, to come up with suitable solutions to bring the areas of recognising, recording and evaluating pain as well as training and continuing education to a uniform level throughout Austria. The basis for this should be the expert standard for „pain management in nursing care“ from the German Network for Quality Development in Nursing. The Austrian Society for Pain Management in Healthcare and Nursing Care also referred to the monitoring focal points of the NPM and urgently called for better integration of pain nurses into everyday nursing care as well as increased training and continuing education in pain management for all nursing staff.

Furthermore, on 15 June 2024, the World Elder Abuse Awareness Day, the NPM reiterated its call for pain to be recorded in a structured, systematic and standardised manner for all residents of retirement and nursing homes – especially for people with dementia or other cognitive or verbal impairments. The more vulnerable people are in the last phase of life, the more qualified nursing staff with knowledge and experience in clinical

Recommendations on monitoring focal points often implemented

diagnostics, counselling, education and evaluation are needed to effectively implement care therapy or physical measures to relieve the pain. Nursing knowledge and experience are also essential in the management of side effects of drug therapies in pain management. It is not without reason that continuing training in this area is anchored in Sections 63 and 64 of the Federal Act on Healthcare and Nursing Professions (*Gesundheits- und Krankenpflegegesetz*).

The commissions received feedback that many homes are aware of the need for optimisation. This was reflected in the fact that, for example, further education on pain management was increasingly being organised or planned. In many facilities, pain management, which was still lacking during the initial visit as part of the monitoring focal points, had been implemented in the meantime. Nevertheless, difficulties or avoidable hospital admissions can still occur in practice if multimodal pain treatment fails because members of other healthcare professions (especially doctors) are not available or not available quickly enough, for example at night or at weekends. The commissions also found different information and in-house directives on the Assisted Suicide Act (*Sterbeverfügungsgesetz*) than in 2023 in some of the homes.

In other areas, however, the NPM had to recognise in 2024 that neither media work nor a joint determination of maladministration and recommendations by all the members of the AOB along with subsequent reporting in the Diet had the intended effect.

2.1.1 Amendment to the Salzburger Care Act

Quality requirement
in the amended care
act remain vague

The *Land* of Salzburg took the legal view that the activities and measures of the supervisory authority were limited to controlling the minimum standards stipulated in the Salzburg Care Act (*Salzburger Pflegegesetz*). The term „appropriate care“ did not include the completely lacking assessment instruments in the care process, i.e. determining the risk of pain, decubitus ulcers, falls and malnutrition, or grossly inadequate documentation in general in light of the Federal Act on Healthcare and Nursing Professions. The AOB therefore concluded two investigative proceedings with the determination of maladministration due to inadequate instructions of the supervisory authority. As a result, the *Land* of Salzburg announced a comprehensive amendment to the Salzburg Care Act in 2022. Following minor amendments in June 2024, it presented the draft in December 2024. In its statement of opinion, the NPM made clear that the intended changes continue to leave both quantitative and qualitative elements of staffing requirements largely open and that all the quality parameters for care home operators were still too vague. In the draft assessment, the definition of „caregiver“ remains largely limited to the fulfilment of physical needs („warm“, „full“, „clean“).

This fails to recognise the complexity of geriatric psychiatric conditions and the psychosocial needs of people with cognitive impairments or dementia.

However, the draft follows a recommendation by the NPM and extends the control of the supervisory authority to facilities that have at least three care places. Biographical work is enshrined. The draft law stipulates that care home managers must have relevant qualifications and sufficient previous professional experience. The full text of the statement of opinion issued by the NPM during the legislative process is available on the website (in German only: <https://volksanwaltschaft.gv.at/fuer-menschenrechte/menschenrechtsbeirat/stellungnahmen/>).

2.1.2 Right to privacy

Section 22 (1) of the UN CRPD contains the right to respect for privacy: Persons with disabilities must not be subjected to „arbitrary or unlawful interference with their privacy, family, home, or correspondence or other types of communication [...] regardless of their place of residence or living arrangement“. Accordingly, residents of nursing care homes should also have an area of retreat in which they can spend time without unpleasant influences and disturbances. It is essential that the decision in favour of a single or shared room is made according to the wishes of the residents and free from economic constraints.

Time and again, residents told the commissions in interviews that they would prefer to live in a single room. They emphasised that having another person in the room was unpleasant and that the moaning, snoring, screaming, complaining and sometimes inconsiderate behaviour of their visitors was stressful.

**Involuntary
accommodation
in double room**

Different needs in terms of room temperature, resting and waking times etc. would lead to stress as well as problems falling asleep and sleeping through the night. Resolving the resulting conflicts with sleeping pills or psychotropic medication would be inadmissible in the light of the Nursing and Residential Homes Residence Act (*Heimaufenthaltsgesetz*). The intensity and frequency of discomfort in such situations may vary. However, the emotional overload and the feeling of helplessness and being at the mercy of others also persist among those who seem to have come to terms with the conditions but in reality still suffer from them.

An atmosphere that is more reminiscent of medical facilities with long corridors and a high proportion of multi-bed rooms should be viewed critically, as these nursing homes are not just temporary accommodation for residents, but a home. The spatial design of inpatient facilities should enable participation and social integration. People are more likely to socialise if there are opportunities to withdraw.

Hospital atmosphere

According to the commissions' observations, single rooms are more often furnished with private furniture, pictures and other personal items that are valuable anchors for vivid memories than double and multi-bed rooms and exude a more private living atmosphere. One care home management argued to Commission 1 that double occupancy is more resource-efficient. Residents in shared rooms receive more attention from staff and can support each other.

Other homes mentioned the risks of single rooms, for example with regard to neglect, social isolation and a lack of social monitoring. However, if temporal and spatial orientation, as well as long-term memory, decline and communication and behavioural disorders such as increased restlessness or aggression occur, negative behavioural and activity patterns can be reinforced in residents who are accommodated in multi-bed rooms. The commissions emphasise that people with advanced dementia who are largely bedridden are, like everyone, dependent on sensory impressions and contact. Sometimes, single and double rooms lack both, especially if it is no longer appropriate for those concerned to stay in the communal areas. People who have hardly any mental processing capacity left to understand language or recognise things live almost exclusively from stimulation (colours, light changes, vocal sounds, music, touch and other sensory stimuli) in a quiet and harmonious atmosphere.

Visual cover during care activities in double rooms

In the case of double occupancy of rooms, attention must at least be paid to ensure that there is a good understanding between all those involved. Privacy must be maintained during care activities, for example through screens or curtains. However, one Tyrol facility had still not finished installing all the screens five years after the last visit by the commissions.

Double occupancy despite vacant rooms

It is contrary to the principle of respect for self-determination and privacy that residents in this home have to continue to live in double rooms, even though some rooms were empty. In contrast to other provincial legislation, the Nursing Homes and Care Services Act of Tyrol stipulates special obligations for care home operators to protect the rights of residents: According to Section 8 (7) (j), it must be ensured that the request for placement in single rooms can be met as far as possible. The NPM therefore urgently recommended that vacant smaller double rooms be occupied as single rooms and that fixed screens be installed in double rooms in order to ensure privacy.

2.1.3 Decision on medical treatments

Since the 2nd Adult Protection Act (2. Erwachsenenschutzgesetz) came into force in 2018, it is beyond dispute that residents who are capable of making decisions, with or without support, can consent to or refuse medical treatment themselves – regardless of whether or not they have an adult

guardian or a health care proxy. Doctors must inform all patients about the purpose and consequences of treatment or non-treatment in a way that they can understand. If necessary, a „support group“ of relatives or other trusted persons should be involved in the decision-making process. If, despite all these efforts, it is not possible to establish the patient's capacity to make decisions about treatment, substitute decision-making by a third party (adult guardians, health care proxy) applies, provided there is no emergency.

2.1.4 Medication must be administered professionally

Administering medication is basically a medical activity, which can, however, be delegated to healthcare assistants. Adult guardians suggested that the NPM commissions take a closer look at the procedure for administering medication, especially to people with swallowing disorders. They criticised the fact that pills were divided or crushed without consent, or that capsules were opened and the contents mixed into food without consulting doctors.

The manufacturer's instructions for use must be observed to ensure that medication works optimally. However, these instructions do not always state whether finished medicinal products can be altered or taken at the same time as food. Many medications may be administered in different forms so that more tolerable alternatives can be used. The register of speciality medicinal products of the Federal Office for Safety in Health Care provides online access to the package leaflets and summary of product characteristics for medication available in Austria.

In everyday nursing care, it sometimes seems unavoidable to deviate from the manufacturer's instructions in close consultation with the treating doctors or pharmacies and to subsequently change a finished medicinal product. Such „off-label use“, i.e. the use of a medication in the context of medical treatment outside of the authorisation, is not prohibited in Austria, but requires increased duties of care and information.

Mixing food with medication

Preventing medication errors when administering medication in care facilities is highly relevant, in particular for vulnerable patients. Proper medication care includes the opportunity to obtain indirect personal advice and information each time medication is dispensed. This patient right also applies to immobile care home residents. The Pharmacies Operating Regulations (*Apothekenbetriebsordnung*) explicitly oblige pharmacies that dispense medication to immobile nursing home residents to provide their clientele, the doctors and caregivers on site with continuous and personalised pharmaceutical information. A quality guideline issued by the Austrian Chamber of Pharmacists stipulates that per 50 beds, one pharmacist should be available on the premises of a nursing home for at least one hour per week.

Advice from pharmacies in the home

Several medications crushed, mixed and administered together

However, in some care homes, Commission 1 observed that the issue does not always receive the necessary attention. For example, staff at one facility in Vorarlberg stated that they crush all medication and then administer several of them together. This is prohibited by the Medicinal Products Act (*Arzneimittelgesetz*), among other things. In a facility in Tyrol, however, where the commissions were able to observe that medication was being crushed, the qualified nurses and health care staff on duty reported that this was ordered by the GP and planned as a therapeutic measure. It was also clear to the nurses and health care staff, which medicines should not be crushed and which should be taken with, before or after meals; this was documented during visits with the doctor.

2.1.5 Polypharmacy

More effort required

The topic of polypharmacy has occupied the NPM since it began its work in 2012. According to the WHO definition, polypharmacy means taking five or more medications at the same time. If more than ten active substances are administered, the WHO refers to this as hyperpolymedication. Random examinations by the commissions show that more efforts are urgently needed in this area (see NPM Report 2019, p. 35 et seq.).

For example, in one home in Tyrol, a randomly selected sample of four residents showed that all four received at least eleven long-term medicinal products per day. In another, there were residents who took up to 25 medications a day (21 of which were long-term medicinal products). As a result, the desired effect of a medication may be absent, weakened or intensified. Unknown, unpredictable and dangerous interactions can occur. The NPM therefore called on the facilities to pursue the path already taken consistently in some cases, to work more closely with GPs and to obtain pharmaceutical expertise in order to reduce polypharmacy.

Enormous potential for improvement with regard to the pharmaceutical treatment of people in need of care – in and outside nursing homes – could be achieved through efficient medication analyses. Measures of „polypharmacy prevalence“ and „potentially inadequate medication“ are subject to annual monitoring in Austria. In 2023, the polypharmacy prevalence of over 70-year-olds, defined as beneficiaries with more than five simultaneously prescribed active substances, per 1,000 beneficiaries was between 118 in Vorarlberg and 242 in Burgenland; Austria-wide at 187.11 (see Haindl, Anita; Bachner, Florian; Carrato, Giorgio; Gredinger, Gerald (2024), *Monitoringbericht Zielsteuerung-Gesundheit. Monitoring nach Vereinbarung gemäß Art. 15a B-VG, Zielsteuerung-Gesundheit und Zielsteuerungsvertrag. Gesundheit Österreich GmbH*, Vienna, pp. 31-33).

Further work needs to be done to improve this. The NPM welcomes the fact that the recently presented Governmental Programme 2025–2029 includes

the intention to provide for a „mandatory overall medication analysis for polypharmacy patients prior to hospital discharge by clinical pharmacists and/or pharmacologists“ by anchoring it in the Hospital and Convalescent Homes Act (*Kranken- und Kuranstaltengesetz*).

2.1.6 Lack of barrier-free accessibility

The NPM commissions also criticised the lack of barrier-free accessibility of institutions and facilities in 2024. In a care home in Styria, for example, Commission 3 observed that the patio door in the communal area does not close flat and is therefore an obstacle for wheelchair users. The entrance to the bathroom is also restricted due to a threshold; wheelchair users need strength and momentum to get out. Overcoming the threshold with a shower chair, which a resident uses for independent personal hygiene, is not even possible on their own. In one home in Upper Austria, the commissions observed that the turning circle in the bathrooms is too small, there are no folding support handles and the mirrors are mounted too high.

**Obstacles for
wheelchair users**

2.1.7 Lack of supervision

During their visits, the commissions conduct interviews with staff about their personal work and stress situation and the stress situation in the facility as a whole. They continue to observe that there is a lack of regular supervision, case discussions and structured team meetings. According to care home managers, supervision is offered but not accepted by the employees. In one care home in Carinthia, for example, Commission 3 learnt that there was currently no need for supervision because participation was „seen more as a weakness“. The last supervision there had taken place in 2021 to deal with the coronavirus period.

The voluntary nature of participation must of course be respected. Nevertheless, the undisputed, professionally recognised need for supervision on the one hand and the low take-up rate on the other mean that, although there is no obligation, a much higher level of active provision and motivation is urgently necessary. It would make sense to require facility managers to provide proof that they have informed employees about the supervision programme. It must be ensured that supervision is offered more actively to all employees in retirement and nursing homes and that it is made the task of every management and, subsequently, of the Regional Government as supervisory authorities to enable, offer and motivate nursing staff to take part in supervision.

2.1.8 Self-determined life with dementia

**Participation
versus institutional
heteronomy**

Articles 19, 25 and 26 of the UN CRPD oblige States Parties to take comprehensive measures to protect the independent living and health of persons with disabilities. This also includes the majority of (gerontologically) ill people in retirement and nursing homes. In its General Comment No. 5 (UN CRPD, CRPD/C/GC/5), the UN Committee on the Rights of Persons with Disabilities states that self-determined living means that persons with disabilities receive the necessary support to develop their identity and personality at any age and – in accordance with Art. 3 (a) UN CRPD – must not be deprived of the monitoring and decision-making power of their choices and options with regard to their personal lifestyle and everyday life as a result of a particular form of housing.

Article 2 of the European Charter on the Rights and Responsibilities of Older People in need of Long-term Care and Assistance also standardises the right to self-determination. Maintaining the independence and autonomy of people in need of assistance and care must be at the centre of all considerations. This could be a personalised schedule for waking up, eating and going to bed, which takes into account the wishes of the elderly residents as far as possible. Caregivers should involve those affected wherever possible. People must have the opportunity to express their own views on their quality of life. If they have communication problems, they must be given assistance.

Normality principle

People who are cared for in residential care homes and are dependent on help and support from others should be able to lead the same kind of life as people who are not dependent on such support. They should have a similar pace of life to that at home. The times at which meals are served and any requirements for a good night's sleep are an important part of this. If decisions about when to go to bed or when to eat cannot be made by the person themselves, this is contrary to the provisions of the UN CRPD.

However, the obligation to create a daily structure in line with the normality principle is also contained in simple legal provisions. For example, Section 7 (7) of the Tyrolian Nursing Homes and Care Services Act stipulates that care home residents „shall be treated respectfully while maintaining their independence, self-determination and personal responsibility and shall be able to continue their individual rhythm of life as far as possible“. The Upper Austrian Retirement and Nursing Homes Regulation requires the nursing staff to „have the capacity to enable the residents of the home – based on their medical history – a life [...] orientated towards their private living conditions and life strategies. A particular focus should lie on maintaining independence.“

**No sufficient
daily structure**

In practice, however, this is still hampered by structural constraints and a structural lack of employment opportunities: Unusually early dinnertimes and bedtimes as well as a complete lack of activities or occupational opportunities

during the day or in the evening contradict the human rights requirements. The NPM therefore determines whether and how activation and occupation takes place. A distinction must be made between programmes for „fit“ residents, which are usually available, and programmes for people with severe care needs or cognitive impairments. The type of activity must always correspond to the care situation and the needs of the respective residents.

How activities and programmes are designed, which target group of residents are addressed by them or which remain excluded, as well as the extent to which they are actually observed, says a lot about the atmosphere of a home. Even within individual homes, there are often noticeable differences between the different residential areas. In addition to staff resources and voluntary caregivers, the personal commitment of employees is decisive in determining whether a ward is „lively“ or not.

During unannounced visits, the commissions observe positive things such as residents sitting and playing together, chatting with each other or with the nursing staff, people with restricted mobility being mobilised in the general living areas, the presence of visitors and a familiar atmosphere.

Familiar atmosphere

In contrast, however, commissions also encountered residents in common rooms who appeared to be apathetic and left to themselves. The activity programme planned for the visiting day was apparently not implemented or did not appear to meet the wishes and needs of those in need of care. One retirement and nursing homes in Tyrol did not offer a sufficient range of activities for its size (approx. 100 residents): only three days a week, mainly for one to two hours in the morning; no activities took place in the evenings or at weekends.

Activities do not meet the needs

Commission 4 criticised the fact that a facility run by a large Vienna-based operator only offered a leisure programme or daily activities for around half an hour to an hour every day. Despite requests from some residents and despite the large garden, there was no garden therapy at all. The commissions also repeatedly criticised the fact that the staff specifically competent for animation had been cancelled and the tasks transferred to the caregivers.

Garden is not used

The residents of another Vienna facility were not informed about the leisure programme. There were no specific activities for people with dementia. In a care home in Upper Austria, Commission 2 observed – as in 2021 – that no regular activities were offered apart from foot care, hairdressing and Holy Mass. After the Covid-19 protective measures were lifted, the original activity programme was never reinstalled. In all cases, the NPM made recommendations to expand the leisure programmes in accordance with the wishes of the residents and to offer daily activities that are appropriate for their age.

No evening programme Most care homes offer a more or less extensive range of activities during the day, ranging from games, exercise with music, memory training, handicrafts or baking together to seasonal festivals and excursions. However, this is rarely the case in the evening. The facilities often tell the commissions that this is not only due to a lack of staff, but also to the residents' lack of willingness or ability: they are too tired, they are in need of care, or the season is just too cold or too warm. The commissions scrutinise this and conduct regular visits in the evening.

Biographical work should be important Occupational offers must always be voluntary. Preferences and personal feelings, e.g. whether someone is a morning or evening person, if they feel cold or warm, etc., should therefore be considered. This is not always the case. The commissions observed that in some cases no information on waking or sleeping patterns and no biographies of the residents were available.

90% of residents in bed by 6 pm Facilities that offer regular, planned and suitable evening activities for everyone are the exception. Commission 2 observed this, for instance, when carrying out numerous evening visits to facilities in Upper Austria. Between 5.30 pm and 7.30 pm, it found almost 90 % of the 127 residents in a care home lying in bed or asleep. The few who were still active and some who were awake in bed criticised the lack of evening activities or the internal guidelines. One resident (87 years old) said: „Very little happens in the house, occasionally in the afternoons, if at all [...]. In the evening, everyone is asleep by 6 pm or lying in bed watching TV.“ Only two or three people are still awake, sometimes he didn't even know where all the people were. He had very poor eyesight, which is why he had to be here, because he was dependent on support; you had to be happy to get a place, of course not voluntarily, but there was no alternative for him.

Residents want more variety Another resident (90 years old) said that he was in bed every day from 5.45 pm because there was no other way. He needed support and for this he needed the staff, and they were no longer there at later hours. On entering a home with 74 beds at 6 pm, Commission 2 found the corridor and common areas darkened and empty. 90 % of the residents were lying in bed or asleep, and only three people were still in a TV room for a short while. Some were watching television from their beds in their rooms and said that they would like more variety, music, reading or conversations with others. One staff member, who asked for anonymity, also said that she herself was part of this system, but that „this is not how you should treat people“. There is a lack of staff resources.

Dinner at 5 pm and then to bed A similar situation was found in one of the residential areas of another facility in Upper Austria: the corridors were darkened and the commissions observed that 17 out of 19 residents were in bed shortly before 6 pm, not all of them voluntarily. Dinner is served at 5 pm, indirect evening care begins afterwards

and the residents are put to bed. There are no activities or events in the evening. Some residents stated that evening events, cosy get-togethers or conversations would be a good idea.

The qualified caregiver at another home also complained that bedtimes were too early, that the home was „system-dominated“ and that he hoped for improvement. However, another employee said that the entire duty roster would have to be changed for this to happen and that there was basically no need for change as the residents were not complaining.

It is understandable that older people do not (want to) change established routines from one day to the next. However, the commissions always suggest investigating ways of offering residents activities later in the afternoon or in the evening. The NPM turned to the *Land* of Upper Austria as the supervisory authority. The *Land* then determined that although evening activities are organised on a selective basis, they are neither structured nor offered in all the homes. The facilities announced that they would offer evening activities in the future with the help of volunteers.

Monitoring through supervision and commitments by the homes

The manager of one facility agreed to investigate who wants to take part in activities. As soon as this had been determined, she would adapt the individual care planning. Furthermore, in the future, a person's usual daily and evening routine should be taken into account when moving into the retirement and nursing home. Other homes agreed to motivate residents to participate, to optimise the care programme and to make it better known. One home maintained its view that the staffing ratio in Upper Austria did not allow for a regular evening programme.

However, there were also positive observations: In a Tyrolian facility, Commission 1 observed a very positive atmosphere during an evening visit to the dementia ward. The residents were in the lounge area, some still in their day clothes, snacks and drinks were being handed out, and the night shift repeatedly held short talks with everyone – even at 10 pm. Night-time medication was given out individually and only shortly before going to bed. The measures were dignified, personalised and attentive.

Positive examples

Another home not only offered a varied weekly programme with excursions, therapy dog visits, memory exercises and a dance café, but also introduced an evening programme twice a week following a recommendation from the NPM, which has been well received. There are now events such as reading circles and cocktail evenings.

Commission 1 visited a medium-sized facility that had introduced a fortnightly programme between 7 and 8 pm. The bedtimes were now also more individualised. One Vienna facility introduced a late-night service, which has been well received. During an evening visit, Commission 5 was able to observe a small group carrying out memory exercises.

Further aspects of normality principle

In terms of participation and self-determination, the NPM regularly deals with the question of how „open“ facilities are. Are there services „from outside“, i.e. are civilian service workers or volunteers deployed, and are there contact persons and training courses for them? What are the visiting options like? Are there areas that can be used by the general public and thus enable contact with the community, e.g. in the form of visitor cafés or communal garden areas? If this is the case, the residential home is usually better involved in the social fabric of the neighbourhood. In this way, external people contribute to the residents' socialising.

Access to the outdoors is also a key aspect of participation. According to a press release, residents' representatives are increasingly observing that residents have to stay in bed for days on end due to a lack of staff to mobilise them. Many have no relatives who can support them, e.g. in accessing the outdoors. The residents' representatives also represent those affected in such situations. Commission 1 made different observations in this regard: While one facility always offers a walk after breakfast, for example, hardly any time spent outdoors was observed in another, despite the fine weather.

- ▶ ***Autonomy, self-determination or normalisation are not possible if a „system“ within a facility is too strict. This jeopardises the self-determination of people who, for the most part, have not chosen their place of residence voluntarily, but have to live there because they are dependent on care.***
- ▶ ***The UN CRPD states that regular employment programmes must be offered that enable as many residents as possible to participate and should benefit from this. This also includes evening activities for restless residents with dementia and/or residents who do not sleep and who wish to do so.***

2.1.9 Inappropriate placement of young persons

The problem of an inappropriate placement of younger persons with disabilities, who have a permanent need for medical or nursing care, are repeatedly raised both in the context of the NPM's monitoring activities and the control of public administration carried out by the AOB. For more information on this topic, see the chapter 2.4.6.

2.1.10 Diversification of living arrangements for people in need of care

The population is getting older and the proportion of over 75 year olds and people suffering from dementia are particularly on the rise (Federal Ministry of Social Affairs, Health Care and Consumer Protection, Austrian

Health Report 2022, p. 30 et seq., 138). Demographic developments and the increase in life expectancy pose challenges for quality care and a dignified life for older persons.

Many older people want to be looked after and cared for in their familiar surroundings for as long as possible. This has led to a diversification of care services and the expansion of alternative forms of living and care beyond the traditional nursing home. For example, assisted group homes have been opened for dementia patients.

Alternative forms of housing and care

In August 2023, Commission 1 visited such a „dementia shared accommodation“ for senior citizens with severe dementia in Tyrol. The shared accommodation has three residential units, each of which is home to two people with dementia. One 24-hour caregiver is available for each residential unit. The residents sign a lease agreement and a care contract with the (independent) caregivers. The residential units have a communal room in which the residents eat, cook and sit together. The concept is to create a private form of living in which additional care and support services are offered in a family-like setting. The residents live as independently as possible and without rigid structural or organisational processes. They themselves, their relatives and the personal caregivers are very satisfied with the residential project and describe it as a „win-win situation for everyone involved“.

The NPM welcomes forms of housing that combine the highest possible degree of autonomous living with care support and integration into a small-scale, family-like social structure. Alternative forms of housing and the broadest possible range of support services should also be recommended in light of the UN CRPD. Article 19 of the UN CRPD, which also applies to people with dementia, standardises the right to a self-determined housing and living situation. The States Parties to the UN CRPD are obliged to take measures to de-institutionalise and must create adequate support and assistance services that effectively enable freedom of choice regarding the desired form of housing and care (UN Convention on the Rights of Persons with Disabilities, General Comment No. 5, CRPD/C/GC/5, para. 16 et seq.).

Notwithstanding this positive recommendation, the NPM believes that the expansion of alternative forms of care and support for older people requires a closer examination of the legal framework. The legal provisions on quality assurance – both the Care Acts of the *Laender* and the Nursing and Residential Homes Residence Act (*Heimaufenthaltsgesetz*) – are aimed at traditional nursing homes. In contrast, there is no authorisation or notification requirement for „assisted living and housing“. No minimum staffing, care, structural or organisational requirements apply, even if people with severe dementia are cared for.

Nursing home vs. assisted living and housing

The non-applicability of the Nursing and Residential Homes Residence Act means that encroachments on fundamental rights are not subject to judicial examination and those affected are not represented by residents' representatives (see Strickmann, *Betreute Wohnformen ohne Einrichtungsscharakter unterliegen nicht dem Heimaufenthaltsgesetz*, iFamZ 2024). Classification as either a nursing home or „assisted living and housing“ therefore has far-reaching legal consequences.

Legal clarification on supervision

An „assisted living arrangement“ away from the traditional nursing home is not always good for all those affected. In March 2024, for example, the NPM was informed about gross care deficiencies and human rights violations in a residential facility for people in need of care in Salzburg. The Salzburg Regional Government denied that it had supervisory authority to inspect the facility, and the facility operator questioned the applicability of the Nursing and Residential Homes Residence Act. It was only after several interventions by the NPM and an amendment to the Salzburg Care Act that the law was clarified; the Regional Government now has supervisory authority in any case.

In the case of a shared accommodation for persons with dementia in Tyrol, the NPM was also faced with the question of the applicability of the Nursing and Residential Homes Residence Act and the Nursing Homes and Care Services Act of Tyrol. The NPM therefore contacted the Regional Government of Tyrol and the Federal Ministry of Justice.

Nursing and Residential Homes Residence Act not applicable to assisted living and housing

The term (care) facility is not defined in the Nursing and Residential Homes Residence Act. The catch-all provision of Section 2(1) of the Nursing and Residential Homes Residence Act is based on whether „at least three persons with mental illnesses or mental disabilities can be permanently cared for or looked after“ in the facility. According to the Supreme Court, this covers facilities in which conditions similar to those of a home exist due to the structural (care) conditions and the resulting „living environment“ for the persons being cared for and looked after (Supreme Court 23 June 2021, 7 Ob 107/21t). If a person is cared for at home or in a family-like shared accommodation by relatives or 24-hour caregivers, the Nursing and Residential Homes Residence Act does not apply (Supreme Court 12 January 2022, 7 Ob 183/21v, ErlRV 353 BlgNR 22. GP 8). An overall consideration of several characteristics is required for the legal differentiation. For example, the provision of rooms with standardised equipment, central rooms for care (e.g. a care bathroom), a high degree of organisation, central food supply, constant presence of nursing staff, provider obligation and all-round care speak in favour of a care facility. In contrast, a form of „assisted living“ is characterised by the rental of flats (instead of just a room), individual furnishing, shared rooms primarily to maintain social contact, a (mandatory) basic service and only optional additional (care) services, no constant care and support, service provider intermediaries and free choice of provider

and a lifestyle that is as independent as possible (Grünstäudl, *Legistischer Pflegefall? Wenn aus dem "betreuten Wohnen" eine Pflegeeinrichtung wird*, ZfG 2019, 104 et seq.).

Not least due to the continuous presence and support of the 24-hour caregivers, the high level of organisation and the shared provision of meals, Commission 1 assumed that the visited shared accommodation for persons with dementia was a facility within the meaning of Section 2(1) of the Nursing and Residential Homes Residence Act. The residents' representatives in Tyrol also held this legal opinion and initiated legal proceedings under the Nursing and Residential Homes Residence Act due to restrictions on freedom.

Judicial examination by residents's representatives

In the last instance, the Supreme Court dealt with the legal qualification of the visited shared accommodation. It held that there are predominantly elements of a form of „assisted living and housing“ and that the shared accommodation was thus not a facility within the meaning of the Nursing and Residential Homes Residence Act (Supreme Court 22 May 2024, 7 Ob 71/24b).

Supreme Court: shared accommodation for persons with dementia not a nursing home

On the other hand, the scope of the Nursing Homes and Care Services Act of Tyrol includes inpatient facilities operated against payment that are intended for the care of more than three persons in need of assistance or nursing care, in particular older people (Section 2(1) Nursing Homes and Care Services Act of Tyrol). In any case, „facilities that only offer accommodation“ are excluded from the scope of application Section 2(2) Nursing Homes and Care Services Act of Tyrol.

With reference to the legal recommendation in the above-mentioned Supreme Court decision, the Tyrol Regional Government argued to the NPM that there was no care home within the meaning of the Tyrolian Nursing Homes and Care Services Act. Essentially, residential premises are rented out and the residents hire the respective caregivers independently by means of a contract for work. The Regional Government of Tyrol was therefore not authorised to exercise supervision over the visited shared accommodation for persons with dementia.

Not a facility within the meaning of the Tyrolian Care Service Act

In view of the increase in persons receiving care and the desire and need for individualised forms of care without rigid institutional structures, the NPM assumes that the range of alternative forms of care and housing for older people will increase. In the NPM's view, it is therefore all the more important to ensure that the care of people in need of protection – such as persons with severe dementia or other persons in need of care – are provided in compliance with human rights and other quality standards and that appropriate review mechanisms are in place, particularly in the event of complaints or suspicions.

Lack of quality standards and monitoring visits

State's obligation to protect human rights

This is also required by (fundamental) law. In its court rulings with regard to Articles 2, 3, 5 and 8 ECHR, the European Court of Human Rights has repeatedly stated that the right to life, the prohibition of torture, inhuman or degrading treatment or punishment, the right to liberty and security and, finally, the right to private and family life are obligations of States. In order to protect the physical and psychological integrity of a person in relation to other people, States Parties to the ECHR have a duty to provide adequate (legal and administrative) protection against possible abuse and harassment by private individuals of which state authorities are or should have been aware. This duty applies especially to particularly vulnerable people, such as persons with physical and/or mental disabilities (see European Court of Human Rights of 24 July 2012, *Đorđević v. Croatia*, Appl. 41526/10, para. 141 et seq.). On the other hand, with regard to the guarantee of the right to liberty, it may be necessary for the State to regularly investigate whether a deprivation of liberty (e.g. in private psychiatric facilities) is still justified (European Court of Human Rights 16 June 2005, *Storck v. Germany*, Appl. 61603/00, para. 101 et seq.). This obligation is directed at all state bodies that fulfil statutory duties in relation to persons with disabilities or persons receiving care, including the legislature where applicable. The Human Rights Advisory Council recommended that the respective legislature close any gaps in supervisory and protective provisions by means of clear statutory provisions (see Human Rights Advisory Council, *Scope of state duties to protect human rights compliance in facilities for persons with disabilities without special official authorisation and without official supervision*, p. 12).

The UN CRPD also obliges States Parties to protect persons with disabilities from all forms of exploitation, violence and abuse and to take all appropriate measures to prevent all forms of exploitation, violence and abuse – including by private individuals (Article 16 (1) and (2) UN CRPD). The state obligations under Article 16 UN CRPD also extend to private accommodation or the private (residential) sphere of persons with disabilities, although disempowerment or paternalistic approaches to protection must be rejected due to the aspirations for equality and self-determination of the UN CRPD. If, for example, there is a suspicion of neglect, exploitation or abuse of a person with disabilities in the context of (private) care, the state's obligation in any case goes so far as to inform this person of adequate alternative forms of care and housing and to support them in making a corresponding change. The person must be put in a position to have actual freedom of choice regarding the desired form of housing and support, whereby the freely made choice must be respected (see Kelling in Banktekas/Stein/Anastasiou, *The UN Convention on the Rights of Persons with Disabilities*, Art. 16, p. 487 et seq.).

First steps towards quality assurance

From the NPM's point of view, a first step in this direction are the (voluntary) home visits to recipients of care allowances and (mandatory) home visits to applicants for 24-hour care by order of the Federal Ministry of Social Affairs,

Health, Care and Consumer Protection. These home visits are intended to contribute to quality assurance in home care.

The NPM will continue to look at how the necessary protection mechanisms for particularly vulnerable people can be created or expanded in forms of housing other than traditional nursing homes without, however, restricting their right to privacy and self-determination.

**In-depth discussion
of the NPM**

2.1.11 Psychiatric care in retirement and nursing homes

An increasing number of older people with psychiatric illnesses, combined with a worsening shortage of specialists is also a challenge for the psychiatric care of residents in retirement and nursing homes. There are no exact figures on residents in inpatient long-term care facilities with a psychiatric diagnosis. The international project on dementia in nursing homes, „The Czech–Austrian Long-Term Care Research Database – DEMDATA“ (2016–2017), analysed 571 residents in eight different nursing homes. According to the care documentation, 58.8% of the residents were diagnosed with dementia. However, psychological tests showed that 85.2% had moderate to severe cognitive impairment according to the Global Deterioration Scale (GDS). This data shows that diagnostics need to be improved.

**Increasing need for
psychiatric care in
nursing homes**

Mental health care in retirement and nursing homes is an important component of healthcare for older people. Article 12 of the International Covenant on Economic, Social and Cultural Rights (ICESCR) guarantees the right to the „highest attainable standard of physical and mental health“, which also includes psychiatric care. The European Charter of Rights and Responsibilities of Older People in need of Long-term Care and Assistance emphasises the right to dignity, physical and mental well-being and to qualified, health-promoting care, as well as assistance and treatment tailored to one's personal needs and wishes. This is to guarantee medical and therapeutic care that helps to enable a dignified life. Article 25 of the UN CRPD recognises „the right of persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination on the basis of disability“, including access to healthcare.

According to the general clause in Article 15(1) Federal Constitutional Law (*Bundes-Verfassungsgesetz*), the responsibility for care lies predominantly with the *Laender*, with the exception of matters expressly assigned to the federal government in matters of nursing care. The *Laender* undertake to ensure a minimum standard of social services. In the agreement between the Federal Government and the *Laender* pursuant to Article 15a Federal Constitutional Law on joint measures for persons in need of care (Care Agreement 1993, Federal *Laender* Gazette No. 866/1993), the *Laender*

undertake to „ensure a minimum standard of outpatient, day-care and inpatient services (social services) for persons in need of care“. According to Article 5, this minimum standard must comply with a catalogue of services and certain quality criteria. The quality criteria for care homes include objectives relating to medical care, such as the obligation to provide care and free choice of doctor. These obligations are also reflected in *Laender* laws on nursing homes and in the specifications for care home agreements and define the framework for psychiatric care in retirement and nursing homes.

Qualified care is essential

From a human rights perspective, the qualified care of older persons with mental illnesses in care facilities is essential and requires extensive knowledge of the specific clinical pictures and their medical and therapeutic treatment as well as basic elements of the pharmacokinetics and pharmacodynamics of psychiatric medication. Protecting and promoting the health of this vulnerable group requires that they be cared for exclusively in facilities with qualified staff.

A few homes with psychiatric focus

Only a few nursing homes specialise in the care of geriatric psychiatric care or residents with dementia or have their own dementia wards. There is no nationwide overview of facilities with specific psychiatric services, but only a few regional surveys: According to the Austrian Care Provision Report 2022 of the Federal Ministry of Social Affairs, Health, Care and Consumer Protection, there were 264 geriatric psychiatric care places in seven facilities in Carinthia at the end of the year (focus: care and support for clients with psychiatric illnesses up to care level VII).

Psychiatrists difficult to find

Psychiatric care is usually provided by external GPs and registered doctors specialising in psychiatry. Specialists in psychiatry are difficult to find, especially in rural regions. Commission 1 criticised psychiatric care in the district of Bludenz in the Montafon valley, for example. The *Land* of Lower Austria confirmed the criticism of Commission 6 that the free choice of a doctor is limited by the location of the facility and the unwillingness of doctors to make home visits.

Situation highly problematic in terms of human rights

However, the existing infrastructure is also often overloaded: One facility in Carinthia reported long waiting times for appointments with psychiatrists in private practice. In some regions in Lower Austria, Tyrol and Vorarlberg, specialist medical care is so extremely strained that new patients are no longer accepted or no on-site care is offered in nursing homes. Commission 5 considered medical care in a nursing home in Lower Austria to be at risk because two doctors had reported their indirect retirement, but it had not been possible to organise a successor. Such gaps in care can lead to residents being transferred to hospitals. In one Tyrolian facility, it was not possible to recruit psychiatric consultants, which is why the residents have to be treated in the nearest hospital in geriatric psychiatry or as outpatients by

specialists. Commission 1 pointed out that without a psychiatric consultation, care home residents do not receive adequate psychiatric care. This is highly problematic in terms of human rights.

In many cases, there is a lack of cooperation and binding collaboration between nursing homes and external psychiatric services. In two nursing homes in Vorarlberg, Commission 1 learnt that „there is no psychiatric consultation and no cooperation with psychiatrists. [...] You can't get appointments with specialists“. However, one qualified nurse described how she was at least in good contact with the head of the geriatric psychiatry ward at Rankweil regional hospital and received support by telephone. The manager of a home in Vorarlberg complained: „Better cooperation would be desirable here, a learning process of collaboration should be started.“

Hardly any network structures

However, Commission 1 also dealt intensively with problems at the interface between nursing homes and the geriatric psychiatric ward at Hall regional hospital in Tyrol. Both the nursing homes and the psychiatric wards reported to the commissions about complex care situations in which cooperation is problematic. The *Land* of Tyrol responded to the recommendations of the NPM with various measures. Geriatric psychiatric care will also be a key chapter in the revision of the Tyrolian Regional Health Structure Plan 2025. A cooperation between the regional hospital in Hall and the facilities providing further care is planned, as well as an exchange between the psychiatric department and the respective home management to discuss therapeutic options.

The NPM reiterates its recommendation from the previous year that, in addition to the expansion of nursing home places specifically suitable for patients with geriatric psychiatric needs, non-hospitalised psychiatric care has to be improved as well. To this end, concepts should be drawn up to improve general medical and geriatric psychiatric care in care homes and thus support community-based healthcare. This also requires comprehensive coordination of health and service provisions and networking of the decision-makers involved.

Concepts for improving care

In most facilities, general practitioners are the main contact persons for medical care. The Commission's visits revealed that most facilities only have monthly or even less frequent psychiatric consultations. Some homes are visited by psychiatrists once every three months, and one home in Styria only once every six months. Although Commission 1 found the consultative care support provided to residents in a nursing home in Tyrol by the psychiatrist who regularly visits once a month to be positive, it was still not sufficient. The commissions recommended continuous and comprehensive psychiatric care during the residents' stay in order to safeguard the health needs of these clients and to fulfil human rights standards.

Few psychiatric visits

On a positive note, the commissions were able to observe in some cases that nursing homes have permanent consultant doctors who visit the residents more frequently than once a month. For example, in a nursing home in Carinthia and also in Styria, weekly psychiatric visits are made by two specialists. In most cases, psychiatrists come to the facility in addition to the scheduled visits if necessary; nursing homes rarely receive support by telephone only. Psychiatric telephone expertise is a good form of support, particularly in acute situations when rapid counselling is required. However, it should only be used as a supplement.

Expand geriatric and gerontological care

The number of over 80-year-old persons in Austria will double in the next 20 years; other European countries are facing similar challenges. The European Union Geriatric Medicine Society, an association of national geriatric societies, agreed on evidence-based standards, which should form the basis for the medical and therapeutic care of the increasing number of multi-morbid residents in nursing homes. The NPM agrees with these considerations:

- Before being admitted to a nursing home, potential residents should undergo a comprehensive geriatric assessment as the basis for a coordinated care plan and to determine the need for assistive devices.
- Doctors and nursing staff working in care facilities should have specific training and further education in geriatrics.
- Chronic diseases must be monitored in multidisciplinary cooperation in order to avoid unnecessary hospitalisation.
- Meaningful documentation should be available to coordinate rehabilitation measures, the management of multimorbidity and behavioural disorders.

Need for dementia specialists

In practice, there is no access to healthcare in some regions. The head of a residential unit in a nursing home in Vorarlberg explained: „There are many residents with different types of dementia. [...] If we had trained staff (psychiatric nursing staff) and psychiatric caregivers in the home, then it would be easier to look after such residents.“ Nursing staff in a care home in Tyrol also informed Commission 1 that the number of people with psychiatric illnesses and the challenging behaviours that often accompany them is increasing and that they are not sufficiently trained for this. The commissions suggested further education on the topic of „challenging behaviour in care“ or „psychiatric residents in nursing homes“. The care home management also saw a need for improvement and appropriate training is now planned.

Only a few nursing homes have nurses with additional psychiatric qualifications, such as a nursing home in Styria, which employs two nurses specialising in psychiatry. On the other hand, in a home in Carinthia with a geriatric psychiatry focus, there are weekly visits by psychiatric doctors, but no nursing staff with additional psychiatric qualifications. However, only

suitably qualified nursing staff can recognise needs in their daily work with mentally ill residents, especially in crisis situations, and respond to them in good time. Commission 3 recommended offering more training to caregivers.

Many facilities endeavour to sensitise and promote employees in understanding and dealing with residents with psychiatric clinical pictures: for example, employees in a nursing home in Lower Austria received training in the subjects of dementia and geriatric psychiatry. In another home, training courses were held on „communication and de-escalation“ and „violence and de-escalation“.

A nursing home in Styria also recognised the need for dementia-sensitive and dementia-competent specialist staff and carried out dementia training courses. An organisation in Vorarlberg is planning a series of training courses on dementia for all homes in Montafon starting next year under the direction of a „memory nurse“. Another facility provider in Styria focussed on psychiatric illnesses in its homes this year. Continuing training on this topic also took place in a care home in Carinthia. In very few care homes, the focus of further education is exclusively on nursing topics. However, in one care centre with a psychiatric focus in Lower Austria, Commission 6 had to observe that no psychiatric training had been included in the training plans in the past three years.

A proportion of medical care is provided by services equivalent to medical assistance, such as psychotherapy and clinical psychology. There are several facilities in Vienna that employ or call in clinical psychologists. The manager of one care home stated that he had searched in vain for such mobile services for residents suffering from severe depression in Lower Austria: „There is no one in the district who offers (mobile) psychotherapy or clinical psychological treatment.“

Some nursing homes employ validation trainers who specialise in the care of residents suffering from dementia. Similarly, although one care home in Tyrol does not have a nurse with specialised training for psychiatric cases, the use of a geriatric educator is described as very helpful. These professional groups can be used to complement medical and nursing care services. However, they cannot replace psychiatrically trained nursing staff. Interdisciplinary interaction between all professional groups with their respective competences and specific contributions is required in order to ensure holistic care and to meet the individual needs of the residents.

**Interdisciplinary
cooperation required**

In order to bundle existing resources and utilise synergy effects in the best way, great importance must be attached to networking and interlinking all offers of care and the health sector. Existing legal and financial obstacles to cross-sector cooperation close to home must be removed.

With this in mind, the Federal Government, the *Laender* and the social insurance organisations jointly agreed on the 3rd Target Control Period for the years 2024 to 2028 in 2023. Joint strategic objectives were formulated and numerous operational objectives agreed on as part of the Health Target Control. Both measures for the effective and efficient use of medicines and the promotion of healthcare for people in care facilities and in home care on site in coordination between the health and social affairs sectors are expressly covered by the agreement pursuant to Article 15a Federal Constitutional Law (Federal Law Gazette I No. 1/2025). In addition, the Electronic Health File infrastructure for e-health applications is to be further developed and the concept and implementation of telemedicine is to be promoted.

- ▶ ***Nursing staff specially trained in the care of mentally ill patients should be available and a nationwide standardisation of psychiatric consultations by specialists should be established through regular and continuous home visits to retirement and nursing homes.***
- ▶ ***The NPM considers mandatory qualifications in geriatrics and geriatric psychiatry for doctors treating patients in care facilities to be necessary, as well as continuing training in geriatrics, pain management and geriatric psychiatry for nursing staff.***
- ▶ ***Greater coordination and cooperation should be sought between nursing homes, general practitioners, psychiatrists, mobile psychiatric services and hospitals. Psychotherapists, clinical psychologists and social workers should be more closely involved in the care process.***
- ▶ ***In addition to the expansion of nursing home places specifically for patients with geriatric psychiatric needs, non-hospitalised psychiatric care needs to be improved. This requires comprehensive coordination of healthcare and service provisions and networking between decision-makers.***

2.1.12 Positive observations and implemented recommendations

Integrative care Improvements were also achieved in many areas in 2024 and examples of good practice were found. One facility in Vorarlberg is exemplary for the inclusion of persons with disabilities in old age. The residential groups are mixed and the persons with disabilities are distributed among the residential groups. Their needs are specially catered for in the daily structure. Activation is offered in small groups using „Augmentative and Alternative Communication“ (AAC), which serves to maintain their independence and their ability of expression. Following the renovation of the nursing home, the number of residential places for persons with disabilities is to be increased from the current twelve to 18. This will, for example, provide more rooms for

privacy and a combined kitchen and living room. In addition to caregivers, the Social Fund of the *Land* of Vorarlberg finances a specialist curative educational care worker to provide a day-structuring programme as part of integration assistance.

Commission 5 saw a wide range of concepts, documents and measures for the prevention of violence in a large Vienna facility and considers this an example of best practice. The owners and operators have guidelines for managing aggression, violence and de-escalation as well as a project entitled „strong together against violence“, which aims to counteract both direct (personal) violence and indirect (structural) violence. In addition, participation in a workshop (violence/aggression/prevention) is mandatory for new employees, and 72 % have already visited this workshop or a de-escalation seminar.

Protection against violence

A facility in Lower Austria engaged a specialist doctor in dementia and covers the costs of the elective doctor's fee. This was a very good solution after the number of geriatric psychiatric residents had increased and cooperation with the nearest hospital outpatient department had become difficult and stressful for those affected.

Medical care

The existence of care guidelines and standards, such as those implemented in an exemplary manner in a home in Tyrol, is of great importance in order to ensure uniform and high-quality care. Clear guidelines for practice enable safe care. This applies not only to pain assessments that are to be closely monitored to ensure the best possible pain treatment, but also to determining the risk of decubitus, falls and malnutrition. They also promote an evidence-based approach, which both increases the residents' safety and strengthens the confidence of nursing staff because they are based on proven methods and experience.

Assessment-led work

In a Tyrolian facility, Commission 1 found an extremely motivated, friendly and stress-free atmosphere, and the nursing staff were open, interested and professional. A home in Upper Austria offers a very extensive activity programme and makes it transparent via various channels, such as a weekly printout, via email to relatives and on the screen in the entrance area. The residents were therefore well aware of the programme. In another Upper Austrian facility, the commitment to supporting residents when they return to their own home stood out positively. For example, one member of staff visited a resident's home with her to see whether it would be possible for her to live alone again.

**Positive atmosphere
lots of activities and support**

One home in Carinthia was characterised by detailed biographies and anamnesis in psycho-biographical questionnaires. Commission 3 noted positively that the likes, dislikes and habits of the residents are included in the care planning and that, for example, reminiscence work with fragrances

Biography and remembrance work

is carried out by a nurse with dementia expertise, who is released from her nursing care work for four hours per month for this purpose.

Implemented recommendations

Much could be implemented in 2024 as a result of the NPM's recommendations, particularly with regard to the NPM's core mandate, the measures which restrict freedom. The commissions inspect the documentation in detail during their visits. For example, following criticism by Commission 1 about inaccurate information on the dosage of medication, a care home in Vorarlberg reviewed all the directives, discussed them with the respective general practitioners and recorded the exact dosage. In cases where records of medication-based restrictions of freedom had not been made, they were added later. Furthermore, reported measures were evaluated together with the general practitioners and adjusted accordingly. In addition, reports were regularly discussed with the residents' representatives.

Barrier-free accessibility

However, facilities have also implemented the NPM's suggestions and recommendations in other areas. A home in Burgenland, for example, followed suggestions regarding barrier-free accessibility by opening the entrance door and the garden gate and marking or securing a sloping path. Following criticism from Commission 4, a large facility in Vienna remodelled a wheelchair ramp that was too steep in a way that residents can now access the garden with walking aids and without assistance. A home in Upper Austria installed additional stoppers at stairways to protect wheelchair users and make it easier to open escape doors.

Orientation aids and visual covers

Together with the social care department, a home in Vienna added orientation aids for residents with dementia or visual impairments. For example, pictures were attached to the doors. Following a recommendation from Commission 1, the access to the terraces of one home was converted so that independent and autonomous access is now possible at all times. Also at the recommendation of Commission 1, a privacy screen was installed in the rooms for short-term care on the ground floor, which were visible from the outside. In contrast to blinds, this allows a view from the room to the outside.

2.2 Hospitals and psychiatric institutions

2.2.1 Focal point „discharge management“ – initial trends

In 2024, the NPM commissions visited a total of 55 medical facilities throughout Austria. In terms of subject matter, the commissions' visits in the period under review focussed mainly on the monitoring focal point „discharge management of psychiatric clinics“, which the NPM had agreed on in consultation with the Human Rights Advisory Council.

Studies show that an optimised discharge management system, i.e. the transition from inpatient care to one's home on the basis of follow-up treatment that has been discussed with and organised for the patients, can not only improve their quality of life, but also reduce avoidable readmissions. However, one of the prerequisites for this is that resources in the areas of inpatient and non-hospitalised care can be interlinked and used as efficiently as possible in line with demand. If this networking and cooperation is not based on a solid foundation, sustainable solutions for persons with chronic mental illnesses with complex care needs outside the hospital cannot be implemented.

Initial trends can already be seen on the basis of the visits carried out to date. In most of the facilities visited, a structured discharge management system is being implemented as required. Multi-professional teams are endeavouring to achieve the best possible solutions for individual patients. As a rule, the wishes of those affected are also taken into account as far as possible.

Initial findings are available

In all *Laender*, the commissions have so far observed that patients are often discharged much later than would be necessary from a medical point of view. One of the most common reasons for this is the fact (to be considered an external factor) that – across all age groups – there is a lack of suitable care and/or forms of accommodation outside hospitals for people with chronic mental illnesses. The NPM has already addressed this matter in numerous reports (see most recently NPM Report 2023, p. 63 et seq. with further references).

Out-of-hospital care situation in great need of improvement

There is a shortage of low-threshold daily structures and mobile psychiatric home care services as well as specialised short-term and long-term care facilities. Where residential places are available, the staff are often insufficiently qualified or not adequately trained with regard to psychiatric needs. Target group-orientated care concepts and corresponding quality standards are lacking or are not sufficiently practised.

Lack of quality staff and care concepts

Long waiting times for further treatment outside the hospital can lead to a worsening of symptoms and increase the likelihood of (otherwise perhaps avoidable) readmission to the inpatient sector („revolving door psychiatry“) and should therefore be avoided at all costs in the opinion of the NPM.

Statements of opinion from several *Laender* indicate that measures have already been taken to gradually improve the supply situation.

Styria: Creation of additional residential places

The Regional Government of Styria, for example, informed the NPM that the specialist divisions at the Office of the Styrian Regional Government – with the involvement of the Health Fund – had drawn up a needs and development plan for the care of people with mental impairments. The plan was adopted by the Regional Government of Styria in August 2023. According to this plan, an additional 150 residential places are to be created for persons with mental illnesses in order to counteract the shortage of residential care places. In addition, semi-annual exchange meetings will be held between the specialist divisions of the *Laender* and non-hospitalised care providers to identify further needs and initiate appropriate measures.

Interface management planned

Needs-orientated support services would be further developed to enable persons with mental illnesses to lead as self-determined a life as possible. The *Land* of Styria is also considering the implementation of a coordinated system for interface management. Such a system should ensure that adequate further treatment in the outpatient sector is organised during an inpatient stay.

Lower Austria: Residential assistance to be further expanded

According to a statement of opinion from Lower Austria, new facilities with fully and partially supervised services are currently being planned in the St. Pölten area as well as in the districts of Gmünd and Mödling. In addition, mobile support services („residential assistance“) are to be further expanded in 2025 for people with mental illness, so that qualified staff can support them in their own homes.

Salzburg: Outpatient residential care established

According to the statement of opinion of the *Land* of Salzburg, increased measures have been taken in recent years to improve outpatient care for persons with mental illnesses. In the area of outpatient assisted living and housing, a new service, „outpatient residential care“, had been established for the entire *Land* in 2024. This would provide individual and long-term support to persons with mental illnesses in their private homes with the aim of stabilising their housing and living situation.

At the same time, forms of partially and intensively assisted living had been expanded and added a corresponding number of places, which had reduced waiting times.

Tyrol: Aiming to optimise supply

In a statement of opinion, the *Land* of Tyrol emphasised that care should be optimised with the system partners, in particular the public social insurance carriers, as part of the committees for target management in health care. In order to achieve this goal, planned solutions are included, for example, in the Nursing Care Structure Plan for Tyrol 2023-2030. The Department of Inclusion, Child and Youth Welfare Services of Tyrol is currently working on a needs and development plan for „psychosocial care“. In addition, the *Land*

had already decided in December 2023 to create eight additional training places in psychiatry as part of the medical needs analysis for Tyrol in order to achieve sufficient supply of care in the long term.

In addition, the commissions observed another matter in the course of some visits. The fact that various cost bearers are competent in the area of social security means that persons with mental illnesses often do not receive the (cash) benefits to which they are entitled quickly enough.

Article 19 of the UN CRPD enshrines the right of persons with disabilities to lead an independent life and to be included in the community. States Parties to the Convention must ensure, among other things, that persons with disabilities have an equal opportunity to choose their place of residence and decide where and with whom they want to live.

Right to self-determined housing and living

The UN Committee on the Rights of Persons with Disabilities sees in particular the lack of strategies and plans for de-institutionalisation, the continued investment in institutionalised forms of care and the lack of available, affordable, accessible and adaptable services and facilities as obstacles to the realisation of the right to self-determination (see UN Convention on the Rights of Persons with Disabilities, General Comment No. 5, CRPD/C/GC/5, para. 15).

In the opinion of the NPM, all *Laender* must urgently improve the living situation of people with chronic mental illnesses towards independent living and taking into account the interests and needs of those concerned. Efforts that have already begun, for example in the area of outpatient forms of residential care, must be continued and intensified. At the same time, it must be ensured that those affected receive sufficient support to clarify and assert financial claims. Cash benefits to which they are entitled should be paid out as soon as possible.

Improvement of the living situation required

In terms of internal factors that are in the way of discharging patients on time, staff shortages (particularly in the areas of care and therapy) are the main obstacle to a successful discharge management system (see chapter 2.2.2 „Lack of qualified staff“).

- ***On the basis of the findings made to date as part of the „discharge management“ focal points, the NPM once again recommends expanding non-hospitalised care services across all age groups and in all the Laender in line with demand.***
- ***Existing efforts, particularly in the expansion of outpatient forms of residential care, should be promoted.***
- ***Persons with chronic mental illnesses must be involved in the planning and implementation of care programmes. Their preferences must be taken into account as far as possible.***

2.2.2 Lack of qualified personnel

In 2024, there was once again an acute shortage of staff across the country in both the medical and nursing fields. The shortage of psychiatrists means that posts in the hospital sector remain vacant. However, the shortage in office-based specialist doctors and psychotherapeutic and psychological care is also a serious problem.

Vöcklabruck regional hospital: day clinic remains closed

For example, the NPM observed that only 70 % of the medical posts at Vöcklabruck regional hospital (Upper Austria) were occupied (five of 16 full-time employment positions were vacant at the time of the visit). As a result, the day clinic that was closed during the COVID-19 pandemic could not be reopened, even though there was an urgent need for it.

Steyr regional hospital: 50% of specialist positions vacant

A similar picture emerged during visits to the Wels-Grieskirchen clinic and the Steyr regional hospital (both in Upper Austria). The commissions observed that half of the specialist positions at the Department of Psychiatry and Psychotherapeutic Medicine at the regional hospital in Steyr were vacant at the time of the visit.

In a statement of opinion, the *Land* of Upper Austria explained that a wide range of measures were being taken in the hospital sector to recruit staff, retain employees in the long term and also reduce the workload. As a result, it was already possible to recruit around 340 full-time employees for hospitals funded by Upper Austria in 2023 compared to the previous year.

Hollabrunn regional hospital: one ward closed

The NPM also observed a shortage of specialised medical staff at the socio-psychiatric department of Hollabrunn regional hospital (Lower Austria). In addition to the head physician, seven senior doctors were employed at the time of the visit, but only to the equivalent of 4.75 full-time employees, which meant that regular service operations were not possible. In the area of assistant doctors, the duty roster could not be fully filled in the last half of 2023. The staff shortage led to an entire ward being closed for a long period of time. This significantly impaired the quality and continuity of medical care support in the department and made it almost impossible to maintain a continuous relationship.

The *Land* of Lower Austria conceded that there had indeed been a serious shortage of doctors at the time of the visit. For several weeks, operations could only be maintained as part of an emergency programme. In the meantime, the medical team had been expanded by two specialists (equivalent of 1 full-time employee) and two assistant doctors (equivalent of 1.75 full-time employees). As of May 2024, it was therefore also possible to discontinue the use of external specialists and ensure continuity of treatment with a permanent team of doctors.

Overall, measures to attract and retain personnel resources are being implemented on an ongoing basis, such as financial incentives (e.g.

increasing bonuses), intensified personnel recruiting, making specialist training more attractive and much more.

The commissions observed a similar situation in the area of nursing and therapeutic staff. At Hietzing hospital (Vienna), the equivalent of 10.125 full-time employee were vacant in the care area on both acute wards of the 1st Psychiatric Department at the time of the visit. On acute ward 1A, two nursing staff were responsible for a total of 14 patients on the day of the visit. A lack of resources in the care area leads to admission stops and patients sometimes having to be discharged earlier than medically necessary.

**Hietzing hospital:
lack of staff**

A monitoring visit to the Clinical Department of General Psychiatry at Vienna General Hospital revealed that there are not enough applicants for many vacancies, particularly in the area of qualified staff. There is also a shortage of qualified nursing staff with psychiatric training.

**Vienna General
Hospital: minimum
staffing requirements
not met**

In terms of therapeutic staff, the 1st Psychiatric Department of Hietzing hospital (Vienna) did not meet the minimum staffing requirements stipulated in the performance-oriented hospital financing model with the existing equivalent of 9.25 full-time employees. While existing positions in the care area cannot be filled due to a lack of suitable applicants, the number of positions in the therapeutic staff area is low too. As a result, patients in acute wards 1A and 1B have hardly any therapies at their disposal and there is no low-threshold, day-structuring therapy or activity programme.

**Hietzing hospital:
positions missing**

In the opinion of the NPM, the 2nd Medical Department, Centre for Diagnosis and Therapy of Rheumatic Diseases, of the Hietzing hospital (Vienna) would require more personnel resources, e.g. for everyday care or other day-structuring activities, especially for cognitively and/or mentally impaired elderly patients with corresponding psychosocial support needs.

Similarly, it was not possible to make do with the existing personnel resources in the nursing and therapeutic areas at the 2nd Psychiatric Ward of Hietzing hospital (Vienna) at the time of the visit. The NPM observed that staff had to prioritise during the morning meeting which patient receives which therapy. This does not comply with the relevant professional standards, according to which multi-professional therapy should be offered as part of inpatient treatment.

**Professional
standards not met
in some cases**

The NPM therefore suggested that recommendations be made to fill vacant positions in the care sector in a timely manner and to provide the necessary personnel resources for adequate and guideline-compliant therapeutic care for all patients.

- ▶ ***Nationwide measures are needed in both the hospitalised and non-hospitalised care sectors to improve the supply of specialists in psychiatry.***
- ▶ ***In medical facilities, both working time models and salary schemes should be improved in order to recruit more medical and nursing staff.***
- ▶ ***More target posts should be created in the area of therapeutic staff in order to be able to guarantee adequate therapeutic care for patients in line with guidelines.***

2.2.3 New developments at the former nursing care clinic in Hall (Tyrol)

The regional nursing care clinic in Hall (Tyrol) was run for years as a residential facility on the basis of the Hospitalisation of Persons with Mental Illnesses Act (*Unterbringungsgesetz*) and the Nursing Homes and Care Services Act of Tyrol (*Tiroler Heim- und Pflegeleistungsgesetz*) with hospital-like facilities. As a consequence, the people living there only experienced a minimum level of autonomy and social participation, which the NPM had repeatedly criticised. A self-determined life and the experience of inclusion in the rest of society (in accordance with Article 19 UN CRPD) had not been possible in this clinic to date.

NPM repeatedly criticised application of Act on Hospitalisation of Persons with Mental Illnesses

In the past, the NPM had repeatedly expressed concerns about the application of the Hospitalisation of Persons with Mental Illnesses Act in the facility visited. It had also repeatedly pointed out that persons are hardly ever discharged from the nursing care clinic. Rather, those affected often remained in the facility until their death or were often placed there – and for very long periods of time, usually several years – within the meaning of the Hospitalisation of Persons with Mental Illnesses Act.

The NPM had repeatedly observed that many residents had received sedative PRN medication, applying the collective indication „for tension/sleep disturbance/restlessness“ generously. The prescribed dosages had a sedative effect and (at least in the case of the documented indication „restlessness“) primarily the intention to restrict the person’s liberty. However, the (medication-based) restrictions on liberty were generally not reported accordingly, which the NPM also persistently criticised.

Clarification by Supreme Court enables improvements

According to a decision by the Supreme Court (dated 27 September 2023, 7 Ob 139/23a), the facility is no longer to be considered a „psychiatric hospital“ within the meaning of the Hospitalisation of Persons with Mental Illnesses Act, but rather a (long-term) care facility for persons suffering from a high degree of psychiatric illness. Following the court’s clarification of the law applicable to the facility and the persons living in it (i.e. the Nursing and Residential Homes Residence Act instead of the Hospitalisation of Persons

with Mental Illnesses Act), the NPM was already able to observe positive changes in some areas (particularly in terms of implementing the normality principle) during a recent visit.

For example, the facility established a pharmacological consultation to avoid polypharmacy and to gradually reduce the administration of sedative medication. Aromatherapy care is now offered as an alternative, especially for residents with dementia. The residents now receive regular psychosocial support. In addition, the mealtimes, which were previously scheduled far too early, have been moved back. The facility has also endeavoured to make the residents' rooms more homely.

The NPM was able to observe a slight easing of the shortage of staff in the facility visited, which had been observed repeatedly and which now even enables 1:1 care for the residents. The staff were also given the opportunity to take part in training courses on the Nursing and Residential Homes Residence Act (*Heimaufenthaltsgesetz*).

Slight easing of staff shortages

In the past, the NPM has repeatedly shown that there is a great need for care facilities or other forms of accommodation for persons with psychiatric impairments or increased other care needs in Tyrol (see most recently, for example, NPM Report 2022, p. 49 et seq. with further references).

From the NPM's perspective, it would be worth considering reorganising the nursing care clinic as a facility for longer-term transitional care with the aim of optimally preparing people for a move to other care facilities or other (also smaller) forms of living. This could define a new and meaningful area of competence for the facility, which would lead to an improvement in the care situation throughout the *Laender* in the medium term.

NPM recommends reorganisation

► ***Consideration should be given to reorganising the regional nursing care clinic in Hall as a facility for longer-term transitional care with the aim of preparing people for a move to other care facilities or other (also smaller) forms of housing.***

2.2.4 Inadequate child and adolescent psychiatric care

A study that has regularly examined the mental health of children and adolescents in German families since 2020 (COPSY study, conducted by the research department Child Public Health at the University Medical Centre Hamburg-Eppendorf) recently revealed that mental health problems in children and adolescents are currently five percentage points more common on average than before the COVID-19 pandemic. According to the study, 23 % of respondents still report symptoms of anxiety and 22 % of parents have discovered mental health problems.

Mental health impaired

The mental health of children and adolescents has also been under close observation in Austria for some time. During the pandemic, the number of cases of depression, anxiety, self-harm, panic, eating disorders and suicide attempts among young people increased, as a recently published report on child and adolescent health in Vienna showed. Other negative developments (war in Ukraine, inflation, climate change), which place an even greater burden on children and adolescents in precarious social situations, have dampened the optimism that has re-emerged since the end of the pandemic. The „widening gap between rich and poor“ is a concern for almost half of adolescents aged between 16 and 17, as revealed by a Youth Study conducted by the Austrian public radio station Ö3 this year.

Supply at breaking point

Child and adolescent psychiatric care, which was already characterised by a lack of resources before the outbreak of the COVID-19 pandemic, continues to reach its limits. In Vienna, for example, the number of child and adolescent psychiatry admissions has almost doubled since 2018 and the workload is higher than it was before the pandemic.

The NPM has repeatedly pointed out the inadequate care situation in inpatient child and adolescent psychiatry (see most recently NPM Report 2022, p. 51 et seq.). The situation in Austria's child and adolescent psychiatry centres remains tense and there is still a severe shortage of medical and nursing staff.

Understaffing

In the course of a monitoring visit conducted in 2024 at the Kepler University Clinic Linz (Upper Austria), Department of Child and Adolescent Psychiatry at the Neuromed Campus, the NPM observed understaffing in the specialist area. At the time of the visit, only 60 % of the medical positions were filled and the day clinic had to remain closed for the last two years.

A similar picture emerged during a visit to the acute ward of the child and adolescent psychiatry department at Rankweil regional hospital (Vorarlberg). At the time of the visit, one full-time specialist position was vacant and there was no prospect of it being filled in the near future.

Measures taken

From statements of opinion by the *Land* of Upper Austria, the NPM learnt that some measures had already been taken since the commissions' last visit in 2021. At university level, an elective course on „child and adolescent psychiatry“ has been offered since October 2024. In addition, an elective month (a so-called „shortage subject month“) has been introduced to motivate as many young doctors as possible to apply for specialist training beyond their basic training. Three additional assistant doctors have already been recruited in this way.

In the area of structural measures, the *Land* of Upper Austria emphasised the part-time working models and an attractive night shift model. For example, young doctors are deployed on night duty under the supervision of medical

specialists. In addition, attention is paid to the organisation of structured work processes and a generous range of further training opportunities.

According to the *Land* of Vorarlberg, the approach at Rankweil regional hospital is aimed at increasing the focus on training doctors. Following their training, doctors are taken on as specialists where possible. In June 2024, five people were training to become specialists in child and adolescent psychiatry. Two of them will complete their training in early and mid-2025 and then close the existing gap.

On the occasion of a visit of the hospital of the Brothers of Mercy in Eisenstadt (Burgenland), the NPM also addressed the fact that there is no child and adolescent psychiatry inpatient unit in the entire *Land*. However, both the staff interviewed at the facility visited and the examination of child and adolescent psychiatry departments in the neighbouring *Laender* confirmed a steadily increasing need for inpatient places (especially in the group of 16 to 22 year olds). Although Burgenland's social services make a major contribution to the outpatient care and treatment of children and adolescents in mental distress, inpatient admission is initially essential in many cases – especially for the rapid stabilisation and treatment of young patients.

**No inpatient care
in Burgenland**

In a statement of opinion, the *Land* Burgenland pointed out that acute inpatient care for the aforementioned target group was provided in the Baden-Mödling-Hinterbrühl regional hospital (Lower Austria) for northern and central Burgenland and in the Graz II regional hospital (Styria) for southern Burgenland. Experts have so far found this care to be generally sufficient.

A transitional psychiatry unit with ten beds is also planned as part of the adult psychiatry department at the hospital of the Brothers of Mercy in Eisenstadt (Burgenland). The master plan also includes eight beds for children and adolescents with psychosomatic symptoms, whereby up to four children and adolescents could already be admitted to the existing ward for paediatrics and adolescent medicine. The full capacity will be available in 2034.

**Expansion
in planning**

Notwithstanding the points of criticism mentioned above, the NPM positively emphasises the opening of the Department of Child and Adolescent Psychiatry and Psychotherapeutic Medicine at the Floridsdorf Clinic (Vienna). From the end of 2024, patients will be treated there on an outpatient and day-clinic basis. With the fourth of a total of six planned outpatient centres, which have been under construction since 2018, the City of Vienna is creating additional places for up to 600 patients per year. This expansion of care capacity in Vienna is intended to ensure that children and adolescents can be cared for as close to home as possible and in their familiar social environment in future.

**Vienna:
new outpatient
centre in Floridsdorf**

- ***Appropriate measures must continue to promote the recruitment of medical and nursing staff and to ensure adequate care for patients in the field of child and adolescent psychiatry all over Austria.***

2.2.5 Poor non-hospitalised geriatric psychiatric care

The poor care situation for people with chronic psychiatric illnesses (already discussed at the beginning) is particularly evident with regard to the care of patients with geriatric psychiatric care needs. The supply of suitable residential and care places is still inadequate. The NPM has already repeatedly addressed this issue (see most recently, NPM Report 2023, p. 66). Despite intensive efforts by hospital staff, returns or discharges can often only take place after a very long delay or, in some cases, not at all.

During a visit to the adult psychiatric ward at Rankweil regional hospital (Vorarlberg), the NPM learnt that a man had been inpatient for more than six months. Due to his bipolar disorder, there had been problems with his flatmates and with the staff at the nursing home where he had previously lived. The care home management had announced that it did not want to readmit the man because he was difficult to manage in his manic phases.

Unilateral cancellation of care home agreements

In the course of a visit, the hospital of the Brothers of Mercy in Eisenstadt (Burgenland) also reported that nursing home agreements had been unilaterally cancelled with immediate effect by the nursing home due to the temporary inpatient stay of a resident in a psychiatric ward (e.g. due to dementia).

In a statement of opinion, the *Land* of Burgenland explained that unilateral and immediate terminations on the part of the care home operators would only take place in justified exceptional cases, such as in particular in the event of aggressive behaviour and endangerment of oneself or others (especially staff) as well as in the event that the residents of the home were unable to in accordance with the care home agreement. However, in such exceptional cases, the facilities are required to initiate a coordinated approach by all parties involved in order to ensure adequate placement or continued care for those affected. This is to prevent cases of sudden homelessness.

Expansion and coordination of care services necessary

The NPM reiterates that non-hospitalised care for patients with geriatric psychiatric care needs must be ensured nationwide. To this end, it is necessary to coordinate existing healthcare and service offerings and to carry out strategic planning for the expansion of services with the involvement of all decision-makers, owners and operators.

Retirement and nursing homes must be equipped with sufficient resources so that challenging behaviour of individual residents can also be dealt with professionally. Among other things, more psychiatrically trained nursing staff should be available in the facilities (see also chapter 2.1.11).

**Psychiatrically
trained staff required**

In addition, the NPM reiterates its demand that places for transitional care should be further expanded across Austria. Increased provision can help to provide geriatric patients with temporary care outside the hospital until adequate long-term care or a place of residence can be found for them. This avoids unduly long stays in hospital and unwanted hospitalisation.

With regard to Vienna, the Vienna Health Care Association announced in a statement of opinion that it would address the expansion of the aforementioned care services with the Hospital Concept 2030.

- ▶ ***Non-hospitalised care for patients with geriatric psychiatric care needs should be ensured nationwide.***
- ▶ ***More psychiatrically trained nursing staff should be available in retirement and nursing homes in order to meet the demand.***
- ▶ ***The range of transitional care places should be expanded.***

2.2.6 Inadequate structural design

The architecture of health care facilities has a decisive influence on the recovery process and can prevent or promote violence. Living conditions characterised by high density and confinement have harmful effects on physiological processes (increased duration and even functional disorders) as well as affective (e.g. negative subjective mental states), cognitive (e.g. performance deficits) and social processes (e.g. social withdrawal). It must be avoided that patients feel at the mercy of others and therefore take on a passive role. They prefer to be able to go directly from the wards to an outdoor area – an aspect that was rated as very important in the conversations during the visits.

**Violence-preventing
effect of architecture**

The Department of Child and Adolescent Psychiatry at the Medical University of Vienna/Vienna General Hospital published a study at the end of 2023, which proved for the first time in Austria that well thought-out architecture contributes significantly to the prevention of coercive measures in acute psychiatric treatment concepts. The study focused on a specially adapted and renovated part of the building on the grounds of Vienna General Hospital for minors with mental illnesses. Thanks to age- and needs-adapted structural conditions in this building, measures which restrict freedom could be significantly reduced in child and adolescent psychiatry. The study emphasised privacy and opportunities for retreat, as well as more natural light, as important aspects. The redesign of the Vienna General Hospital

Effect also on minors

not only reduced the rate of mechanical restraints from originally 13.7 % to 8.1 % in 18 months, but also cut the total duration of all coercive measures on minors by almost half. The study results were published in „Child and Adolescent Mental Health“ (Space for youth mental health-coercive measure use before and after architectural innovation at a department of child and adolescent psychiatry, Klara Czernin, Anselm Bründlmayer, Josef S. Baumgartner, Paul L. Plener; DOI: 10.1111/camh.12690). The sustainability of the changes is achieved through a more sustainable commitment with and between all those involved in the therapeutic process. The higher acceptance and lower aggressiveness of minor patients is accompanied by greater motivation and satisfaction among staff.

Suicide prevention Adequate architecture can also be a positive measure for suicide prevention. In the literature (e.g. König, K., Glasow, N. 2020: Federal Ministries research project „*Suizidprävention in psychiatrischen Kliniken (Supsykli)*“, Suizidprophylaxe, 48) it is pointed out that in order to create a suicide-preventive atmosphere, architectural design aspects must be taken into account. These include satisfying the need for protection, creating positive distraction (view of nature, opportunities for activity) and the use of positive physiological effects (through light, colours).

Successful aspects of architecture The following important aspects should therefore be taken into account when designing psychiatric wards:

- The reception area should be designed with daylight, warm colours and natural materials such as wood to welcome patients and give them a positive first impression of being accepted.
- Age-appropriate orientation aids in the form of colours and symbols on the floor and on the walls are helpful for finding your way around the ward from the outset and being able to move around independently.
- The rooms should be designed in such a way that patients can withdraw and socialise. Patients should have the opportunity to help shape their personal environment and make it their own, for example through photos or drawings.
- A specific room or area should be available for creative design.
- Daylight as well as protection from UV radiation and glare should be sufficiently available and tailored to the patient.

**Regional hospital
Thermenregion
Mödling** Commission 6 observed that the spatial situation at the regional hospital Thermenregion Mödling (Lower Austria), department of child and adolescent psychiatry and psychotherapy, is extremely overcrowded. The architecture does not contribute to the success of the therapy. Some of the rooms are even run-down and desolate, even though the department is endeavouring

to ease the situation somewhat with creative ideas and to make the areas more homely for the adolescents.

The overcrowded conditions are due to the fact that it is an old building from the 1920s, which was originally designed as a home and in no way meets the requirements of a modern child and adolescent psychiatry centre. As a result, adolescents cannot be placed separately and tend to „work each other up“.

Overcrowded conditions

The Office of the Lower Austrian Regional Government recognised in a statement of opinion that the spatial conditions were problematic. Due to the structural defects, there was a comprehensive need for refurbishment, which would involve considerable investment.

However, initial measures have already been taken to improve the spatial conditions: A container building has been provided for additional therapy, work and meeting rooms as well as for the infant day clinic with five places for patients between the ages of three and six. Adjacent to this, an additional garden area will be created for the day clinic for small children and for the patients accommodated there. By freeing up rooms in the main building, the existing overcrowded conditions there can be partially reduced (e.g. by creating an intensive care room for specific care situations). In addition, two sanitary groups for gender-segregated use and a workroom are to be remodelled. Group rooms are also to be adapted. Windows would be refurbished and fall protection nets installed in front of the balconies.

The structural condition of the Hinterbrühl site is poor and the decentralised location of the department poses major challenges for the quality of care and for the safety of patients. It is thus planned to integrate the department for children and adolescents into a hospital. However, there is currently neither a definite commitment from the competent regional departments for a new building nor a concrete timetable, even though an area for a child and adolescent psychiatry department is planned on the site of the new building of the University Hospital Wiener Neustadt. Experts and future users are to be involved in the detailed planning of the new building and suicide prevention, target group-specific and milieu-therapeutic structural requirements are to be taken into account.

Location Hinterbrühl

The NPM strongly advocates that the new child and adolescent psychiatry building be realised as quickly as possible.

During an examination, Commission 1 observed that the outdated building structure of the psychiatric ward at Hall regional hospital (Tyrol) is no longer suitable for the treatment of severely mentally ill patients. For example, medically adequate treatment is only possible to a limited extent due to the structural conditions, even though the commissions were unable to observe any nursing or medical deficiencies. The sanitary facilities outside the rooms

Hall regional hospital (Tyrol)

do not meet current standards. Three-bed and two-bed rooms do not provide sufficient intimacy or the necessary opportunities for retreat.

The Office of the Regional Government of Tyrol announced that the operational organisation and architectural planning for the new building of House 2 at the regional hospital Hall had already begun. The intention was to relocate wards A1, A2, DGZ and B4 as part of this new building. This would be followed by the planning of the structural realisation, which should be completed by the end of the first quarter of 2028. Following the new building, the wards B1 and B2 could be refurbished depending on the funding available.

This construction project should also be realised quickly in accordance with the specified schedule.

- ▶ ***The structural design of a psychiatric ward is essential for the prevention of violence and suicide.***
- ▶ ***Adequate hospital architecture requires a comprehensive concept that takes into account all aspects of patients' needs.***
- ▶ ***Planned new buildings and refurbishment measures must be implemented promptly.***

2.2.7 Right of access to the outdoors

Binding legal requirements

In accordance with Section 34a of the Hospitalisation of Persons with Mental Illnesses Act (*Unterbringungsgesetz*), admitted patients have the right to „access to the outdoors“. This right may only be restricted in exceptional cases for reasons of danger to oneself or others. This places corresponding demands on the resources of clinics, but does not change the fact that the legal directive must be followed.

According to the established court rulings of the Supreme Court, it must be possible to look upwards into the open sky without restriction in such stays outdoors. Patients must have enough space to be able to move around freely (Supreme Court 26 February 2014 7 Ob 14/14f and others). Mere access to fresh air through a grille or the appearance of being outdoors on a terrace that is surrounded by walls and grates and closed off at the top is insufficient.

The Supreme Court also clarified that restricting the right of patients to go outside is considered a restriction of fundamental rights and cannot be justified by a lack of staff or financial resources. Owners and operators of medical facilities are responsible for ensuring that sufficient staff are available to ensure that patients who are hospitalised are accompanied in exceptional cases in order to guarantee the right to access to the outdoors.

However, in 2024 the NPM once again had to observe that some psychiatric hospitals do not have appropriate areas or that not all patients can access these areas independently. For example, during a visit to the psychiatric ward of Hall regional hospital (Tyrol), Commission 1 pointed out that patients placed there must have daily access to fresh air. Day releases onto balconies are not sufficient. The Office of the Regional Government of Tyrol informed the NPM that outdoor access for residents of building J is also expected to be realised as part of a planned new building.

Balconies are not sufficient

During a visit to the psychiatric ward of the Kardinal Schwarzenberg Clinic (Salzburg), Commission 2 observed that there was still no independent access from the accommodation area to the garden. It criticized this as a violation of fundamental rights. At the time of the visit, only accompanied day releases were possible, which were offered depending on the personnel resources of the ward. In a statement of opinion to the NPM, the legal entity of the hospital acknowledged that the lack of access is currently unsatisfactory. The situation is to be improved as part of the construction of a new building, which has already begun.

Independent access to open spaces required

Commission 1 had to observe that the structural location of the child and adolescent psychiatry department at Rankweil regional hospital (Vorarlberg) did not allow patients free or safe access to the outdoors due to the indirect vicinity of the road. Use of the garden was only possible when accompanied and could often not be guaranteed. The NPM therefore recommends that adequate access to the outdoors also be ensured for hospitalised patients at Rankweil regional hospital.

- ▶ ***Patients have a right to daily access to the outdoors. In accordance with the legislature's demand, the fullest possible guarantee of freedom rights must not fail due to a lack of material and personnel resources.***
- ▶ ***Balconies and terraces are not sufficient for this.***
- ▶ ***An accompanied stay outdoors cannot replace the independent use of open spaces.***

2.2.8 Rehabilitation programme for people with dementia can be expanded

During the visits, the commissions discussed the rehabilitation services for people with dementia. Patients under the age of 65 with early forms of dementia, some of whom are still in gainful employment, complain that there is a lack of adequate rehabilitation programmes. However, medical rehabilitation measures are intended to keep people in work or help them return to work. For seriously ill patients, the aim is to prevent or reduce the need for care.

Range of social insurance benefits	<p>The NPM therefore obtained statements of opinion from the umbrella organisation of the Austrian social insurance carriers and the Austrian Pension Agency. These statements indicate that several requirements must be met for rehabilitation, namely the need for rehabilitation, the ability to undergo rehabilitation and the potential for rehabilitation. Patients should therefore be physically, mentally and psychologically capable of actively participating in therapies and measures to restore their health or ability to work. The rehabilitation measures are very likely to improve the patient's state of health or occupational skills.</p>
Inpatient rehabilitation stays	<p>In the case of dementia, a distinction is currently made as to whether this is a secondary diagnosis in relation to rehabilitation or whether it is rehabilitation for dementia as the main diagnosis. Recommendations are first made as to whether rehabilitation is possible despite the limitations caused by the dementia. In this context, it often makes sense for care-giving relatives to be included in the rehabilitation, which is why rehabilitation stays with an accompanying person are approved. Even with dementia as the main diagnosis, rehabilitation can be appropriate in principle, especially for mild and moderate outbreaks. The decisive factor is whether rehabilitation can help to strengthen independent and self-determined living so that those affected can continue to participate in social life despite restrictions.</p> <p>Highly cognitive deficiencies, such as those possibly associated with advanced dementia, in particular disorientation and confusion, are generally a contraindication for inpatient treatment because those affected cannot participate in the therapy measures to an extent that is beneficial for them. In addition, the often long journey, the unfamiliar surroundings, the lack of cognitive understanding of the course of therapy and the change in familiar surroundings or the stress of unfamiliar, changing therapists and caregivers can potentially have a negative impact on cognitive health. Possible consequences include anxiety and the promotion of a risk of absconding, feelings of being overwhelmed and even aggression.</p>
Decisions on individual cases	<p>Mild cognitive deficiencies, such as less advanced stages of dementia, are not <i>a priori</i> grounds for ruling out eligibility for rehabilitation, but the applicant's doctor must assess on a case-by-case basis whether and under what circumstances the applicant can benefit from rehabilitation and whether inpatient or outpatient care or physical and therapeutic measures close to home in an institute or by means of home visits are more suitable. Individually adapted therapies in an outpatient setting with regular sessions of occupational and physiotherapy can achieve very good results without the stress factors that rehabilitation can bring for people with advanced dementia.</p> <p>Some symptoms of dementia can be treated as part of neurological rehabilitation (e.g. memory training, perceptual disorders, learning how to deal with symptoms, therapy for gait or balance disorders with fall</p>

prevention) in order to learn to lead an independent and self-determined life and thus maintain or enable social participation for as long as possible. In the case of dementia as a secondary diagnosis, it is examined whether the dementia symptoms (e.g. disorientation, behaviour that endangers oneself or others) are so pronounced that the ability to rehabilitate is questionable and the rehabilitation prognosis therefore appears negative. If this is not the case, authorisation is granted, which is most frequently the case after an accident, but also after a stroke or other internal illnesses.

Weekly day centre visits can also be an important support for those affected and their relatives. In a day home suitable for dementia patients, participants receive care and are offered activities during the day that are tailored to their needs and abilities. There is social interaction with people who are in a similar situation. This reduces isolation. Targeted activities such as memory training, creative pursuits or exercise promote mental and physical fitness in familiar surroundings. A structured daily routine offers security and orientation. Dementia can be treated in the long term through combined therapies as an integral part of the daily routine.

**Outpatient
rehabilitation**

However, the Austrian Pension Agency conceded that there are currently no specific rehabilitative concepts in the sense of medical rehabilitation for persons with a main diagnosis of dementia. That is because the range of medical services described assures that the specific needs of the rehabilitants can be addressed individually.

**Specific
rehabilitation
concepts are lacking**

At the same time, scientific findings and developments in the field of dementia have been very dynamic, especially in recent years. Given the great social and medical relevance of the topic, adjustments to the range of medical rehabilitation services will be possible in the future.

The NPM emphasises that the number of patients suffering from dementia is increasing due to demographic developments. The NPM therefore speaks out in favour of the creation of special rehabilitation programmes in which the particular needs of dementia patients are specifically addressed as part of a comprehensive medical and therapeutic concept.

- ***Special rehabilitation programmes should be created for patients with dementia, in which their special needs are specifically addressed as part of a comprehensive medical and therapeutic concept.***

2.2.9 Home Treatment as a model for success

Home treatment is intended to shorten or replace inpatient treatment. It is an outreach service for acutely mentally ill patients in their own home environment provided by an interdisciplinary treatment team for a limited period of time. The inter-professional treatment teams are made up of doctors, psychologists and specialists from the fields of care, therapy and social work.

**Hospital-replacing
service**

Study proves positive effects

In Austria, home treatment is currently used primarily in the field of child and adolescent psychiatry. A report from AIHTA, the Austrian Institute for Health Technology Assessment, (AIHTA, AT 2020: Home Treatment in child and adolescent psychiatry: An analysis of effectiveness and possible implementation in Austria. AIHTA project report number 129. <https://eprints.aihta.at/1275/>) found that home treatment was superior to inpatient treatment in the long term, particularly with regard to psychopathological symptoms and the psychosocial burden on patients. Compared to other institutional treatments, home treatment was particularly effective in the long term for anxiety disorders or improving the ability to cooperate. In addition, home treatment led to a reduction in the number of inpatient days and a lower average length of stay in inpatient settings.

Evaluation of the Viennese pilot project

Based on these findings, the University Department of Child and Adolescent Psychiatry (Medical University of Vienna/Vienna General Hospital) and the Psychosocial Services in Vienna launched a pilot project on home treatment for the first time in Austria. The accompanying scientific research on 61 patients showed positive results: Both the assessment by the patients themselves, as well as by their parents and caregivers showed significant improvements in the area of mental health and in the general level of functioning. In 90 % of the participating patients, there was an improvement in symptoms after the end of treatment. 83.7 % of the parents surveyed also stated that the health of their children and adolescents had improved. The number of admissions and readmissions to inpatient treatment was reduced.

In the meantime, further home treatment programmes have been created in the field of child and adolescent psychiatry in Styria and Tyrol.

Salzburg: Successes in adult psychiatry as well

Integrated Care Salzburg, a service that is also aimed at adult patients, has reduced the length of stay in psychiatric clinics for patients by 80 %.

The NPM is in favour of expanding tried and tested home treatment services for all age groups of patients nationwide. Furthermore, a statutory basis for funding should be created.

- ***The home treatment programme that has already been tried and tested in some Laender should be expanded nationwide for all groups of patients.***
- ***A statutory basis should be created to ensure the financing of this range of services.***

2.2.10 Implemeted recommendations

Kepler Univesity Clinic Linz: Child protection concept developed

Many of the NPM's recommendations were implemented in 2024. The Kepler University Clinic, Department of Child and Adolescent Psychiatry at Med Campus IV in Linz (Upper Austria), developed a child protection concept by the end of 2024 upon recommendation of Commission 2. It also set up an anonymous complaints box for the concerns of young patients.

Following the recommendations of Commission 5, the socio-psychiatric department of the Hollabrunn regional hospital (Lower Austria) made improvements in the management of medication and narcotics. For example, it established a monthly expiry date check and precise instructions for the dispensing of narcotics on the wards.

Hollabrunn regional hospital: Medication management optimised

Upon recommendation of Commission 4, the Hietzing Clinic, 2nd Medical Department – Centre for Diagnostics and Therapy of Rheumatic Diseases (Vienna), rolled out a new guidance system as an orientation aid for patients and visitors. It also launched a project to prevent delirium, which focuses in particular on orientation on the ward, in the general area and in patients' rooms.

Hietzing Clinic: Guidance system as orientation aid

Following a recommendation by Commission 1, the Hall regional hospital (Tyrol), Department of Psychiatry and Psychotherapy A, General Psychiatric Admission Ward A1, ensures that beds equipped with visible restraint belts are not located in the corridor area and that the belt systems are not visible under any circumstances. In addition, special attention is to be paid to the protection of patients during the implementation of measures which restrict freedom in the course of the planned new building. The use of mobile buzzers is also being considered.

Hall regional hospital: Improvements to measures restricting freedom

2.2.11 Positive observations

On the occasion of a visit to the Elisabethinen Hospital (Styria), the commissions highlighted three projects for the sustainable improvement of the discharge management system. The care-focused tandem concept serves to optimise further caregiver support at home already during the inpatient stay. To this end, volunteers are also involved to support patients with non-nursing activities (e.g. walks, shopping, cooking, accompanying patients to doctors' appointments). This is important for the transition from inpatient to outpatient care so that patients can regain a foothold in their own living environment. This can effectively counteract the „revolving door effect“ (frequent readmissions) that often occurs in psychiatry.

Styria: Projects for continued care at home

In cooperation with a Caritas nursing home, the pilot project „transitional care beds“ is intended to enable patients who should already be discharged from a medical point of view but for whom no suitable non-hospitalised care could (yet) be found to be transferred from acute care to nursing care. As part of this project, the psychiatric department of the Elisabethinen Hospital continues to provide patients with medical and social work care until adequate care is ensured. The aim is to relieve the pressure on acute beds.

The department is also working with the Society for the Promotion of Mental Health and the Socio-Psychiatric Help for the Elderly to develop a concept aimed at ensuring a smooth transition from inpatient to non-residential help.

In further expansion stages, patients are also to be offered psychiatric care at home. The *Land* of Styria assured the NPM that the projects mentioned would receive financial support from the health fund.

**Positive impression
at Hietzing Clinic**

During a visit to the Hietzing Clinic (Vienna), 2nd Medical Department – Centre for Diagnostics and Therapeutic Diseases, Commission 4 gained a particularly positive impression from a human rights perspective:

A multi-professional team supports a highly committed and motivated nursing management team and regularly exchanges information with them. Numerous measures for staff development (team coaching sessions, team days, extensive training programmes) are implemented. A staff-centred rostering model has been implemented. Due to a range of less severe measures/alternatives, there are only a small number of measures which restrict freedom. These can be carried out with a 1:1 permanent watch. Regular pharmaceutical rounds are held, and a psychiatric consultation service has been set up. De-escalation training is offered to all employees. The discharge management system is well organised and the staff are appropriately qualified.

**University Hospital
Tulln: Availability of
recovery counsellors**

Commission 5 emphasised positively that the University Hospital Tulln (Lower Austria), Department of Psychiatry and Psychotherapeutic Medicine, employs recovery counsellors to support patients. In general, a well-functioning discharge management system was found, which is based, among other things, on good networking between the social workers working there. The staff are very committed and also offered a wide range of further training programmes.

**Klagenfurt Clinic:
New building realised**

Commission 3 observed that the care situation at the Klagenfurt Wörthersee Clinic (Carinthia) has improved significantly thanks to the new psychiatric department. Patients now have access to single and double rooms with their own bathroom facilities. The improvement in the spatial situation also contributed to a reduction in restraints. The inner courtyard in the garden of the protected men's area has been beautifully designed and has a table tennis table, a green area, a smoking area with several tables and a seating area with sun protection.

The commissions also gained a very positive overall impression of the geriatric psychiatry ward, which was visited separately. This especially concerned the areas of architecture, atmosphere, barrier-free accessibility, handling/accumulation and documentation of the current restriction measures.

2.3 Child and youth welfare facilities

Introduction

In 2024, the NPM commissions conducted 94 visits to child and youth welfare facilities. In addition to the still very tense staffing situation in many facilities, the lack of care places is currently the biggest problem for the competent authorities for child and youth welfare services and protection. In the past, it was mainly socio-therapeutic and socio-psychiatric places for which children and adolescents had to wait a long time, but now socio-pedagogical places are also no longer available at short notice. One of the reasons for this is the lack of staff, which means that vacant places in shared accommodation are not filled or groups even have to be closed and minors transferred.

Lack of available places is the biggest challenge

According to the latest child and adolescent welfare statistics, 13,073 children and adolescents were cared for in full residential care across Austria in 2023. This is an increase of 185 minors compared to the previous year. With 5.6 minors per 1,000 inhabitants under the age of 18, Upper Austria recorded the lowest number of out-of-home care placements. Vienna and Carinthia, on the other hand, had twice as many minors in full residential care at 12.1 and 11.1 respectively.

The proportion of children and adolescents receiving care in the form of parental support also rose slightly, although the figures vary greatly between the *Laender* herer too. While Carinthia provides 41.6 per 1,000 inhabitants under the age of 18 with outpatient support, the proportion in Vienna only is half as high at 20.4. Overall, the child and youth welfare systems are under pressure, which is increasing every year without the structures and resources changing correspondingly quickly.

In Austria, there are 7,323 allotted places in inpatient facilities of the child and youth welfare services. If you compare the number of minors cared for in inpatient facilities with the number of allotted places per *Land*, you can see that these are roughly equal in Carinthia, Upper Austria and Styria. Vorarlberg and Burgenland, on the other hand, have more allotted places than minors in need of inpatient care from the child and youth welfare services in these *Laender*. Lower Austria, Tyrol, Vienna and Salzburg have more minors in out-of-home care than there are allotted places in the respective *Land*, with this difference being particularly noticeable in Vienna and Lower Austria. According to the observations of the NPM, there is also a blatant lack of suitable childcare places in these *Laender*.

Statistics confirm NPM's observations

The Regional Government's regulation on the operation of child and youth welfare facilities, which came into force on 1 October 2019, included a transitional period for the implementation of the provisions on staff qualifications, the care ratio and group sizes. Due to the shortage of staff, this regulation was amended before the end of the transitional period. The

NPM criticises setbacks in Burgenland

NPM spoke out against the reduction in staff qualification requirements and the deterioration in the childcare ratio, as these represent a considerable step backwards. Furthermore, the increase in possible group sizes to twelve children in socio-pedagogical facilities no longer corresponds to Austria-wide standards in out-of-home care.

**Event on
children's rights**

In May 2024, the AOB organised an NGO forum dedicated to the implementation of children's rights in Austria. In working groups on the topics of environment/participation, child health, child poverty, education/inclusion and protection against violence, the participants discussed with representatives of the competent authorities and NGOs where the greatest difficulties currently exist in guaranteeing children's rights. In these discussions, the participants repeatedly pointed out that more effective nationwide approaches are needed to prevent and deal with child delinquency in order to respond adequately to negative developments among girls and boys between the ages of ten and 14.

The media and some politicians have long been talking about lowering the age of criminal responsibility, which is currently 14. However, it would be a misconception to believe that lowering the age of criminal responsibility would lead to a reduction in criminal offences committed by children. In addition, from a scientific point of view, there is currently no way of determining the specific point at which an underage child actually becomes culpable in terms of criminal law.

The conflict of interest between data protection and child protection was also the subject of several comments in the NGO forum. The AOB felt compelled to obtain statements of opinion on both topics from all *Laender*. The responses are presented in more detail in the Annual Report 2024 of the Austrian Ombudsman Board (see chapter 3.5.2).

2.3.1 Implementation of recommendations

**Criticism is
taken seriously**

It is very positive that most facilities take the NPM's criticism seriously and implement its recommendations quickly in many cases.

**Medication
management in need
of improvement**

The commissions achieved that the medication management was improved at several facilities, particularly in the labelling of ointments and drops with the date of opening them. The same applies to the disposal of expired medication or that of former residents. Sometimes there were ambiguities in medication dispensing lists, which were changed on recommendation. One facility in Styria organised training for care staff in order to improve medication management. In response to criticism from Commission 2, one facility in Upper Austria sensitised its staff to always lock the medication cupboard in the caregiver's office in the future. In another facility, at the

recommendation of the NPM, the staff was informed again that the cupboard should not only be locked, but that the key should also be removed.

Emergency sheets are an important source of information for medical staff, especially in case residents are admitted to hospital. They should therefore contain all important details, including information on long-term medication, persons authorised to consent to medical treatment, etc. In one facility in Burgenland, information on the medication to be taken was missing, which was immediately supplemented upon recommendation of Commission 6. In a facility in Lower Austria, medical emergency sheets were missing in their entirety during a visit by the same commission. The owners and operators stated that they would create these as quickly as possible for all minors.

If teams cannot agree on supervisors or are even „tired of supervision and counselling“, the commissions emphasise the importance of such an offer to staff. The recommendations were complied with in all cases.

In many shared accommodations, younger children in particular are often unable to lock their rooms, which restricts their privacy. In one shared accommodation, the commissions observed during follow-up visits that although the children of middle school age had now been given a room key, the problem of a lack of privacy persisted for the primary school children. On the recommendation of the commissions, a practicable locking system solution was also found for the younger minors. In response to the commissions' criticism, numerous other shared accommodations handed out room keys or chips to unlock the rooms or created a locking system from the inside. The fact that children and adolescents are given the opportunity to lock up their private belongings contributes to privacy. During a follow-up visit to Styria, Commission 3 observed that the facility had purchased lockable safes for the residents. Another shared accommodation facility had set up lockable lockers for all minors.

**Restrictions
on privacy**

Very often, on the recommendation of the commissions, anonymous complaints channels are created in the form of complaints letterboxes. Information about external complaints mechanisms is also posted.

If the commissions found structural defects in the shared accommodation, they recommended that these be rectified immediately in order to prevent health risks and the risk of injury and to ensure that the children and adolescents had an appropriate standard of living. In one shared accommodation unit, the kitchen and wet rooms were renovated and the damaged entrance doors were repaired. The faulty sockets were also replaced and the walls repainted. In another shared accommodation unit, the bathroom had mould, which is why a company was commissioned to treat the affected areas and re-grout the bathroom. As the follow-up visits showed, these measures had little effect, which is why the NPM recommended a general refurbishment, which was carried out during the

**Inappropriate
living conditions**

summer holidays. In one facility, Commission 5 criticised the heavily soiled floor on the day of the visit. The facility took this criticism as an opportunity to install dust control mats.

Further education and training courses pending

Even after the coronavirus crisis, necessary continuous education is still being postponed. According to the observations of the commissions, this is usually due to low staffing levels. They reminded the facilities that further education and de-escalation training are nevertheless essential for good support work. For example, during a visit to a facility in Tyrol, Commission 1 noticed that two staff members in training had no further education in de-escalation management. This was rectified at the recommendation of the commissions.

In two crisis centres in Lower Austria, Commission 6 identified the missing Internet access as outdated and recommended setting up an Internet connection and monitoring Internet consumption. The facility promptly implemented the recommendation.

However, it is not only the private owners and operators that implement NPM recommendations, but also the *Laender* as owners and operators of facilities and as technical supervisors. Commission 6 observed the typical dynamics of a large residential home in a Lower Austria facility as problematic. The *Land* stated that further residential groups are being planned. The NPM believes that these should be done as quickly as possible.

Cases of maladministration lead to closure of shared accommodation

Following several visits by Commission 6 to two facilities in Burgenland where various cases of maladministration had been observed and at the request of the NPM, unannounced visits by the technical supervision took place. The technical supervision also observed serious deficiencies and issued orders to remedy them. Since these were insufficiently complied with, the *Land* closed the shared accommodations.

Reduction in group size has positive effect

The previous NPM report had already welcomed the fact that the group size for Styrian residential groups for children and young people had been reduced from 13 to nine. Commission 3 was able to see the positive effects of this measure for itself in one facility. The reduction in group size was accompanied by a reduction in the number of double rooms, which then reduced restrictions on the minors' privacy.

In a shared accommodation of the City of Vienna, Commission 5 was not allowed to view the documentation on the computer and take printed documents with them for reasons of data protection. The NPM asked the Vienna child and youth welfare services to remind all managers that the NPM commissions must be allowed access to all documentation on the computer and not just copied extracts, and that copies must be given to them as well. Vienna's child and youth welfare services complied with this recommendation.

In one Styrian facility, there was a lack of clarity regarding the obligation to report measures, which restrict freedom. The *Land* announced that it had since issued a decree to all Styrian facilities informing them accordingly.

Decree brings clarity

2.3.2 New monitoring focal point of the NPM

When the commissions visit child and youth welfare facilities, they increasingly get the impression that they are not safe places for either the minors in care nor the caregivers. The commissions repeatedly encounter minors who are exposed to numerous dangers such as abandonment, substance abuse, prostitution, various forms of violence they have experienced and their own propensity for violence, as well as neglect of their own health, etc. These problems are mutually reinforcing each other. Furthermore, the general conditions and care settings of the facilities are often not suitable for the minors. The existence or creation of a safe place, especially in child and youth welfare facilities, is a necessary prerequisite for providing minors with the best possible support in their development. The facility as a safe place includes various interconnected aspects such as protection from all forms of violence, the promotion of children in their individuality and the inclusion of minors in events and decision-making processes that affect their life in the facility.

The facility as a safe place

After referring the matter to the Human Rights Advisory Council in 2023, the NPM decided to prioritise these aspects in the focus of monitoring child and youth welfare facilities and facilities for unaccompanied minor refugees. The NPM thus developed the new monitoring focal point „the facility as a safe place“ in 2024 with the participation of all commissions and recommendations it received from the Human Rights Advisory Council and launched it in October 2024. Commission 4, which had proposed the new monitoring focal point, made a significant contribution to the development of the human rights-related survey questionnaire.

Priority queries from October 2024

As part of the new focus, the commissions are to identify whether the facilities visited qualify as safe places or whether children and adolescents perceive them as such. They will also determine what the minors in care consider to be the necessary conditions that would increase their well-being and ensure their need for safety. In addition to the care staff, the commissions will primarily listen to the thoughts and suggestions of the children and adolescents. A particular concern of the NPM is to conduct the interviews with the children in a sensitive manner and in an atmosphere of trust.

Focus on the minors' perspective

The commissions should ensure that the individual facilities have clear and developmentally appropriate spatial conditions. Guaranteeing privacy for minors plays an important role here. In addition, positive relationship experiences are a decisive factor in regaining trust and security and for a

development-promoting environment. Participation should also be an essential element of day-to-day care. A trauma-sensitive attitude is the basis for supporting minors in their processing according to their needs. Protection from boundary violations, assaults and all forms of violence is equally important. In addition to prevention, an appropriate response to harmful behaviour is also of central importance. Unaccompanied minor refugees face additional challenges that are given special consideration during the monitoring visits.

The commissions will use a standardised survey form to record their observations in the facilities they visit. The NPM will analyse the results of the nationwide findings at the end of the focus period, which is scheduled to last approximately one year, and make recommendations to the decision-makers. Prior to the start of the new monitoring focal point, the NPM has already informed the supervisory authorities about both the content and the preventive objectives.

2.3.3 Lack of accommodation

Multiple negative consequences

For years, the NPM has pointed out that there are not enough places available for children and adolescents with severe traumatising, psychiatric diagnoses, addiction problems, etc. to cater to the special needs of these minors. During visits to crisis centres, the commissions encounter children and adolescents who have to wait a long time for follow-up places even though their conditions have already been identified. This results in multiple problems. On the one hand, the crisis de-escalation places that are urgently needed are blocked for too long. On the other hand, the minors build relationships, which then have to be broken off abruptly. The care situation is not designed for long-term care, neither in terms of staffing nor space, which is why the minors do not receive the care they need for their special needs. Furthermore, the necessary therapies cannot be started as they are not effective during the period of crisis accommodation. The constant change of children coming directly from a family crisis makes it impossible for the children and adolescents to feel at home. Many children and adolescents react to the difficult care situation with frequent absence and escalations, as they are unable to build sustainable relationships with their caregivers. Symptoms are worsened by this situation.

Aggravated situation in Vienna

In Vienna, this problem is exacerbated by the fact that children and adolescents who have lost their shared accommodation are automatically taken back to the crisis centres, where they have to wait for a follow-up place. As they have already been in other care settings, it is much more difficult to find a suitable place for them. The commissions are often told that the psychiatric diagnoses of many minors are an obstacle to their placement in a suitable care setting. Waiting for an individually suitable place for a long

time in a crisis centre makes it difficult for these children to find a centre of vital interests in their lives, which should give them stability, security, orientation and a sense of belonging and help them find a daily routine that promotes their development.

At the time of a visit by Commission 4 to a crisis centre in Vienna, more than half of the adolescents suffered from complex psychiatric abnormalities and increasingly exhibited self-harming behaviour and suicidal crises. While the facility's concept stipulates a maximum stay of six weeks, most of the residents had already been in the centre for several months. Measures to shorten waiting times for a suitable and specialised care service, particularly for minors with complex psychosocial or psychiatric support needs, are therefore urgently required.

As outlined in the introduction, however, some *Laender* already find it difficult to secure a childcare place at all for children who are unable to stay with their family, even if only temporarily. Due to a lack of available places in their own *Land*, facilities are looking for solutions in the other *Laender*. However, as several *Laender* have now introduced quotas for the admission of children from other *Laender*, it is difficult to find placements for children and adolescents outside their own *Land*.

A crisis centre in Vienna reported to Commission 5 that residential places are now also being sought in the other *Laender*. There are pedagogically justified exceptional cases that require a complete change of environment. In principle, however, the aim should be to offer all minors who are unable to remain with their family after exhausting all outpatient measures an adequate care place in their respective *Land* of residence and to align needs and care planning accordingly.

In a statement of opinion, the City of Vienna asserted that the number of social pedagogy, socio-therapeutic and socio-psychiatric residential places is currently being expanded. An additional socio-therapeutic shared accommodation was opened in 2024. The opening of two further socio-therapeutic and socio-psychiatric shared accommodations is currently being implemented. It is to be feared that these expansions will not be sufficient to achieve a significant improvement in the permanent overcrowding in Vienna's crisis centres.

Expansion in prospect

A positive development in Vienna is that private facilities can apply to have socio-therapeutic residential places authorized for children who need special support. This is a medium and long-term support measure that includes individually tailored, holistic packages of measures. The NPM criticised the fact that these places are only allocated for a limited period of 2.5 years, regardless of need. The City of Vienna stated that individual support in other shared accommodations can also be applied for after termination. However, this is not a substitute for a socio-therapeutic place. The NPM therefore

upholds the recommendation to approve these socio-therapeutic places as required and not have them expire automatically after 2.5 years.

**Inappropriate
placements also in
Lower Austria**

Lower Austria also lacks care groups for children and adolescents who, due to their needs, cannot be accommodated in a group constellation with another eight children. Even if this is already established at the preliminary stage of clarifying the care needs, they have to be placed at least temporarily in socially inclusive shared accommodation, which is a compromise at best. If the minors are then overwhelmed by the size of the facility or the group size, as is to be expected, it is problematic to find suitable free places in follow-up facilities, which is why the minors have to remain in the difficult-to-tolerate situation for too long. The safety of the other children and adolescents may also be jeopardised.

For example, it took 1.5 years to find new places for two adolescents in a facility that was visited several times by Commission 6 due to the extremely problematic care situation. The NPM identified shortcomings, because the competent authorities for child and youth welfare and protection waited too long to take appropriate measures. The *Land's* needs analysis for 2023 came to the same conclusion as the NPM and recommended the establishment of two additional smaller groups.

**More customised
care urgently needed**

In Styria, Commission 3 criticised the fact that the implementation regulation to the Children's and Youth Assistance Act (*Kinder- und Jugendhilfegesetz*) does not provide for smaller groups for children and adolescents with increased care needs. In response, the *Land* of Styria stated that necessary adjustments were currently being made in the inpatient sector. In this context, customised inpatient care for children and adolescents with higher care needs or difficulties should also be further developed in larger groups.

**No services for
minors with mental
illnesses in Tyrol**

During a visit to a crisis centre in Tyrol, Commission 1 learned of the situation of a girl who had been waiting for an inpatient therapy place for some time. Since her admission, the minor had to be repeatedly admitted to an acute psychiatric ward due to her self-harming behaviour. In one incident, she was found unresponsive in her room after inhaling deodorant and sprays. In order to minimise repeated placements in acute psychiatric wards, children and adolescents with exceptionally complex combinations of serious psychiatric illnesses and social behaviour disorders require long-term relationships and structures that can only be found in shared accommodation with specially adapted concepts. Crisis centres cannot offer such services. In addition, they do not have a night watch service, which means that it is not possible to react quickly and adequately to situations that jeopardise a child's well-being. The *Land* of Tyrol provided information on the creation of specialised services in recent years. However, as the observations of Commission 1 show, this is not yet sufficient to meet the needs.

In a shared accommodation centre in Carinthia, which provided inpatient care services for adolescents aged 14 and older with a focus on apprenticeship training, Commission 3 met a twelve-year-old and a thirteen-year-old unaccompanied minor refugee. The facility's services were not tailored to this target and age group, as younger children have different needs and require an adapted care setting. The owners and operators subsequently changed the concept to make it possible to care for the children. The permit notice was amended accordingly.

Expansion requirements also in Carinthia

In one facility in Upper Austria, the living and care situation did not meet the age and needs of an adolescent living there, who had previously been placed in numerous unsuitable facilities and exhibited various challenging behaviours (drug use, repeated delinquent behaviour, etc.). However, there were no alternative forms of care for him in Upper Austria. Ultimately, he reoffended and is currently serving a custodial sentence.

Specialised facilities in Upper Austria hard to find

In a socio-pedagogical home for girls in Salzburg, an adolescent trans person with a male gender identity fell from a balcony while drunk and seriously injured himself. Even before the incident, the adolescent had been undergoing child and adolescent psychiatric treatment for mental instability and self-harming behaviour. According to the technical supervision, there were no recognisable signs of an acute suicide risk, either from a medical point of view or from the point of view of the care team.

Trans identity

The suicide attempt was reported to the technical supervision, which convened a helpers' conference. The flatmates discussed the incident with the help of external expertise. The attending doctor also informed the care team about the complex interplay of various physical, psychosocial and psychosexual factors that determine gender identity. Puberty in particular is especially challenging for many trans people because their own body is recognisably developing in a direction that is experienced as extremely unpleasant and increases the risk of depression, anxiety disorders or suicidal thoughts. The transfer to an environment that is not predominantly female was the result of a process designed to minimise the pressure felt by the adolescent to remain in a gender role that is ascribed to him from the outside and to have to conform in a residential home for girls only.

The self-determined sexual orientation and gender identity of every person is an integral part of personal rights guaranteed by fundamental and human rights and one of the fundamental elements of self-determination, dignity and freedom. In addition to UN conventions, Council of Europe recommendations, decisions of the European Court of Human Rights (ECHR), the Constitutional Court of Austria and the European Court of Justice, the Yogyakarta Principles summarise the results of the interpretation of international law in recent years and thus represent the current state of the

international human rights debate, even if they are not themselves legally binding in the strict sense (see <http://yogyakartaprinciples.org/>).

- ▶ ***Urgent measures must be taken to ensure that every child who cannot remain with their family after all outpatient support has been exhausted is given a place in a facility.***
- ▶ ***Reducing waiting times for a suitable and specialised care service is a top priority, especially for minors with complex psychosocial or psychiatric support needs.***
- ▶ ***Socio-therapeutic residential places in Vienna are to be authorised as required and not limited to 2.5 years.***
- ▶ ***Customised inpatient care for minors with difficulties in larger groups must be further developed.***
- ▶ ***The competent authorities for child and youth welfare and protection must provide appropriate support for people with different sexual orientations and gender identities. This also includes training on issues of gender orientation and trans identity.***

2.3.4 Crisis centres

Demand not covered Throughout Austria, there is a lack of places in crisis centres, i.e. in special facilities where children and adolescents are placed immediately after being removed from their families. There, it is clarified within a limited period of time whether or under what conditions the children can return to their family or if a placement in out-of-home care is necessary.

Overcrowding leads to excessive demands In Vienna, these crisis centres are designed for eight children. However, the demand has been much higher for many years, which is why an average of around eleven children and adolescents live there; at peak times even 14. As already observed by the NPM several times, these crisis centres are neither big enough, nor have sufficient staff to deal with so many minors. For a long time, however, the employees in the crisis centres managed to compensate for the disadvantages of permanent overcrowding thanks to their extraordinary commitment. However, this kind of commitment cannot be maintained in the long term and leads to excessive demands and burnout. Single occupancy at night also contributes to caregivers finding themselves in situations where they are even afraid. Due to the problems caused by this overcrowding, it is very difficult to recruit and retain staff for the permanent positions. Many employees are transferred or leave inpatient care altogether, which is why staff turnover in the crisis centres is particularly high. The NPM has therefore long been calling on the City of Vienna to urgently stop the massive overcrowding and increase the number of staff accordingly.

Due to overcrowding in Vienna's crisis centres, the existing staff presence is only sufficient for basic care, but not for a thorough assessment of the children's needs and conditions. This is aggravated by the fact that crisis work has changed considerably in recent years, as minors are increasingly displaying complex psychiatric behaviour. In view of the longer lengths of stay and the psychiatric issues of many adolescents, support in individual or small group settings, including for educational support measures as well as for leisure, sports, recreational and cultural activities, would be urgently needed. This is, however, no longer possible due to a lack of appropriate human resources. Following criticism from Commission 4, one full-time employment position was added in a crisis centre to provide additional staff resources for lending support outside the facility.

Additional human resources required

In another crisis centre, Commission 5 found a particularly precarious situation due to constant overcrowding. As there were twelve children there at the time of the visit, one minor had to be placed in the meeting room and slept on a mattress on the floor next to the meeting table. Meetings continued to take place in this room. Due to the overcrowding, the childcare staff found themselves in an overwhelming situation and no longer had the opportunity to act pedagogically.

In 2024, the City of Vienna set up a project group to reduce overcrowding, the results of which are not yet available to the NPM. The City of Vienna expects the establishment of an additional crisis centre at the end of 2024 to ease the situation.

In addition to the problems described above, the group composition in the crisis centres can also have a particularly negative impact on the care situation. The composition of the group in a crisis centre in Vienna was particularly problematic due to the wide age range and extremely challenging minors. Two severely traumatised siblings from Syria, who did not speak German, could not be supported according to their needs and could not be properly assessed. The NPM called on the City of Vienna to provide a native-speaking caregiver for the foreign-language children.

Group composition as a further problem

Commissions 4 and 5 are also increasingly finding violent adolescents in the crisis centres of Vienna's child and youth welfare services, some of whom have already come into contact with criminal law. It becomes even more problematic when, in addition to delinquent adolescents, many small children are also placed in the crisis centre. It is then no longer possible to establish a safe place. This can lead to re-traumatisation for young children who have just been removed from their families and are in an acute crisis situation. In one crisis centre, the commissions met several kindergarten children together with adolescents who had already been in detention on remand for violent offences or were known to the police even though they had not yet reached the age of criminal responsibility. The City of Vienna announced that

Infant crisis centre required

a concept for a crisis centre for young children had been developed in order to create a specific service for this age segment.

**Security services
do not solve the
problems**

The City of Vienna deploys security staff in the crisis centres to ensure the safety of staff and other children. Even though Vienna's child and youth welfare services affirm that the security staff is not allowed to take educational measures, this is not always true in practice.

In one facility, in addition to searching certain minors for dangerous objects, the private security company also took on tasks for which educational staff should be available. For example, the security service assisted the childcare staff in the morning with breakfast. The deployment of the security service was obviously an attempt to compensate for the lack of staff.

The situation was very problematic in another crisis centre, where a security service was deployed for an adolescent who had committed a criminal offence. Even when the adolescent, who was usually absent, was not in the crisis centre, a security guard was permanently present. Commission 5 criticised the fact that a security service conveys a constant sense of danger to the children and adolescents and tends to have an escalating effect from an educational perspective, which is particularly unacceptable in a crisis centre. In addition, the presence of different strangers every day, who are not caregivers, is very disturbing for the other children and adolescents. For minors who show oversexualised behaviour after sexual violence in their family, this can even create new dangerous situations.

**Further increase of
staff required**

The NPM also called for the staffing ratio to be increased in these cases in order to be able to install a double-staffed service at night and a triple-staffed service during the day instead of security services. In the meantime, Vienna's child and youth welfare services approved 16 additional positions for the crisis centres. However, as described in more detail below (see chapter on the staffing situation), the additional permanent positions did not improve the care situation. Double staffing at night and triple staffing during the day is still not possible, which is why the NPM is calling for a further increase in permanent positions.

**Demand for
additional crisis
centre implemented**

As the NPM has already criticised on several occasions, Lower Austria has been urgently lacking an additional crisis centre for a long time in order to be able to guarantee that the conditions of children in crisis can be clarified at a place close to their home, especially in the north. As the needs analysis of the *Land* has now come to the same conclusion, a crisis centre is to be built in Gänserndorf to relieve the six other crisis centres.

**First crisis centre in
Burgenland**

The establishment of Burgenland's first crisis centre in Mörbisch deserves a positive mention.

A crisis centre in Upper Austria had seen an increase in the placement of children with autism spectrum disorders in recent years. The minors had

developed severe aggression towards their social environment. The placement in the crisis centre without specifically trained staff led to severe overload and stress for the whole group. The NPM suggested setting up specialised crisis centres. To support the staff, the *Land* commissioned the Institute for Sensory and Speech Neurology, which has proven expertise in the field of autism spectrum disorder, to make its services available to the inpatient crisis centres. It also confirmed to the NPM that it was difficult for children and adolescents with disabilities to find care places in accordance with the Upper Austria Equal Opportunities Act (*Oberösterreichisches Chancengleichheitsgesetz*).

- ▶ ***The NPM calls for specialised crisis centres for children with autism spectrum disorders with appropriate specialist staff and care ratios.***
- ▶ ***The massive overcrowding of Vienna's crisis centres must be stopped as a matter of urgency and staffing levels increased accordingly. The staff shortage must be countered with the deployment of qualified personnel and not with security service personnel.***
- ▶ ***A native-speaking caregiver should be available for children who speak a foreign language.***
- ▶ ***The NPM calls for a further increase in permanent positions in facilities of the municipal department 11.***

2.3.5 Uninsured minors

According to Article 24(1) of the UNCRC, all children and adolescents have the right to the enjoyment of the highest attainable standard of health and to the use of facilities for the treatment of illness and rehabilitation of health. No child may be denied access to health services. The Federal Constitutional Law on the Rights of the Child thus standardises the right to the best possible development and fulfilment of the child.

**Health as a standard
of children's rights**

In its General Comment No. 15, the UN Committee on the Rights of the Child interprets a child's right to health as a comprehensive right that extends to health promotion, treatment and rehabilitation in addition to timely and appropriate prevention. In the Committee's view, factors such as financial, institutional and cultural barriers that restrict children's access to health services should be identified and removed, and social protection measures, such as social insurance, should be implemented.

This is of particular importance in the area of inpatient care services for children and adolescents, as minors in residential care are exposed to particular health risks. Numerous studies have shown that burdensome childhood experiences and the associated stress increasingly lead to

mental illnesses and health-threatening behaviour. Child and youth welfare services, which become the centre of the minors' lives, therefore have a special responsibility to ensure that they receive medical, psychological and therapeutic care as well as access to qualified professionals and healthcare facilities.

Massive disadvantage

If a child, adolescent or young person has no public health insurance and therefore no access to healthcare facilities, this is not compatible with the children's rights described above. Nevertheless, in practice, constellations repeatedly arise in which minors are without insurance. As they do not have their own legal entitlement to public health insurance, they are usually co-insured with a parent. However, if the parents or other family members also have no insurance, the minors are not insured either. This can lead to necessary inpatient treatment not being carried out for cost reasons, as medical facilities will only admit them if they have an agreement regarding the payment of the costs of their treatment.

During an examination of a child and youth welfare facility in Lower Austria, Commission 6 learnt that there were repeated irregularities in the insurance of a brother and sister from Vienna, as their mother was not continuously insured. In such cases, individual treatment costs are covered by the City of Vienna if the facility applies for it. However, it was not possible to apply in advance for the outpatient therapies for the two children. Firstly, the facility only found out afterwards that they were not insured. Secondly, the children's treatments and therapies had to be continued on an ongoing basis for medical reasons, which is why the facility was no longer able to apply for reimbursement vouchers in good time. It had to bear the resulting costs itself. One of the two children also requires long-term inpatient treatment in a child and adolescent psychiatry centre, for which valid insurance is a prerequisite.

NPM achieves cost coverage for self-insurance

The facility repeatedly asked the municipal department 11 to take out self-insurance for the two minors, which was refused. At first, the Vienna child and youth welfare services stated that it would only bear the high costs of around EUR 500 per month for self-insurance within the public health insurance in exceptional cases. In the end, the NPM managed to get the City of Vienna to cover the costs.

Commission 1 was confronted with the same problem in a facility in Tyrol, which also accommodates children whose parents do not have public health insurance. The facility therefore endeavoured to obtain self-insurance for the minors. Up until the merger of the Public Regional Health Insurance Offices into the Austrian Public Health Insurance Office, agreements existed that provided for reduced cost contributions from the *Laender*. The owners and operators tried to conclude a similar agreement with the Austrian Public Health Insurance Office, but failed. The facility therefore had to pay the maximum contribution of EUR 500 per month and child, which had a

negative impact on the financial resources for all the children in care. At the recommendation of the NPM, the *Land* agreed to cover the costs of self-insurance for public health insurance in future.

The NPM approached the Federal Ministry of Social Affairs, Health Care and Consumer Protection to prevent disadvantages for children in out-of-home care who are not covered by public health insurance and to support them in their right to equal access to health services. It asked the Ministry to investigate whether children and adolescents in out-of-home care could generally be included in public health insurance due to the lack of health insurance protection by means of a regulation on Section 9 of the General Social Insurance Act (*Allgemeines Sozialversicherungsgesetz*). The regulation issued for this purpose lists groups of people who are included in public health insurance if they are resident in Austria and are not already compulsorily insured under another statutory provision. These include, among others, asylum seekers, displaced persons from Ukraine and recipients of needs-based minimum benefits.

Solution must be developed

- ▶ ***Comprehensive medical, psychological and therapeutic care must be ensured for minors in care.***
- ▶ ***In the absence of insurance, the Laender, as custodians, should cover the costs of self-insurance.***
- ▶ ***The inclusion of children and adolescents in external care in the group of persons covered by the Regulation on Section 9 General Social Insurance Act would be a conceivable solution.***

2.3.6 Concepts and contingency plans

Whenever a public or private facilities takes measures that affect children, the child's best interests must be prioritised (Article 1 Federal Constitutional Law on the Rights of the Child). In order to ensure the professional protection of children and adolescents in inpatient facilities and to prevent risks to the children's well-being as well as to ensure an adequate response to suspected situations or incidents, every facility should have a general protection concept and special concepts for various areas in place, such as sex education and concepts for using media, etc.

Concepts ensure protection

These concepts should be developed with the involvement of the entire team, as well as the children and adolescents. They should be communicated to all employees in training sessions and team meetings and put into practice in the daily work with the minors.

For the concrete development of a protection concept, it is important to start by analysing the existing structures and risks in the facility. Based on this,

both preventative measures and rules of behaviour for the procedure in the event of suspected cases or the processing of child endangerment should be determined. Responsibilities and contact persons should also be defined. It is important to ensure that the concepts are regularly reflected upon by the team and adapted within the facility.

Backlog recognisable In 2024, the commissions repeatedly observed that concepts were still not implemented nationwide or that they were not tailored to the specifics of the facility or were not known to all those involved.

In one facility in Upper Austria, the framework concept for the sex education concept of the *Land* was available. In addition, one staff member had been trained in sex education. However, the facility did not have its own sex education concept. This was criticised by Commission 2, especially as incidents of sexual assault, the suspected prostitution of an adolescent and an abortion were documented. The NPM suggested supplementing the framework concept with a concept suitable for the facility, implementing it and evaluating it on an ongoing basis.

In one facility in Tyrol, Commission 1 once again observed that the necessary concepts were still not available. The NPM recommended that the concepts currently being worked on be finalised quickly and made known to the team in training sessions.

Commission 6 criticised the lack of a detailed child protection concept in a facility in Burgenland, as there had been several incidents of cross-border behaviour by minors. It recommended that a child protection concept be established urgently and implemented in training courses.

When reviewing the sex education concept and the violence prevention concept of a facility in Lower Austria, Commission 6 observed that neither was tailored to the facility. In particular, it was not clear from the violence prevention concept what steps should be taken in the event of suspicion. The NPM suggested adapting both concepts to the needs of the facility and, in particular, supplementing the violence prevention concept with interventions in the event of an incident.

There are various concepts for the overall organisation in the regional facilities in Lower Austria. However, the outsourced external residential groups do not have a concept specifically tailored to them, although the setting there is completely different from that of a regular socio-pedagogical facility. In an external residential group belonging to the Hinterbrühl socio-pedagogical care centre, Commission 6 noticed when reviewing the incident logs that the concepts drawn up for the overall facility could not be implemented in the specific risk situations of the shared accommodation, as they were too general. It was therefore recommended that an individualised protection concept be drawn up for the shared accommodation and that the team be reminded of the sex education concept.

This problem was also noticed in the private facilities run by large owners and operators in Lower Austria. Commission 6 recommended that separate concepts be developed for the residential groups with external support, in particular that the violence prevention concept be supplemented or adapted accordingly and that the revised concepts be brought to the attention of all employees.

In response to the criticism of the commissions, many of the organisations finalised their concepts. One Carinthian operator submitted the finalised concept for violence prevention and sex education to the NPM. A facility in Tyrol announced that it would soon finalise its sex education concept following appropriate continuing training for staff. Upon recommendation of the NPM, a facility in Upper Austria adapted the sex education framework concept to the needs of the shared accommodation and the children being cared for. As the use of drugs was increasingly an issue among the adolescents in a shared accommodation in Carinthia, the facility adapted its concept accordingly.

Recommendations implemented

In addition to the respective concepts, each facility should have crisis plans that are specifically tailored to the individual residents. In addition to considering what could trigger a crisis, contingency plans should also contain concrete and comprehensible steps and proposed solutions for the event. Minors should be actively involved in the development of contingency plans. This strengthens their own problem-solving skills and gives children an active role in overcoming crises.

Individualised contingency plans increase protection

Nevertheless, the commissions repeatedly observe that facilities do not have individual contingency plans. They recommend that such plans be drawn up. During a follow-up visit to a crisis centre in Upper Austria, Commission 2 was able to see for itself that contingency plans were now in place and regularly revised in response to their recommendations. In one facility in Vorarlberg, all children had a skill box with reassuring objects such as soft toys in the event of a crisis.

- ▶ ***All facilities should develop protection concepts and concepts for various areas together with the teams and the children and adolescents after analysing the existing structures and risks.***
- ▶ ***The concepts should contain both preventive measures and rules of conduct in the event of suspected cases or the processing of child endangerment as well as the responsibilities and contact persons.***
- ▶ ***All employees must be trained in the implementation of these plans. It is particularly important to regularly reflect on the concepts as a team and adapt them depending on the circumstances in the facility.***
- ▶ ***Contingency plans must be drawn up with the minors.***

2.3.7 Provisions and their consequences

Predictability must be guaranteed

In socio-pedagogical facilities, there must be some degree of certainty and routine to ensure predictability and relief for the children and adolescents. Professionals are required to create the conditions for everyday life for each individual child. Transparent provisions and fair and comprehensible consequences for non-compliance contribute to safety and predictability in everyday life, as does reliable implementation in practice. It is essential for support work to agree on clear rules, deal with misbehaviour and create opportunities to make amends. Rules must also be manageable and implementable for children and adolescents. They should therefore also be drawn up with the participation of the minors. Jointly drafted rules promote acceptance on the part of the children and adolescents and make it possible to take individual circumstances into account.

Collective measures not successful

Under no circumstances should violations of the rules be countered with collective measures, as these are perceived by the children as arbitrary and unfair punishment. There is a risk that they will react with aggression triggered by disappointment, feelings of powerlessness, anger and annoyance instead of the appropriate behaviour intended by the educational staff.

Commission 1 criticised too many collective rules instead of individual solutions in a shared accommodation in Tyrol. For example, the children were no longer able to open the windows without the help of the care staff because some of them had previously smoked at the window. The NPM made the recommendation to revise the rules in the facility and to update them together with the children – ideally with external moderation.

Joint elaboration recommended

There were no house rules in a socio-therapeutic shared accommodation in Vienna. As a result, there was a lack of transparency regarding the rules and consequences of living together. Commission 4 recommended developing rules together and creating opportunities for making amends.

The minors in another shared accommodation in Vienna also felt that the rules and consequences were unfair and arbitrary. Commission 4 also recommended that the system of rules should be reflected upon and revised by the children's team.

Commission 3 found a multi-level system in a Styrian facility. Depending on the level, the adolescents were given more or fewer privileges. The commission criticised the fact that misconduct could very easily lead to downgrading, while it was much more difficult to move up. Among other things, the levels were linked to the privilege of being able to go out. Even when the highest level was reached, these were very rigidly staggered regardless of age and did not comply with the Youth Protection Act (*Jugendschutzgesetz*). Another criticism was that there were no day releases

for newly placed children and adolescents, until they had reached a higher level after several months.

Of particular concern was that a plus-minus system was used to decide whether adolescents should move up or down the levels mentioned. The benefits appeared to be hardly achievable for adolescents with traumatisation and resulting symptoms. On the other hand, due to the symptoms typical of traumatised children and adolescents, it was very likely that they would fall into the minus category. Commission 3 recommended revising the system with the adolescents and incorporating insights from trauma pedagogy and the New Authority approach.

**Trauma pedagogy
and New Authority**

In one facility in Lower Austria, Commission 6 criticised the house rules. On the one hand, they contained regulations regarding the clothing of children and adolescents. On the other hand, they included the possibility of entering the minors' rooms unannounced at any time and a general ban on visits by external persons to the facility. The facility then reformed the point on the dress code and stipulated that unannounced room checks were only possible in cases of reasonable suspicion and visits after prior notice.

In facilities in Tyrol and Vorarlberg, Commission 1 encountered children who were not yet able to read and write. It recommended informing them about the rules in an appropriate written form using pictograms or pictures.

**Pictograms for small
children**

- ▶ ***All rules and their consequences must be transparent and predictable for minors.***
- ▶ ***Violations of the rules must not be responded to with collective measures.***
- ▶ ***Participatory development should be standard.***
- ▶ ***Rule systems should be developed according to the findings of trauma pedagogy and the New Authority approach.***

2.3.8 Personnel situation

Article 3 (3) of the UNCRC stipulates that the institutions, services and facilities responsible for the care or protection of the child must meet the standards set by the competent authorities, in particular with regard to the number and professional competence of staff and the existence of adequate supervision. Each facility should therefore staff its team exclusively with qualified and experienced personnel in order to meet the complex and specific support needs of the children and adolescents in their care.

**Sufficiently qualified
personnel required**

Even though the staffing situation eased slightly in many facilities in 2024, further measures are urgently needed to improve working conditions in the facilities and prevent further staff turnover. This has various very negative consequences for the children and adolescents in care. The relationship

**Fluctuation
has negative
consequences**

breakdowns are particularly stressful for the children, who already suffer from attachment disorders and psychological problems and react with increased aggression. As this aggression is often the reason for further staff resignations, it is mutually reinforcing, which is why a stable care team should be a top priority. These negative consequences for the minors are exacerbated by the fact that strangers are constantly coming to the facility for trial work runs or to help out.

There was a high staff turnover in a socio-therapeutic shared accommodation in Vienna right from the start. At the initial visit by Commission 4, around six months after opening, the facility was still not fully staffed. The fact that the specialised staff had to be very flexible and step in spontaneously when a second night shift was required further increased the workload. The NPM recommended working on improving the situation through support measures such as further education, onboarding and allowances.

**Increasing workloads
require a higher
staffing ratio**

In a shared accommodation in Carinthia, Commission 3 observed that the care work had become much more intensive in recent years due to an increase in psychiatric disorders among the children and their parents, which had increased the workload of the staff. This then led to a high staff turnover. The management itself was of the opinion that the staffing ratio no longer corresponded to the circumstances due to the increasing care requirements.

The commissions also observed a high staff turnover in a socio-pedagogical-therapeutic shared accommodation in Carinthia. After a change in management, the situation improved by introducing new support methods for new employees, such as a buddy system and a standardised onboarding process. Additional supervision, work and organisational coaching and self-awareness seminars were also designed to strengthen the team.

Another blatant staff shortage was observed by Commission 6 in a facility in Lower Austria, where even group assistants were assigned to night duty on their own responsibility, although this is not provided for in the law.

**Too few new
permanent positions**

The staffing situation continues to be particularly problematic in the City of Vienna's own facilities. Following many years of pressure from the NPM, Vienna's child and youth welfare services installed double shifts in shared accommodation and staffed them with third-year students. A decree by the City of Vienna, which became necessary due to a court decision, has since clarified that the hours of a resting night shift must be included in full in the working hours. The additional staff resources must therefore be used to cover night shifts, so that regular double staffing is still not possible during the day in the shared accommodation and at night in the crisis centres. A further increase in permanent positions is urgently needed.

**Necessary double
night shift is not
covered**

In a shared accommodation run by a private operator in Vienna, Commission 5 suggested establishing a second night shift due to the large number of police and ambulance call-outs. The owners replied to the NPM

that a double night shift could not be guaranteed with the existing team, as this would mean doubling the care hours, which are not covered by the daytime rates. However, a one-to-one care model was agreed for a girl who was waiting for a place in a socio-therapeutic facility. The girl moved into a small flat that has a direct connection to the shared accommodation. Three additional permanent positions were advertised for this. The social pedagogues will take turns caring for the girl, which will relieve the shared accommodation.

In a socio-therapeutic facility in Carinthia, Commission 3 criticised the staffing ratio as inadequate. The predominantly traumatised children, who have various psychiatric diagnoses, need a great deal of support. The inadequate staffing ratio had a negative impact on the care staff, who were unable to take holidays and had to work a lot of overtime.

In the opinion of Commission 4, the management of a shared accommodation in Vienna was not present enough. In order to minimise the risk of delays in passing on information and making decisions in day-to-day care, managers should have a strong presence in the facility. This could also prevent a lack of orientation within the team and ambiguities regarding competences and responsibilities.

Management presence too low

A crisis centre in Tyrol had to operate without a manager for over a year as the manager was on maternity leave. In the meantime, there had been two managers for a short time, but they had resigned soon after. In order to fill the position as quickly as possible, the NPM recommended making it more attractive.

- ▶ ***Staffing with qualified personnel must be ensured. If the workload increases, the staffing ratio must be increased in line with demand.***
- ▶ ***Effective measures must be taken to prevent staff turnover.***
- ▶ ***The presence of the management in the shared accommodation must be sufficient and ensured.***

2.3.9 Working with the family system

It is undisputed among experts that successful inpatient socio-pedagogical work also includes contact and work with the parents or family systems. The fundamental goal is to prepare for a successful return to the family. But even if a return is not the aim or is not realistic at all, there are a wide variety of other goals. Parent work aims to improve the relationship between all those involved through intensive co-operation. The aim is to empower parents to observe their parenting role. Based on a good relationship between parents and professionals, parent work can reduce the negative developmental conditions for the child by working on the parenting behaviour of the

Work with families is indispensable

parents. At best, the causes that led to the out-of-home care can be worked through together (see Marie Luise Conen, 1990).

**Very high burden
on children without
parental work**

In any case, all of these goals place high demands on socio-pedagogical professionals. Caregivers reach their limits, especially when parents have mental illnesses. The family situation is often so stressful for the children and adolescents that it would be important for them to have someone working with the family system and actively supporting the parents in the event of family problems and crises. In addition, the visits should be well supervised, with joint preparation and follow-up. It would be important for the adolescents to experience that their parents are also working on themselves so that something changes at home. Out-of-home care is particularly successful if the parents support the measure.

**Personnel resources
tightly calculated**

The *Laender*, as competent authorities for child and youth welfare and protection, argue that working with the family system is an integral part of the contract made with private providers for child and youth welfare and protection and would thus constitute a quality standard to be met in the provision of services by these organisations. In practice, however, this is not feasible in the inpatient sector, as the available staff resources are tightly budgeted and needed for educational work. The work with the family therefore has to be limited to telephone or door-to-door contacts.

As a consequence, it is not possible to work with parents without additional staff resources from socio-pedagogical facilities. In order to have their own staff available for this, some private operators finance the necessary additional staff with donations, but this is only possible for large organisations. For others, work with the family system is left aside. The district administrative authorities also do not have the human resources to take on the work with parents with the help of social workers.

**Lower Austria takes
a new path**

In the last amendment to the Lower Austria Children's and Youth Assistance Act, Lower Austria created the possibility of installing a parental support service in parallel to full residential care in order to achieve or secure the educational goal defined in the support plan. This made it possible to use parental support services as an instrument for safeguarding the child's best interests not only in the context of return measures from full residential care. The NPM welcomes this possibility of agreeing additional support for the family system, even if the children are in full residential care. This corresponds to a long-standing demand of the NPM.

Even though it is possible in other *Laender* to approve additional individual care hours and also use these for work with the family system, the NPM believes that this is not enough. It therefore recommends that the *Laender* follow Lower Austria's example and use parental support for work with parents.

In one shared accommodation in Vienna, there were no regular, structured interviews with the parents, instead the exchange took place by telephone or when picking up and returning the minors as part of day releases. Commission 4 criticised this as not being sufficient to support the minors' care and development process, concretise their care goals, coordinate everyday situations and manage any conflicts.

Door-to-door conversations are not enough

In two facilities in Salzburg, Commission 2 learnt of particular challenges in working with the families of the children and adolescents living there. Many of the minors have mental illnesses and are very burdened by their family situation. It would therefore be important to work with the family system, which would require more financial and human resources.

Language barriers can make working with the family more difficult. In one Tyrolian facility, the care staff used the children to translate for communication with the parents. Commission 1 saw this as a risk of high stress for the minors. As misunderstandings can also arise, the NPM recommended the involvement of interpreters.

- ▶ ***The work with the family system must be ensured through sufficient financial and human resources.***
- ▶ ***Door-to-door conversations cannot replace targeted work with parents.***
- ▶ ***As in Lower Austria, the possibility of parental support during out-of-home care should be enshrined in law.***

2.3.10 Unaccompanied minor refugees

The NPM has been criticising similar cases of maladministration for years following visits to facilities for unaccompanied minor refugees. Nevertheless, the commissions still had to observe the same structural inadequacies in 2024.

The first thing to be mentioned is the low daily rate provided for the care of the children in the basic welfare support legislation. After years of criticism, it is still incomprehensible why a lower daily rate is provided for these traumatised children than for comparable facilities of the child and youth welfare services. Although some *Laender* such as Vorarlberg grant slightly higher daily rates on their own initiative and with their own funding, the distinction between children with asylum seeker status and others is a clear case of maladministration in terms of human rights. Due to the lower funding, the quality of care cannot be as good as in child and youth welfare services facilities.

Insufficient funding is contrary to human rights

To make matters worse, unaccompanied minor refugees are often placed in federal facilities for far too long. These are not suitable for longer-term stays

Quick takeover of children necessary

and are not designed to accommodate them. However, because referral of the children to the responsibility of the *Laender* often takes a long time, which is why they have to remain in federal care facilities for months without custody being assumed by the *Laender* (see NPM Report 2023).

The AOB therefore once again makes an urgent appeal to the Federal Government and the *Laender* to harmonise the funding of facilities for unaccompanied minor refugees within the framework of the Basic Provision Agreement (*Grundversorgungsvereinbarung*) with a view to bringing it up to the level of child and youth welfare services.

Further shortcomings In 2024, commissions repeatedly observed hygiene deficiencies, inadequate medication management, a lack of interpreting facilities, difficult access to German language courses and long waiting times for psychotherapeutic care. In particular, it became apparent that adolescents who are no longer of school age are left on their own to develop future prospects without a development-promoting everyday structure and are therefore unable to find training and employment opportunities on their own initiative.

Inadequate care for children with disabilities The basic welfare support laws do not take sufficient account of the needs of children and adolescents (and adults) with disabilities. In addition, the Acts on Persons with Disabilities (*Behindertengesetze*), which make provisions for assistance and support, do not cater for asylum seekers or displaced persons from Ukraine, so that necessary therapies or aids are often not financed or only financed privately. A detailed description of the human rights dimension of the problem and the Human Rights Advisory Council's corresponding proposals for solutions can be found on the AOB website (in German only): https://volksanwaltschaft.gv.at/downloads/Stellungnahme_umF_Unterbringung).

- ▶ ***The same funding must be ensured for unaccompanied minor refugees as for all other children and adolescents cared for in youth welfare services.***
- ▶ ***Access to meaningful employment opportunities must be created for unaccompanied minor refugees who are not required to attend school.***
- ▶ ***Children and adolescents with disabilities and their therapeutic needs must be taken into account in the Basic Provision Agreement (Grundversorgungsvereinbarung) between the Federal Government and the Laender.***

2.3.11 Positive observations

In 2024, the NPM gained a positive impression of numerous child and youth welfare facilities and was also able to observe examples of good practice in some areas.

For example, Commission 4 was very positive about the close medical care provided to residents in a shared accommodation in Vienna. The children and adolescents, most of whom have multiple diagnoses, are seen by a psychiatrist every fortnight. Almost all residents receive regular psychotherapy, and two adolescents also receive sex therapy. All medications and psychotherapies are closely evaluated and adapted to individual needs.

Exemplary medical care

In one facility in Lower Austria, Commission 6 rated the very detailed development reports as good practice. They not only contained information on the initial situation and important events, but also information on in-depth topics such as social behaviour, relationships with the family system, the school and health situation, objectives and planned support measures. The NPM also rated the description of special incidents from the perspective of the minors, which were signed by them, as particularly positive.

Detailed development reports

One shared accommodation centre in Lower Austria pays particular attention to the issue of „school refusal“. The facility has a great deal of knowledge about this and works closely with schools. The childcare staff meet with the teaching staff on a weekly basis. This intensive contact has made it possible to give the children more self-confidence with regard to their own school performance.

Intensive contact with the school

The same facility was also considered by Commission 5 to be an example of successful work with the family system, as very intensive work is done with the parents and care is taken to ensure that they maintain contact with the children. For example, the mother of one resident was brought back into parental responsibility with weekly interviews and the involvement of the grandmother. In a shared accommodation centre in Carinthia, the fact that a clinical psychologist has taken over the work with the family system has had a very positive effect on the children and adolescents in care. The appointments with the families take place weekly, or more often if necessary.

Successful work with the family system

The NPM visited a parent-child home with two residential units in Lower Austria during the period under review. The facility focuses on offering families in difficult life situations support tailored to their needs and accompanying them back to a normal life. The facility takes a holistic approach to empowering families, including financial counselling and educational care to help them find a place at school and kindergarten as well as support in finding a job. By providing free housing and counselling on-site, the families are offered a stable environment. In addition, their financial situation and living conditions are improved in the long term.

Positive example of parent-child home

In three socio-psychiatric shared accommodations in Vienna, clear improvements were visible to Commission 4 compared to the previous visits. The commission assumed that this was due to the use of animal-assisted pedagogy and the training of the entire team in neuro-de-escalation. As a

Training in neuro-de-escalation

result, psychiatric stays were reduced by 85 % and measures, which restrict freedom were no longer necessary.

**Annual surveys
of minors**

Commission 3 assessed an annual survey of minors in a shared accommodation in Carinthia conducted by an external organisation as good practice. This involves determining whether the shared accommodation is a safe place for them. The results of the survey are analysed statistically.

2.4 Institutions and facilities for persons with disabilities

Introduction

Austria has committed to implementing the UN CRPD. Its goal is to give persons with disabilities equal access to a self-determined life and inclusion. In 2023, the competent expert committee observed numerous shortcomings on the part of Austria as part of the UN CRPD country review and recommended various measures to achieve the status required under international law. Persons with disabilities have a right to have these measures implemented as quickly as possible. The country review has made it even clearer that general commitments to human rights for persons with disabilities are not enough.

Austria does not fulfil UN CRPD

The AOB and the NPM attach great importance to continuously pointing out that the required measures must be realised nationwide. In doing so, the AOB is not only in dialogue with the federal and provincial public administration, but also with those affected and their interest groups. The issue of de-institutionalisation shows particularly well that implementation will only be possible through a concerted effort by the Federal Government, the *Laender* and municipalities together with those affected, i.e. persons with disabilities.

2.4.1 Lack of de-institutionalisation

The UN Expert Committee clearly showed that de-institutionalisation cannot be achieved by downsizing existing facilities. Rather, special institutions should be closed. Sufficient support for living in the community, including community-based support services, must be provided for persons with disabilities (on the topic of de-institutionalisation, see, for example, NPM Report 2021, p. 105 et seq.; NPM Report 2023, p. 101; NPM Report 2022, p. 85 et seq).

Take de-institutionalisation seriously

The international law obligation to de-institutionalise extends to different care structures. The UN Expert Committee mentions a range of private and state-run types of institutions, including facilities to assist integration and psychiatry, nursing homes and secured dementia wards, long-term hospitals and forensic clinics.

In order to implement a successful de-institutionalisation strategy, the Federal Government, the *Laender*, cities and municipalities must take a coordinated approach and clarify tasks and funding responsibilities in a structurally different way than before. In addition, new legal regulations are needed that also include legal entitlements. Among other things, sufficient barrier-free and community-based housing options and coverage of

National strategy must be drawn up

outpatient support services must be ensured. Targets, deadlines and funding models need to be defined. Personal assistance is crucial for person-centred care. The necessary provisions should be harmonised throughout Austria.

Financial means and resources are a key lever for the transformation of institutional support systems. The guidelines of the UN Expert Committee therefore call on States Parties to redirect all resources from institutional to inclusive structures and not to make any further investments in new or existing facilities.

Participation of persons with disabilities in implementation

The National Action Plan on Disability 2022 to 2030 provides for the participatory development of de-institutionalisation strategies. There is also a commitment that the de-institutionalisation of residential facilities should be started or continued as quickly as possible in all *Laender*. More concrete steps or concrete definitions of responsibility or funding are still lacking.

Call upon Federal Government, *Laender* and municipalities

For the NPM, it is clear that the implementation of a comprehensive, successful de-institutionalisation strategy is a task of the State that is only possible through a joint effort by the legislatures of all regional authorities. At the same time, the NPM emphasises that this development must take place in order to grant persons with disabilities their rights.

Numerous visits of the NPM commissions show that this is not currently the case. For example, Commission 3 visited a large facility in Styria, which is gradually endeavouring to reduce the number of allocated places. Nevertheless, according to the plan, 144 of the originally allocated 332 places would still remain in the main building in 2045. This time horizon is very long, and the extent of the targeted reduction is also a long way from UN CRPD-compliant de-institutionalisation. Although the *Land* confirmed its intention to push ahead with de-institutionalisation efforts and to achieve this, for example, through mobile services, personal budgets, housing networks, etc., this example clearly shows how far Austria is from a clear, consistent de-institutionalisation strategy.

In a facility for adolescents with disabilities in Tyrol, Commission 1 criticised the fact that both the school and the residential and leisure facilities are located under one roof. The NPM pointed out that this makes it more difficult for the adolescents to participate in society. It recommended opening up the school to other children, the spatial separation of school and residential areas, as well as the creation of community-based offers for living and leisure activities.

UN Guidelines provide direction

The NPM also refers again to the guidelines on de-institutionalisation of the UN Expert Committee, which emphasise the duty to end institutionalisation. The Committee considers rigid routines regardless of personal will, identical activities in the same place for a group under a particular authority, a paternalistic approach to service provision, the monitoring of living conditions

and large numbers of people in the same environment as a form of violence. The aim of de-institutionalisation is to enable persons with disabilities to live self-determined lives in the municipality.

The NPM will continue to support the creation and implementation of a nationwide de-institutionalisation strategy. At the political level, however, there are no concrete plans for a strategy or a timetable, nor have any funds been made available for this. As part of the mandate pursuant to Article 16 (3) of the UN CRPD, the NPM is obliged to preventively protect persons with disabilities from exploitation, violence and abuse and to monitor facilities for this purpose.

2.4.2 Persistent staff shortages

The fact that the situation in facilities for persons with disabilities is problematic in terms of human rights is also shown by the lack of staff in many of these facilities. Depending on the *Laender*, there are different minimum standards for the number and qualifications of staff. The commissions report that staffing ratios are often not based on the actual amount of care required. The commissions report on staff shortages in all *Laender*.

Austria-wide staff shortages

This is problematic because supply bottlenecks can lead to increasing frustration and burnout among staff, reduce the quality of care and jeopardise the safety of clients.

Deteriorating quality of care

In one facility in Lower Austria, for example, Commission 5 learnt that group activities or individual care were hardly possible due to a lack of staff. The operator of the facility regretted this situation and was aware of the problem. However, he emphasised that it was difficult to find suitable staff.

Activities not possible

Owners and operators of institutions and facilities in other *Laender* also reported difficulties in finding sufficiently qualified staff. The reports on staff shortages show that the current situation in many facilities for persons with disabilities is not in line with the rights of the UN CRPD in this respect either. The commissions repeatedly learn that the high staff turnover is also due to the fact that the general conditions in many facilities are difficult for employees (see NPM Report 2022, p. 87 et seq.; NPM Report 2023, p. 120 et seq.).

2.4.3 Problematic adult guardianship

Another point of criticism from the UN Expert Committee concerned adult guardianship and supported decision-making. In principle, it welcomed the introduction of the 2nd Adult Protection Act (especially the development process and the involvement of organisations for and by persons with

Criticism from UN Expert Committee

disabilities). However, it is concerned about the high number of adult guardianships and the remaining elements of substitute decision-making. The UN Committee recommended cancelling these and significantly strengthening community-based support services for supported decision-making.

AOB and NPM deal with adult guardianship

The AOB and the NPM deal with this issue on various levels. On the one hand, affected people turn to the AOB and complain about adult guardianships. On the other hand, the NPM commissions report on various observations in facilities for persons with disabilities in connection with „adult guardianship“.

Lack of support groups

The AOB therefore carried out investigative proceedings to seek information from the *Laender* about their measures. This revealed that in some cases even measures prescribed by law are not implemented. For example, there is often a lack of support groups to enable those affected to manage their own affairs as far as possible. This applies to all possible areas of life; in the case of medical treatment, however, such a support group is provided for by law. Adult guardianship should only be called in, if the circle of support cannot enable the person concerned to make their own decisions.

Those affected cannot decide for themselves

Commissions also generally reported difficulties with the medical care of persons with disabilities in institutions. Apart from the frequent lack of free choice of a doctor, there were reports that people affected were not treated adequately and that in many cases it is questionable how persons with disabilities are involved in decisions or whether they have the opportunity to do so at all (see also chapter 2.4.9).

This is also an issue in connection with sexual self-determination and contraception. Decisions are repeatedly made in facilities without the informed consent of those affected.

Lack of care dialogue

Commissions also report on the lack of care dialogues on decisions regarding the last phase of life, although these are required by law. The purpose of these care dialogues is to determine the wishes of the person concerned and document how to act in crisis situations. This takes place independently of adult guardianship. Conversely, in the area of palliative care, there is the problem that adult guardians are often not appointed even though those affected are no longer cognitively capable of making decisions on financial or medical matters (see NPM Report 2023, p. 43 et seq.).

Augmentative and Alternative Communication necessary

The lack of awareness regarding self-determination is also shown by the fact that many facilities for persons with disabilities require an adult guardianship when accommodating a client. However, the lack of (adequate) opportunities for Augmentative and Alternative Communication (AAC) in many facilities also means that expressions of will are hardly possible and thus a basic prerequisite for supported decision-making is missing (see also „New monitoring focal point „Augmentative and Alternative Communication and decision-making as steps towards preventing violence““).

This small selection of examples shows that Austria by no means adequately guarantees the rights of persons with disabilities. The Federal Government as well as the *Laender* and municipalities need to work together to make the necessary changes. In order to show that human rights for persons with disabilities are taken seriously in Austria, corresponding developments must be initiated as quickly as possible.

2.4.4 Implementation status of previous recommendations

The owners and operators of facilities usually take the NPM's recommendations and suggestions seriously, as shown by the large number of improvements that can be achieved. In their feedback, managers repeatedly emphasise that visits and suggestions for improvement were very valuable to them and contributed significantly to the continuous development of the quality of the facility.

As part of the monitoring focal point „self-determination with a focus on sexual self-determination“, which was presented in detail in the NPM Report 2023 (p. 103 et seq.), the NPM succeeded, for example, in creating more awareness for this sensitive and important topic. The NPM repeatedly observed that persons with disabilities are often viewed as sexless beings and that their right to sexual self-determination is not sufficiently respected. The NPM put the issue at the centre of attention and achieved improvements. Facility operators, for instance, created sex education concepts or translated them into easy-to-read language and trained employees and informed persons with disabilities.

**Raising awareness
of sexual self-
determination**

One day care centre in Salzburg had already implemented several of the NPM's recommendations following visits by the commissions in previous years. This concerned, for example, improvements in barrier-free accessibility, care planning, documentation, sex education training, the development of a concept for relatives and others.

However, the NPM's recommendation to carry out regular weight checks, as this is necessary to assess the nutritional status of the facility's clientele – persons with disabilities in need of severe care – was ignored. During its follow-up visits in 2024, Commission 2 observed that one client was already in a seriously unhealthy condition due to malnutrition. The NPM stated that the adult guardianship must be informed and that urgently needed nutritional interventions must not be neglected in view of the acute situation. The NPM recommended that the facility introduced regular weight checks for at-risk patients and worked more preventively in order to recognise and prevent risks in good time.

**Preventive
assessment-led work**

The facility then announced a series of measures: Regular weight checks and individualised nutrition plans where necessary were planned, as well as regular training for staff. Assessments are intended to counter malnutrition, pressure sores, fall risks and pain at an early stage. Additional training by residents' representatives in accordance with the Nursing and Residential Homes Residence Act (*Heimaufenthaltsgesetz*) to prevent measures, which restrict freedom, as well as the introduction of a holiday management system to ensure that several key staff are not on holiday at the same time, are intended to bring structural improvements.

Self-representation In one facility in Vorarlberg, Commission 1 criticised the fact that although elected self-advocacy bodies existed, they were neither active nor known to the residents. The facility operator then organised several meetings for the self-representation bodies under professional guidance and supported them in networking.

Digital „surveillance“ as mild as possible In another facility in Vorarlberg, a baby monitor with a camera was installed in a resident's room. The facility stated that this was to protect the resident as she suffered from severe dementia and sometimes had epileptic seizures. The NPM pointed out that constant video surveillance is a massive interference with the fundamental right to privacy and is only permissible if there are no less intrusive means. At the recommendation of Commission 1, the facility purchased a device that sends signals in the event of unusual movements to prevent falls.

In a facility in Lower Austria, several residents were unable to access their money: They could not withdraw it from the bank themselves; the caregiver did it for them upon authorisation. The money was deposited in the facility's main cash box. The residents received pocket money or amounts for certain expenses, whereby they had to state the intended use in writing.

Self-determination in financial matters The NPM criticised the fact that this is paternalistic and restricts self-determination. It can be humiliating if residents have enough money available but still have to ask for pocket money every week and explain how they will use it. The facility emphasised its obligation to provide support in financial matters for residents who need it. However, safes were also provided for those who wished to keep their own money.

Bonus paid out Following a recommendation by the NPM, another facility in Lower Austria agreed to pay bonuses due to the high labour intensity in the sheltered workshop. Although this does not solve the fundamental problem of the lack of remuneration, it is a step in the right direction.

Lack of contingency plans One issue that still needs to be criticised in a number of facilities is the lack of contingency plans. This makes it all the more pleasing when facilities take on board the criticism of the commissions and immediately draw up individualised contingency plans, as was the case in one facility in Upper Austria.

When it comes to one of the core issues of the mandate, the implementation of measures, which restrict freedom, facility operators hear the NPM's criticism and are generally willing to act upon the NPM's recommendations. One facility in Vienna not only assured the mandatory completion of documentation in light of the Nursing and Residential Homes Residence Act (*Heimaufhaltsgesetz*), but also to discuss pedagogical case and to reflect on the circumstances of the use of measures which restrict freedom more frequently. The NPM welcomes this, as violence-preventive behaviour can contribute to de-escalation and successful cooperation within and as a team can minimise both self-endangerment and endangerment of others as well as the associated restrictions on liberty.

Measures which restrict freedom

One facility responded to criticism about the lack of opportunities for Augmentative and Alternative Communication (AAC) by employing an expert. As a result, AAC measures were implemented in the entire group.

Lack of AAC

Follow-up visits repeatedly show that regular supervision was introduced at the recommendation of the NPM. In a professional caregiver environment, it is now undisputed that regular supervision is important in order to maintain or improve the ability to work. Supervision is a recognised tool for mental hygiene and the prevention of burnout, bullying and violence. Regular supervision is particularly important in view of staff shortages and high workloads.

Supervision introduced

In one facility in Burgenland, Commission 6 observed that, in contrast to the previous visit, all relevant medications had been reported as measures which restrict freedom. Documentation and written goal planning had also improved. The visit showed that even small improvements can be important for those affected: Following criticism from the NPM, the facility moved the times for dinner back (starting at 5 pm) and each resident was given a fridge on request. Previously, there was only one communal refrigerator for 23 residents.

Documentation and target planning improved

2.4.5 Monitoring priority „Augmentative and Alternative Communication (AAC) and decision-making as steps towards violence prevention“

The prevention of violence and abuse against persons with disabilities is a core element of the NPM's investigative mandate (Article 16(3) UN CRPD). To this end, it is necessary to identify the various causes of violence and work towards eliminating or reducing them as far as possible. One major cause is the lack of support for people whose communication is impaired. The NPM will examine this aspect in its new monitoring focal point „Augmentative and Alternative Communication (AAC) and decision-making as steps towards violence prevention“.

Violence prevention is at the heart of the NPM investigative mandate

Persons with disabilities are more at risk of experiencing violence than people without disabilities. This is the result of a study commissioned by the Federal Ministry of Social Affairs on experiences and prevention of violence against persons with disabilities who live or work in facilities (Mayrhofer/Mandl/Schachner/Seidler, 2019). This is particularly true for people with intellectual impairments or communication disabilities.

AAC still inadequate

The NPM's many years of visiting facilities for persons with disabilities have shown that communication is one of the biggest hurdles to overcome when dealing with disabilities. The NPM has been working with communication cards for some time and has had good experiences with them, but has also noticed that little attention is paid to the topic of communication, especially when it comes to violence and its prevention. Staff at facilities are often not sufficiently trained in alternative forms of communication (AAC). People with communication impairments often do not receive sufficient individualised support. Communication support tools are used little or hardly at all.

No human rights without communication

The UN CRPD requires that persons with disabilities have access to information and communication (Articles 9, 21 UN CRPD) in order to enable them to lead a self-determined life and participate fully in all areas of life. If people with communication disabilities are not sufficiently supported in expressing their will, they cannot observe their human rights. Self-determination, independent living, equal rights, education, privacy, and participation or full participation in society are inconceivable without appropriate communication options. As a result, those affected often feel socially isolated, have low self-confidence, their abilities are underestimated and development opportunities are blocked. It is assumed that this group is undemanding and content.

No prevention of violence without communication

If emotions cannot be verbalised, one's own defencelessness and helplessness can increase. This can lead to aggression and „behavioural problems“ and subsequently to restrictions on liberty or social isolation. Due to a lack of opportunities to express themselves, their own ability to defend themselves (resilience) and their ability to complain are also limited or non-existent. This increases the risk of non-verbal persons with multiple disabilities becoming victims of violence and abuse. As heteronomy is a risk factor for violence, opportunities for expression are also particularly important for the prevention of violence. This applies both to the prevention of violence and to dealing with acts of violence committed by others.

No self-determined decision without communication

Augmentative and Alternative Communication (AAC) is therefore a basic prerequisite for those affected to be able to observe their human rights and it is essential in terms of preventing violence. However, it is also a prerequisite for implementing the legal requirements for supported decision-making for persons with disabilities that have been in place for several years.

The UN CRPD assumes that all people, regardless of the type and extent of their impairment, have the ability to make self-determined decisions about their own affairs and to take legally relevant actions. As a States Party to the UN CRPD, Austria is obliged to take all necessary measures to provide persons with disabilities with the support they need to exercise their legal capacity and ability to act (Article 12 UN CRPD).

This basic idea was implemented with the 2nd Adult Protection Act (2. *Erwachsenenschutzgesetz*), which entered into force in 2018. It not only standardises the transition from legal guardianship to adult guardianship, but also the principle of „self-determination before representation, self-determination despite representation“.

Support with decision-making

This means that persons of legal age who are restricted in their decision-making capacity due to mental illness or a comparable impairment no longer lose their legal capacity to act when a proxy is appointed, as was previously the case. Instead, they should be supported in managing their own affairs as independently as possible. The proxy is secondary to the person's own, possibly supported, decisions and actions. This support can be provided primarily by the family, other close persons, groups of peers, counselling centres, but also by disability support facilities and, in particular, by using support groups in connection with personal future planning measures.

Supported decision-making is therefore not about the circle of supporters making decisions instead of the person concerned, but about supporting them in their decision-making ability with regard to a specific decision. The support primarily consists of explaining to the person concerned what a pending decision is about, pointing out alternative courses of action, their possibilities and consequences, and thus enabling them to make this decision themselves.

Representation is only permitted if the person concerned has provided for this themselves or if representation is unavoidable in order to safeguard their rights and interests. A health care proxy or an elected, legal or court-appointed adult guardian can be used for this purpose. However, even if a representation is in place, healthcare proxies and adult guardians must endeavour to ensure that the person being represented can shape their life according to their wishes and enable them to manage their own affairs as far as possible. AAC is therefore a basic prerequisite for the implementation of the legal requirements for supported decision-making.

During the recent country review of Austria regarding the implementation of the UN CRPD, the UN Committee on the Rights of Persons with Disabilities expressed concern about the lack of progress in implementing these legal requirements, in particular the lack of community-based services in the *Laender* to support decision-making and the lack of knowledge of the law in many parts of the State and society. The Committee recommended that

UN Committee concerned about lack of implementation

community-based services to support decision-making be significantly strengthened and that employees of all public and private facilities that have a role in implementing the law be trained accordingly (UN Convention on the Rights of Persons with Disabilities/C/AUT/CO/2-3, 8 September 2023).

New monitoring focal point of the NPM from late autumn 2025

Against this backdrop, the NPM defined the topic of „Augmentative and Alternative Communication (AAC) and supported decision-making as steps towards the prevention of violence“ as a monitoring focal point after consulting the Human Rights Advisory Council. The aim of this focal point is to strengthen the independent communication and decision-making of persons with disabilities who live or work in facilities and to help implement the human rights requirements to a greater extent than before. The interviews to be conducted by the commissions with the persons in care, staff and management personnel as part of the monitoring focal point are intended to help raise awareness and at the same time provide impetus for the implementation of the recommendations for action of the UN Committee on the Rights of Persons with Disabilities (UNCRPD).

Preparation of the NPM

To gain a deeper insight into the topic, the NPM organised a workshop in December 2024. Members of the commissions and AOB staff visited *LifeTool*, a non-profit company that informs persons with disabilities and their relatives as well as facilities about the variety of communication solutions. Specialists from various organisations then reported on their practical experiences with AAC and decision-making. However, they also described problems and obstacles that need to be overcome.

The next steps will be the development of the questionnaire by the commissions and the AOB as well as a pre-test phase to make any final changes. The start of the monitoring focal point is planned for late autumn 2025.

2.4.6 Inappropriate placements of younger people

The problems of inappropriately placed younger persons with disabilities and a permanent need for medical or nursing care are repeatedly addressed both in the context of the AOB's control of public administration and in the course of then commissions' monitoring visits to facilities. For this target group, there are neither suitable care structures that enable independent living, nor suitable forms of housing where they can live among their peers and receive needs-based support and encouragement. Instead of providing them with access to customised support services through professional case management, they are forced to live permanently in facilities that are not designed to meet their needs and therefore do not offer them an age-appropriate environment.

Gap in supply structures

In the television programme *Bürgeranwalt* („Advocate for the People“), the case of a 45-year-old woman was presented, who cannot find a place in a

facility for persons with disabilities. She was born with an open back and regularly requires additional care due to bladder paralysis. Despite intensive personal initiative, she has so far only been offered a place in a nursing home in Lower Austria. She and her elderly parents categorically reject placement among senior citizens with dementia.

The NPM has also repeatedly criticised the inappropriate placement of younger persons with disabilities in retirement and care facilities in the past. This primarily affects younger people with special care needs or chronic psychiatric illnesses who have to live in retirement and nursing homes due to a lack of suitable community-based living and care options. However, retirement and nursing homes are not the right place for younger people, either structurally or in terms of staffing.

Inappropriate placement in retirement and care facilities

At the end of 2023, the AOB determined a case of maladministration and recommended that the Regional Government of Tyrol avoid inappropriate placements and organise needs-based residential support for younger people with increased care needs. After consulting its specialist division with system partners, the Regional Government then announced short and medium-term measures to implement the recommendation. In 2024, Commission 1 investigated how the situation has developed since then in several Tyrolian facilities.

The aim is to record all individual factors such as state of health and current care and housing situation and to ensure the most suitable care according to the wishes of those affected. To date, there have been around 70 such individual case reviews. Although young people with addiction and in need of care were still temporarily admitted to retirement homes in 2024, they should be able to move to specially created assisted living facilities. For some people with disabilities in need of care, more suitable alternatives in fully-assisted living and housing facilities were found from the outset. For others, case management has made it possible to integrate mobile care services into inclusive housing projects as required.

NPM pursues structural problems in particular

The improvements in Tyrol show how sensible it is from a human rights perspective to consistently pursue the unsatisfactory problems during NPM visits, even outside of the nationwide prioritisation. From the perspective of Commission 1, the measures taken by the *Land* of Tyrol are having an effect. The care home operators experience the introduction of the case management as relieving. The NPM also welcomes the fact that young people with self-care deficits may no longer be admitted to retirement and nursing homes for social reasons (e.g. poor quality of housing, prolonged homelessness, lack of family support, etc.).

Inappropriate placements in care facilities have also been an issue in Carinthia for years. The technical supervision investigated the cases identified by Commission 3 individually and resolved them promptly, for

Carinthia announces improvements

example by moving to an assisted living unit. However, as care for younger people adapted to special needs and the individual care situation is not guaranteed in Carinthia either, the NPM asked the Regional Government for information on what specific measures are being taken to expand the range of services. The *Land* stated that it was working on the structural planning of an integrated residential unit in a housing association in order to provide the best possible care for younger persons with disabilities. It did not provide any precise timeframes, as funding has not yet been finalised.

**Lower Austria:
Inappropriate
placement in adult
psychiatry**

Commission 6 visited a facility in Lower Austria for adolescents and adults who are no longer of school age and have psychiatric diagnoses, abnormal social behaviour and slightly impaired cognitive abilities. One of the residents is a 14-year-old boy with an autism spectrum disorder. He was the youngest resident. All the others were already of legal age. He had previously spent several stays in different facilities, including a short stay in a child and adolescent psychiatry unit.

**Minors placed with
adults**

The joint care of adolescents and adults contradicts the separation requirement emphasised in the case law for psychiatric hospitals. Children and adolescents must not be treated and placed in adult psychiatric wards. The European Committee for the Prevention of Torture (CPT) also considers this a violation of preventive human rights and professional standards (see NPM Report 2018, p. 53 et seq.). The special needs of children and adolescents can only be addressed through appropriate separation. Separation also serves to prevent assaults on minors.

The joint placement of the minor with adults, some of whom are seriously mentally ill, is not in the child's best interests. The NPM therefore recommended placement in a facility that specialises in the special needs of children and adolescents.

The supervisory authority stated that no suitable child and adolescent care centre could be found anywhere in Austria and referred to the adolescent's frequent changes of institution. The NPM reiterated its recommendation that children and adolescents with disabilities or mental illnesses should not be cared for and placed together with adults.

- ▶ ***Inappropriate placements of younger persons with disabilities in retirement and nursing homes must be reduced.***
- ▶ ***In line with the de-institutionalisation strategy of the UN CRPD, the expansion of alternative, high-quality accommodation options for young people with increased care needs must be pursued as a matter of urgency.***
- ▶ ***Children and adolescents with disabilities or mental illnesses should not be cared for and placed together with adults with disabilities or mental illnesses.***

2.4.7 Lack of adequate services for older people

The NPM regularly draws attention to the particular problems older persons with disabilities face in facilities. Persons with disabilities are also getting older, their life expectancy is increasing and existing services are gradually no longer suitable for this target group. The only alternative is often a transfer to nursing homes (see details in NPM Report 2022, p. 92 et seq.).

Laender and the owners and operators of facilities and institutions are increasingly responding to the growing demand due to ageing and are expanding the range of services for older persons with disabilities. The commissions also visit facilities for persons with disabilities that enable them to remain in their familiar surroundings until the end of their lives. However, this is not currently a matter of course.

As the commissions also determined in 2024, the range of deficiencies found is wide. In all *Laender* the commissions continue to criticise the inadequacy of services. For example, they once again criticised the fact that residential homes do not offer residential care during the day, even though the increasingly ageing clientele would like this. Typical age-related illnesses often occur earlier than usual in persons with disabilities. They can take an atypical course and overlay congenital or disabilities that occur at a later stage. If their needs are not met, older persons with disabilities are forced to visit a daily structure until the afternoon, even if they no longer want to for personal or health reasons. Strict provisions regarding days of absence can also be problematic. (see chapter 2.4.8). Residential facilities sometimes also lack dementia-friendly architecture. Sometimes the spatial conditions are not sufficient to provide body-related care services, and concepts and personnel resources are often lacking.

**Insufficient offer
for older persons**

Commission 6 in particular also criticised the lack of flexibility of the transport services. Persons with disabilities are often unable to work part-time, as transport services only travel to small towns twice a day – in the morning and in the afternoon.

The NPM is aware that many persons with disabilities like to visit a day workshop even at an advanced age. However, there should be a choice and the necessary support – flexible transport services, day care in residential centres – should be based on the person's needs.

**Support should be
geared towards
specific needs**

The study „Inclusive ageing“, which was commissioned by *Lebenshilfe* and the Federal Ministry of Social Affairs, Health, Care and Consumer Protection (Schachner/Mandl/Weber/Breuer/Romm, 2022), shows that the greatest possible continuity in living and working is also important to persons with disabilities. They want to be able to choose where and how they live in old age.

**Choose where
and how to live
independently in
old age**

According to the study, experts see the support and care of older people with high support needs as the greatest challenge and criticise the fact that there are too few concepts for integrated care or cooperation with external service providers in facilities for the disabled. Conversely, retirement and nursing homes lack concepts that are tailored to the special needs of persons with disabilities (AAC, self-determination, participation). For this reason, there is a need to expand co-operation between care for the disabled and care for the elderly.

The fact that there are also positive examples is shown by a nursing home in Vorarlberg, where the inclusion of persons with disabilities in old age is practised. The residential groups are mixed and the persons with disabilities are distributed among these groups. Their needs are specifically catered for in a daily structure set up for them specifically (see chapter 2.1.12).

During their visits, the commissions are currently focussing more on the situation of older persons with disabilities living in facilities.

- ▶ ***The right to self-determination naturally also applies to persons with disabilities in old age.***
- ▶ ***Services for older persons with disabilities must be expanded to ensure self-determination and participation. Legislatures must create a framework to enable such services.***
- ▶ ***Pension entitlements for work in daily structures should be a matter of course.***

2.4.8 Cost burden due to rigid absence regulations

The *Laender* subsidise visits to day-care centres from social or disability assistance funds and therefore have an interest in ensuring that the places are actually used. For this reason, some *Laender* only subsidise a certain number of days of absence. For each additional day of absence, the facility can charge the person concerned a fee. Such absence regulations violate the right to self-determination under Article 19 UN CRPD in particular if no consideration is given to the reason for the absence or the special needs of the person concerned.

No differentiation for absence in day workshops

Until recently, for example, a maximum absence quota of 50 days per year was stipulated for day-care centres in Vienna. This provision by the Vienna Social Fund did not differentiate between absences due to holidays or sickness and meant that people who were often ill could no longer spend days off with their families because the absence quota had already been used up by sick leaves.

Those affected rightly saw this as an unlawful discrimination against working people who have a holiday entitlement of at least five weeks a year and

whose sick days are not included in their holiday entitlement. Apart from this, people who have been affected frequently by illness in a year also need holiday or time off to spend time with their family.

This problem was also discussed in the television programme *Bürgeranwalt* on 3 February 2024. After that, the Vienna Social Fund changed its Directives. On 1 January 2025, it increased the absence quota for day-care centres to 80 days per year. Of these, 30 days are now for holiday-related absences and 50 days for absences due to illness.

The *Laender* also have absence regulations for residential facilities for persons with disabilities. In Lower Austria and Vienna, for example, residents of such a residential facility can be absent from the facility for 82 and 70 days per year respectively without the *Land* reducing their funding. If the absence quota is exceeded, the facility can – similar to day-care centres – charge a fee of around 100 euros per day for each additional day of absence. Most people with disabilities cannot afford this fee due to their low income.

Absence regulation is also contrary to UN CRPD

This absence quota of 82 or 70 days is often not enough for people who like to spend weekends, public holidays and holidays with their family or who prefer to be cared for at home by their relatives in the event of illness. According to the UN CRPD, persons with disabilities must also have the opportunity to decide as freely as possible where they spend their leisure time or are cared for in the event of illness. This must not depend on whether they can afford the additional days of absence by paying a kind of „placeholder fee“.

The NPM therefore demands putting an end to such absence regulations. In order to receive funding for a residential place, it must be sufficient that the person concerned has their centre of vital interests in the residential facility for persons with disabilities.

- ***As long as the person concerned has their centre of vital interests in the residential facility, there must be no reduction in funding from the Laender due to days of absence. The NPM therefore demands the general abolition of absence regulations in residential facilities.***
- ***Persons with disabilities also have a right to holiday. Regarding day-care centres, absences due to illness must therefore never be included in the absence quota.***

2.4.9 Barriers in the healthcare system

Article 25 of the UN CRPD enshrines the right of persons with disabilities to the enjoyment of the highest attainable standard of health without discrimination. States Parties must take measures to ensure that persons with disabilities have access to health services, including health rehabilitation.

Right to the highest attainable standard of health without discrimination

However, persons with disabilities still encounter barriers in the healthcare system: Equipment and examinations are often not accessible, report those affected. Doctors in and outside hospitals often know too little about persons with disabilities and there is not enough time for examinations. There are often communication problems. In a study commissioned by the Vienna Women's Service and the Vienna Social Fund, around 58 % of persons with disabilities stated that they had only partial (39.1 %) or no access (19.6 %) to healthcare services that met their needs. Problems include barrier-free accessibility and access to information. Moreover, persons with disabilities are often not perceived as empowered individuals (see Sorger et al., 2022).

As part of the monitoring focal points „Self-determination in facilities for persons with disabilities“, the NPM found that in 27 % of the facilities visited, residents are not free to choose their doctors.

Sent away despite pain and festering wound

During a visit to a facility in Lower Austria, Commission 5 learnt that the residents were not receiving adequate medical care anywhere. General practitioners would turn away people with severe impairments, especially if they occasionally displayed behaviour that endangered themselves or others, reported the facility management. For example, one doctor did not want to treat a client's festering wound. Clients were repeatedly sent away and only received appointments months later despite being in pain. The facility was unable to get a dentist appointment for one resident in a timely manner, even though she was in pain. Facilities also repeatedly report that hospitals are unable to care for persons with disabilities and send them back to facilities at an early stage.

Inclusive outpatient clinics should be expanded

There are now several inclusive outpatient clinics throughout Austria that specialise in persons with disabilities, for example in Vienna, Upper Austria, Styria and the Medical Inclusion Outpatient Clinic at the Melk Regional Hospital (Lower Austria). The staff are trained in dealing with intellectually impaired people, are familiar with disability-specific clinical pictures and cater to the wishes and needs of these patients. Among other things, the commissions recommend the further expansion of these inclusive outpatient clinics.

The Vienna HeCo Passport (Health and Communication in Vienna), for example, which contains structured information about the person, their skills, needs, behaviour and communication, as well as important medical data, is also mentioned as a positive initiative. This enables healthcare staff to quickly gain an overview of special needs.

- ▶ ***Comprehensive, barrier-free healthcare must be ensured. This includes barrier-free access, accessible communication and information as well as trained staff.***
- ▶ ***(Regionally available) inclusive outpatient clinics for persons with disabilities that are linked to medical facilities should be expanded (see also National Action Plan on Disability 2022-2030).***

- ***Facilities must take measures to enable a free choice of doctors. Home visits by doctors should be offered in order to avoid irritation for people with behaviour that temporarily endangers themselves or others.***

2.4.10 Self-determination before absolute security

The right to self-determination is one of the central principles of the UN CRPD (Article 3, Article 19). For years, the NPM commissions have reported that although persons with disabilities are well cared for in facilities, they have little say in many everyday decisions. In 2022 and 2023, the topic of „self-determination“ in facilities for persons with disabilities was therefore the focus of the NPM's work.

Right to self-determination

A landmark decision by the Supreme Court on 20 September 2023 (1 Ob110/23t) now strengthens the right to self-determination in accordance with Article 19 UN CRPD. In the specific case, a facility for persons with disabilities in Tyrol was caring for an adult man with trisomy 21 who had completed a „shopping training programme“ at his own request in order to be able to go shopping independently. On his way to the supermarket, a car hit him as he was crossing the road away from the zebra crossing. He was injured. The driver of the car subsequently demanded compensation from the care facility, as in her opinion the facility had breached its duty of supervision.

Road accident while shopping

The case went all the way to the Supreme Court, which dealt with the need to supervise persons with disabilities versus their right to self-determination. It ruled that the care facility had not breached its duty of supervision. In essence, it stated that, in principle, care facilities do not have a duty of supervision under private law in accordance with Section 1309 Austrian Civil Code for persons of legal age with cognitive impairments. Liability only exists in the event of a breach of general public safety obligations.

Liability excluded

The NPM hopes that this liability-negating case law, which is in line with the principles of the UN CRPD, will help that freedom and potentials for development towards a higher degree of self-determination are used to a larger extent.

2.4.11 Authority to issue orders of restrictions on liberty

Restrictions on liberty in facilities for persons with disabilities are also a focus of the commission's activities. During their visits, commissions investigate, for example, whether restrictions on liberty were ordered as a last resort, properly documented and reported to the residents' representatives;

otherwise, any restrictions on liberty that were imposed were in any case impermissible.

Restriction on liberty ordered by the wrong person

On 23 October 2024, the Supreme Court made an important clarification regarding the authority to issue orders (7 Ob141/24x). The specific case concerns a woman who has been living in a facility for persons with disabilities for several years and requires a high level of care. The resident was restrained in her wheelchair with two straps to stabilise her due to the risk of falling. The order was issued by the facility manager, who is a qualified social pedagogue but had no training as a nurse or care assistant.

In the proceedings to investigate the legality of the order, the Supreme Court made clear that the authority to do so is linked to provisions of professional law and not to the type of facility. In this particular case, it was a care measure that was exclusively related to the resident's physical condition and was taken with the intention of averting an indirect risk of falling. Even in facilities for persons with disabilities, restrictions on liberty that fall within the scope of nursing care may only be ordered by healthcare assistants. Restrictions on freedom that fall under the remit of doctors (e.g. medication-based restrictions), on the other hand, must be ordered by doctors without exception.

2.4.12 Positive observations

In the course of their visits, the NPM commissions not only found shortcomings and the need for improvement, but also report on good examples of human rights-oriented work with persons with disabilities.

Self-determination and promoting strengths

Commission 4 describes the atmosphere in a facility in Vienna as pleasant, clients and staff alike feel visibly at ease, and serenity and humour play a major role in daily interactions. Clients are treated with respect as equals and the focus is on promoting self-determination, strengths and resources. Their involvement and the opening up of spaces for co-determination are of great importance. Regular meetings are held to plan and reflect on everyday life, projects and goals. Self-representation is actively promoted and practised. Participation is made possible through regular outdoor activities. All employees are trained in violence prevention and behave in a calm, competent and de-escalating manner, even in difficult situations.

Exemplary measures for violence prevention and de-escalation

The commissions also repeatedly praised measures to prevent violence. One facility in Lower Austria has detailed contingency plans, which Commission 5 described as exemplary in terms of their structure and content. There is a precise list for various stages of escalation (change, visibility of tension, crossing of boundaries, sub-acute phase without massive danger to self/others, acute crisis with massive danger to self/others). The necessary interventions and intervention goals are listed once signs indicate one of

the respective phases. There was also a skill box with a well thought-out selection of tools that can help you to ground yourself again in difficult moments of stress, panic attacks or excessive demands.

Several organisations in Vorarlberg use a document on violence prevention that was developed together with self-representation groups. Self-representation groups also hold training sessions on this topic, as Commission 1 emphasised. There is a classification grid for dealing with boundary violating behaviour, in which four levels of boundary violations are presented. The practical description of the situations means that the paper can be very easily transferred to day-to-day work. Recommendations for action are given for all situations. Mandatory measures are described and it is specified which persons are to be informed. Boundary violations and the measures taken in response are documented in detail.

There are two residents living in a facility in Lower Austria who regularly have a lack of impulse control. Commission 6 praised the fact that individualised de-escalation concepts were developed in cooperation with trained employees of the owners and operators in order to compensate for behavioural problems. For one resident, the de-escalation concept includes „relaxation baths“, with music if desired, or „building Duplo“. For another resident, for whom fixed routines are important, the de-escalation concept lists the exact contents of the bag that he wants to take to the sheltered workshop.

For one resident who repeatedly exhibited behaviour that endangered others and himself, the facility convened its own support group to identify resources and goals and thus enable alternative courses of action.

Support group was convened

A facility in Lower Austria is meeting new digital challenges with a violence prevention approach. In a day-care centre, training courses on how to deal with social media, including the topic of „digital violence“, were offered to clients in order to sensitise them to the dangers of the internet.

For years, the NPM commissions have observed that Augmentative and Alternative Communication (AAC) is still not offered sufficiently in many facilities. The NPM will look into this issue more closely as part of its new monitoring focal points (see above). However, there are also some positive examples of how the topic can be addressed conscientiously and how various aids for people with speech and communication problems can be used, including pictograms, Anybook, photo plans or TEACCH (an internationally recognised and successful concept for supporting people with autism). Some facilities have their own AAC specialists working as multipliers, which the NPM sees as particularly helpful in terms of the uniform approach in teams.

In-house specialists for AAC

In one facility in Lower Austria, the commissions emphasised the use of AAC to prevent violence in a particularly positive way. A poster with a diagram,

picture and voice support explains how to deal with anger or a problem: go out, talk about it, rest, ask for help, refuse. All residents interviewed were either able to communicate using spoken language or had experience with AAC, e.g. signs for yes or no. There were photos of non-verbal residents with their signs on the doors of their rooms, which means that communication is also possible with people other than their close caregivers.

**Form of
communication
tailored to residents**

A larger facility in Lower Austria set up its own specialist centre for AAC and had five employees undergo time-consuming and costly training in Germany as qualified communication educators. Depending on the diagnosis of the residents, the specialist centre considers which form of communication is suitable.

**Inclusive
management body**

The diverse and well thought-out instruments for participation and co-determination at this facility were also particularly positive. There is an inclusive management body in which four residents are also represented and have voting rights. They are trained in workshops to practise taking part in conferences. The facility has also set up its own Ombudsman's office, which is made up of parents, representatives of relatives, the works council and the in-house psychologist, and which acts as a further point of contact for residents with concerns, problems and complaints, in addition to the care centre and the facility management.

2.5 Correctional institutions

Introduction

In the year under review, the NPM carried out 20 monitoring visits in facilities of the penitentiary system and in forensic institutions. The visits to socio-therapeutic residential facilities were also continued.

In addition to its monitoring activities, which are described in more detail in this chapter, the NPM maintains regular contact with other institutions and facilities and has been exchanging information on specialised issues for many years. In 2024, the NPM again took part in a number of international and national specialist events that dealt with the conditions and challenges of the penitentiary system and forensic institutions. The majority of these events focussed on the healthcare of inmates.

At the end of March 2024, the Council of Europe hosted a high-level conference („Of Unsound Mind”) in Strasbourg on the Convention-compliant approaches to the execution of judgments concerning the involuntary detention and treatment on mental health grounds. At the end of September 2024, a meeting of the European NPM Forum and the Pompidou Group, an international body of experts of the Council of Europe on combating drug abuse and illicit drug trafficking, took place. The theme of this symposium was „improvement and safeguards of health conditions of persons deprived of their liberty with substance use disorders”. Representatives from 38 countries participated in this event.

International contacts

In October 2024, the Federal Ministry of Justice organised a symposium on „efficient, safe and structural detention design”. A catalogue of measures and practice-oriented recommendations were presented with the aim of establishing uniform nationwide directives on the structural and technical design of detention facilities. The 13th European Conference on Health Promotion in Detention also took place in Vienna in October. In November 2024, a focus group presented the initial results of an EU-wide project that aims to provide a comprehensive overview of the situation of LGBTIQ+ people in detention in the EU (for more information, see chapter 2.5.3).

The annual exchange of experiences with all German-speaking NPMs took place in Berlin in mid-November 2024. In the area of the penitentiary system and detention in forensic institutions, the participants primarily discussed current challenges in facilities of the penitentiary system and forensic institutions.

In collaboration with NPMs from 46 States, the APT produced a global report on women in correctional institutions. This report was presented in an online webinar in December 2024 and highlights the particular challenges faced by women in detention. It contains numerous recommendations, including for a gender-equitable criminal justice system.

SEE NPM Network The meeting of the SEE NPM Network, an association of South-East European NPMs, of which Austria has been a member since October 2013, took place in Vienna this year. The participants discussed the bottlenecks in healthcare provision for detainees on remand and the oppressive overcrowding in prisons.

Bilateral contacts These matters were also at the centre of an exchange with the Slovenian NPM, which took place in Cejle in April 2024 and offered interesting insights into the conditions of the prison for detainees on remand. The next visit within this exchange took place in Graz at the end of November 2024. At the request of the Slovenian NPM, the follow-up care facility "Living Together" (*„Miteinander Leben“*) was visited.

The NPM also resumed bilateral contacts with the Czech NPM. In September 2024, an office meeting was held in Vienna on working methods and methodology in the field of preventive human rights protection. The participants also discussed issues relating to public relations work.

New monitoring focal points In the year under review, the NPM completed the monitoring focal point „violence in detention“. The results are summarised in chapter 2.5.1. During two visits lasting several days, the commissions focussed on the overall climate in correctional institutions in Salzburg and Innsbruck. Subsequently, the NPM decided in autumn 2024, in close coordination with the Human Rights Advisory Council, to focus on prisoners who have a specific need for treatment and care due to their mental health condition. The NPM will begin its visiting activities in the coming weeks.

As in previous years, inmates of the penitentiary system and detainees in forensic institutions brought many concerns to the AOB in the year under review, which also led to numerous recommendations and suggestions for improvement from a preventive perspective. These cases are presented in the Annual Report 2024 on monitoring public administration. Both parts of the report therefore complement each other.

2.5.1 Violence in detention – a structural problem

Monitoring focal point In 2023, the Human Rights Advisory Council recommended making violence in detention a monitoring focal point of the NPM's visiting activities. The risk of experiencing psychological, physical or sexual violence is significantly higher when in detention. This is also shown by the large-scale study in Austria's correctional institutions on unreported cases of violence in detention by Hofinger and Fritsche from 2021, in which the majority of prisoners stated that they had been the victim of at least one incident of violence – either psychological, physical or sexual violence – while in detention.

The NPM took up the Human Rights Advisory Council's proposal as well as the objectives and recommendations on methodology and formulated the

focal point „violence in detention“ for the commissions' visiting activities in the years 2023 to 2024. In line with the NPM's preventive mandate, the aim was to identify structural and organisational deficiencies for interpersonal violence.

In accordance with the concept of violence commonly used in international research, the NPM's monitoring focal points included not only violence relevant to criminal law, but also all forms of psychological, physical and sexual assault. In this sense, the Human Rights Advisory Council also recommended that all „incidents of violence“ in correctional institutions be addressed. This includes violence between detainees as well as violence between staff and detainees and between staff members themselves. However, the NPM did not determine the latter relationship for capacity reasons.

Concept of violence

In addition to regular detention, the detention in forensic institutions (with the exception of forensic departments in clinics) and follow-up care facilities were also included in the monitoring focal point „violence in detention“. The NPM visited a total of 32 correctional institutions and 17 follow-up care facilities (Section 179a Penitentiary System Act) in relation to this monitoring focal point. The commissions conducted 487 interviews, 313 of which were with detainees and residents of follow-up care facilities and 174 with staff, including management.

**49 visits,
487 interviews**

The interviews revealed that the social framework of a correctional institution must be taken into account when determining the issue of violence between detainees. Correctional institutions are often characterised by a „culture of violence“, which is normalised by many and thus has a massive influence on the climate and life in the institution as a whole.

The NPM's surveys showed that the inmate cell is the place within the facility where violence occurs most frequently, followed by the exercise yard and the (communal) showers. The inmate cell and showers are not under video surveillance and it is almost impossible to avoid potential attackers there.

Place of violence

In this respect, prisoners are dependent on law enforcement officers to protect them from assaults by other prisoners. However, the NPM's visits showed that detainees generally resolve conflicts among themselves and do not inform staff that they are or have been subjected to violence. Detainees who report assaults to prison staff are ostracised and are particularly at risk of being (re-)victimised themselves.

**Assaults are not
reported**

As long as victims are not prepared to testify, staff have a limited scope for action. Reports of incidents under criminal law are *de facto* futile without testimony from the victims. In this respect, only increased supervision or separation of those involved through cell transfers or leisure and workplace arrangements are suitable measures. However, transfers to protect individuals also harbour the risk of isolation.

Causes of violence With regard to the causes of violence, a significant correlation was observed between prison conditions and incidents of violence in correctional institutions.

Central institutional risk factors for physical violence are how many inmates are placed in the cells and the lack of daily structures. Overcrowding is a systemic problem in facilities of the penitentiary system and in forensic institutions. Hardly any facility is not overcrowded (see chapter 2.5.6.1). If detainees have to sleep on mattresses on the floor and cannot be offered work or other meaningful activities, this leads to a tense prison climate, which in turn provides a breeding ground for assaults and self-harm. If a facility has to care for more prisoners than it is designed for, it is also impossible to manage the prison population in terms of conflict and violence prevention.

The commissions also observed that the lack of staff in the area of special services and prison guards (and the associated overwork and care deficits) is also a central risk factor that increases the likelihood of experiencing violence. Not only the NPM's findings, but also the study on experiences and prevention of violence against persons with disabilities clearly show that physical experiences of violence occur significantly more often in facilities with (too) few staff resources in care (Mayrhofer, pp. 367-368).

Dealing in illegal substances and the associated debts were also cited as a frequent reason for violence. In Austrian correctional institutions, around one in ten detainees is linked to an addiction or substance abuse.

Around half of all detainees do not have Austrian citizenship. This means that there is a high level of linguistic, cultural and religious diversity. Good prison management, which takes into account cultural, personal and social circumstances as well as security-related aspects, therefore helps to prevent violence.

Detainees in forensic institutions and people with a mental illness in general are particularly at risk of violence. Adolescents or younger inmates are also more likely to be victims of psychological or physical violence than older detainees.

Violence prevention concepts Following these observations, the protective factors against violence had to be identified. The NPM recommended establishing structured violence prevention concepts ranging from primary prevention to tertiary prevention. There is currently no structured approach to dealing with violence. Structured processes are only established for administrative offences and reports to the public prosecutors' office in the event of violent incidents. Only in tertiary prevention does structured follow-up take place to a certain extent.

However, due to a lack of protection concepts, prevention (primary prevention) and de-escalation (secondary prevention) are largely ignored.

De-escalation is sometimes (directly) taken into account in prison guards' training, but is not a conceptual element of violence prevention. Violence prevention concepts are now standard in other facilities, such as child and youth welfare facilities or those for persons with disabilities.

As the Human Rights Advisory Council also stated in its recommendation on the monitoring focal point, it is necessary to recognise escalations at an early stage and react to them with low-threshold de-escalation methods. Continuing training on violence prevention should enable staff to recognise escalations and deal with tense situations between detainees using de-escalating methods.

**Continuing training
on violence
prevention**

In addition, a clear attitude towards violence as part of a facility's guiding culture can be an essential protective factor against violence. Facilities with a jointly developed and practised mission statement are positive examples. Managers play a central role in developing and maintaining a prison culture characterised by a mindful and respectful attitude. The relationship between staff and detainees is an essential element in dealing with security-related phenomena in the prison system.

**Leading culture /
attitude**

Forms of open detention that are embedded in a climate of trust can make a significant contribution to reducing inherent tensions within the institution and thus also incidents of violence. In interviews with the NPM, staff and detainees stated that incidents of violence occur much less frequently in a positive overall climate.

Collaboration between special services and prison guards, which ensures good case management and looks at achieving the same prison goals, contributes to a positive and forward-looking attitude among detainees. This can also reduce violence.

**Interdisciplinary
co-operation**

Finally, it is particularly important to establish an efficient complaints system. From the NPM's point of view, electronic complaints facilities should be set up directly from the inmate cells and in anonymised form. They can help to ensure that (violent) offences are reported more frequently.

The Federal Ministry of Justice, which dealt with the results and recommendations of the monitoring focal points, referred to the existing complaint management structure, which is primarily intended to prevent the escalation of complaints. In addition, complaints for administrative review, legal complaints and enquiries from the NPM are documented and processed in an online tool. The Federal Ministry of Justice prepares the data generated in this way in a monthly complaint controlling report, which is used for quality management at management level.

With regard to overcrowding, the Federal Ministry of Justice referred to the „Overcrowding Management“ task force (see chapter 2.5.6.1) and, with regard to staff shortages, to the „Duty Roster Optimisation“ project (see

chapter 2.5.13). It also assured that a de-escalating approach based on the principle of proportionality is always at the centre of actions taken by law enforcement officers.

With regard to open detention, the Federal Ministry of Justice replied that open detention regimes always require a certain degree of compliance and acceptance by the individual. The Federal Ministry of Justice also referred to the limited spatial resources.

Project „prison climate“ 2024–2026

Finally, the Federal Ministry of Justice informed that a project on „prison climate“ will be launched in mid-2024. Part of this project will be standardised surveys conducted in five correctional institutions.

In mid-December 2024, a final interview took place between representatives of the NPM and the General Directorate in which the recommendations of the NPM were reaffirmed and their swift implementation was called for. Both sides agreed that the current overcrowding does not allow for prison management, that a sufficient daily structure, which includes work, employment and learning, prevents violence, and that relationship work with inmates is not possible without sufficient staff resources. In addition, to making work in facilities of the penitentiary system and in forensic institutions more attractive, the issues of duty roster optimisation has to be dealt with as well.

- ▶ ***Specific violence prevention concepts are to be introduced in correctional institutions, ranging from primary prevention to tertiary prevention.***
- ▶ ***Electronic complaints channels directly from the inmate cells and in anonymised form should be established. They can help increase the reporting of offences.***
- ▶ ***Managers should develop and maintain a prison culture characterised by a mindful and respectful attitude and promote continuing training on violence prevention. A clear attitude towards violence as part of a facility's guiding culture is an essential protective factor against violence.***
- ▶ ***Positive relationships between prison staff and prisoners should be promoted in order to reduce incidents of violence.***

2.5.2 Detention of juveniles

No up-to-date detention of juveniles

For years, the NPM has regularly investigated the living conditions of adolescents in facilities of the penitentiary system and in forensic institutions. In 2022, the NPM published a report on „Adolescents in Detention“, which also contains recommendations for improved care in juvenile detention. The NPM questioned the location of Gerasdorf correctional institution due to its structural and geographical location. Subsequently, the Federal Ministry of Justice established a working group on modern, effective and innovative juvenile detention in Austria (NPM Report 2023, p. 153 et seq.).

With the participation of the NPM, the multidisciplinary working group argued in favour of an independent specialised institution on the premises of the Vienna-Simmering correctional institution – the Münnichplatz correctional institution – as early as October 2023. The working group also drew up numerous recommendations for the optimal care of adolescents at the new location by spring 2024. The Federal Ministry of Justice planned for this correctional institution to be operational on 1 July 2024. However, it became clear as early as April that this date would not be met.

**Working group
on „new form of
juvenile detention“**

The recommendations of the working group, which were based on pre-defined requirements of the General Directorate, should serve as a framework for the future management of the facility. Among other things, the Federal Ministry's guidelines stated that full employment should be assumed for all adolescents and that a meaningful structure of employment, treatment, care and leisure activities should be created for detainees throughout the day. It is expected, that inmates will be housed in shared accommodation as a matter of principle, with "downgrading" only taking place where absolutely necessary. From the very first day, an implementation plan should be drawn up for each adolescent, taking into account an educational history that has to be conducted as well.

In sub-groups, the experts dealt with the areas of „treatment and care“, „education and employment“, „daily structure and leisure“ and „transport“ (between the Münnichplatz correctional institution and the Regional Court for Criminal Matters in Vienna).

For example, one sub-group developed differentiated model day schedules for inmates housed in shared accommodation, (semi-)closed detention and detention on remand, which subsequently has to be adapted to the individual needs of each detainee. It also recommended involving the adolescents in the creation of these day schedules and departmental rules, discussing them in detail and having the agreements signed by the inmates and respective staff members.

Daily structure

When developing a training and employment programme, the different needs of the adolescents must be taken into account. The pedagogical service should make appropriate annual plans that also take into account alternative programmes during the holidays. A corresponding catalogue of possible internal and external leisure activities has been drawn up. The leisure activities should help to promote or compensate for the individual strengths and weaknesses of the adolescents.

The findings of the sub-groups indicate that facilities in the educational and leisure sector should be orientated towards the outside, provided this is possible for safety reasons. For example, more individual and group outings should take place. Whether visits to external training and employment programmes are possible should be investigated in detail.

**Externalisation
recommended**

The working groups praised the „pick-up visit“ practised by the Gerasdorf correctional institution years ago as best practice. Adolescents can be picked up from and returned to the correctional institution by adults who are close to them (and who have previously been classified as reliable and exemplary), provided they are suitable. This form of day release had to be discontinued in Gerasdorf, which the NPM noted with regret (see report on „Adolescents in Detention“ 2022, p. 23 – only available in German). A (re)introduction at the Münnichplatz location would be desirable.

The sub-groups repeatedly emphasised the importance of staff. Of course, sufficient staff from all professional groups must be available to provide optimal care and treatment for adolescents. However, the recruitment, deployment and further education of these staff are at least as important. They must act as role models.

NPM contributes to training on juvenile detention

As far as the mandatory training course for staff working in the detention of juveniles is concerned, this further education is now taking place on an ongoing basis. A training course in December 2024 also gave these staff members insight into the tasks of the AOB and the NPM.

Female adolescents suffer disadvantages

The members of the working group repeatedly emphasised that the Vienna-Josefstadt correctional institution would no longer have a school location once the male adolescents had been removed from there and that the young women detainees could then no longer be offered mixed-gender classes. However, the experts also agreed that placement of the girls in Münnichplatz correctional institution was not advisable due to their small numbers. The Federal Ministry of Justice promised that the young female inmates would be transferred to the Schwarzenau correctional institution and that solutions were already being sought on how the situation – especially in relation to schooling – could be improved.

The working group was critical of the fact that the transfer of adolescents from Gerasdorf correctional institution to Vienna-Josefstadt correctional institution had already begun in April 2024. The Gerasdorf correctional institution should be put to its new use as quickly as possible, i.e. the detention of young people with medium and long-term criminal convictions and a focus on their education.

Devastating conditions in Vienna-Josefstadt correctional institution

In September 2024, the conditions in the youth department of the Vienna-Josefstadt correctional institution were heavily criticised in the media. There were reports of catastrophic hygiene conditions – dirty walls and washbasins, vermin crawling out of the sockets, adolescents left to their own devices for hours during the day and not having enough to eat.

To this end, the Federal Ministry of Justice last informed the working group in November 2024 that the transfer of around 25 adolescents from Vienna-Josefstadt correctional institution to the new facility would begin in January 2025. Initially, i.e. until the remodelling of the building and its full operation

in autumn 2025, the new facility will run as a satellite facility of Vienna-Josefstadt correctional institution. From this point onwards, the new standards for the specialised institution for adolescents, which were developed from the recommendations of the working group, will also apply in full.

- ▶ ***The new specialised facility for adolescents is to be set up as quickly as possible.***
- ▶ ***Standards developed by the working group must be implemented in the specialised institution.***

2.5.2.1 Overcrowding burdens youth departments

The generally high occupancy rate in Austria's correctional institutions (see chapter 2.5.6.1) also has an impact on the conditions under which adolescents are detained.

The Linz correctional institution was heavily overcrowded in April 2024. There were 13 adolescents in detention, but the juvenile unit is only designed for eight people. Due to the high number of admissions, the large cells for multiple inmates in the juvenile section had to be vacated for adult detention in June 2024. The 14 to 18-year-olds were transferred to adult detention units.

Linz correctional institution

If detained adolescents are not placed in the juvenile ward with detention in shared accommodation, the inmate cells cannot usually be opened in the same way and no leisure activities can be organised. In addition, no socio-pedagogical measures can take place at weekends in these cases. At the time of the visit, two adolescents were being held in a two-person inmate cell on the adult ward.

The Federal Ministry of Justice confirmed that adolescents are also detained in other adult wards due to the strained occupancy situation in Linz correctional institution. However, the task force on occupancy management (see chapter 2.5.6.1) is already discussing measures to improve the situation at Linz correctional institution, which is particularly affected. The Federal Ministry of Justice hoped that this would ease the situation, which would also have an impact on the juvenile ward.

- ▶ ***The detention of juveniles is to be run as inmates housed in shared accommodation. This means that the inmate cells must be kept open all day on weekdays, weekends and public holidays.***
- ▶ ***Adolescents detained with adults shall be placed in such a way as to prevent any harmful influence or other disadvantage to the juvenile prisoner by adult prisoners. They must not be placed at a disadvantage compared to adolescents in the juvenile unit.***

2.5.2.2 Inadequate care in court prisons

Missing youth departments

The NPM has been pointing out for years that the care of adolescents in court prisons without a juvenile department is in need of improvement (most recently NPM Report 2023, p. 154 as well as the report on „Adolescents in Detention“ , p. 11 et seq. – only available in German).

Feldkirch correctional institution

One example of this is the Feldkirch correctional institution. Adolescents are regularly placed there, albeit always in very small numbers. There were four in 2023 and four in 2024 (until August). There is still no separate department for them. The care situation has not improved either.

In some cases, the adolescents don't receive the necessary support. They are locked up for up to 22 hours a day in their heavily overcrowded inmate cell. In addition, there is no separate care for adolescents and young adults by social pedagogical staff due to a lack of permanent positions. Overall, the living and accommodation conditions of the adolescents in the Feldkirch correctional institution must be criticised from a human rights perspective. Adequate measures must be taken soon, in particular a care concept that meets the applicable (minimum) standards must be developed and implemented in practice.

ELIS The Federal Ministry of Justice announced that the competent specialist division will discuss the conditions of detention for adolescent inmates. These discussions will focus on integration into companies, the provision of educational measures, the possible hiring of additional teachers and the initiation of recreational groups. As an initial measure, Feldkirch correctional institution has increasingly enabled adolescents to use library programmes offered by „ELIS“ (the eLearning tool in the penitentiary system) under supervision for around one to two hours a day since the beginning of 2024, so that they can receive educational input and IT-supported knowledge transfer.

Youth concept planned for spring 2025

In spring 2025, the competent specialist division of the Federal Ministry of Justice will draw up a youth concept with the head of the Feldkirch correctional institution and the specialised staff on site.

Adolescents told the commissions that an inmate in another ward had committed suicide. Even though the adolescents did not witness this directly, they were very concerned about the incident. The NPM recommends conducting interviews with the adolescents proactively in the future, as they are a particularly vulnerable group, and offering help if situations are experienced as particularly stressful.

► ***Even in correctional institutions that do not have a juvenile ward, adolescents must be cared for in accordance with the minimum standards for the detention of juveniles.***

- ▶ ***People who are deprived of their liberty should be offered meaningful activities; this applies in particular to adolescents. In addition to education and school or vocational training, sporting activities and sensible leisure pursuits should also be an important part of this programme.***
- ▶ ***It must be ensured that adolescents in detention are cared for by staff specially trained to meet their needs and requirements. All staff deployed in juvenile detention must complete the training course for the detention of juveniles.***
- ▶ ***Proactive talks should be conducted with adolescents – as a particularly vulnerable group – and offers of help should be made if a situation (e.g. a suicide in a correctional institution) is experienced as particularly stressful.***

2.5.2.3 Recommendations from child and adolescent psychiatry

Adolescent detainees are a particularly vulnerable group, and those suffering from mental disorders even more so. For this reason, Salzburg correctional institution agreed on an outpatient treatment and therapy option with the University Clinic for Child and Adolescent Psychiatry. However, when reviewing the documentation of one detainee, the commissions observed that a drug therapy recommended by the clinic had not been prescribed at the correctional institution – the reasons for this were not comprehensible.

Salzburg correctional institution disregards therapy proposal

The NPM urges that treatment recommended by specialists is also offered. If there are any doubts on the part of the medical staff, it would be advisable to contact the clinic to discuss the considerations with the experts in this specialised area.

The Federal Ministry of Justice announced that a specialist in child and adolescent psychiatry has now been recruited for the institution. A corresponding cooperation agreement has been concluded with the Salzburg Regional Clinics.

Cooperation with Salzburg Regional Clinics

- ▶ ***Detainees must receive professional medical care, which also includes an appropriate exchange with medical specialists.***
- ▶ ***Recommendations by medical specialists must always be followed.***

2.5.3 LGBTIQ+ persons in detention

The violation of people's human rights on the basis of their actual or presumed sexual orientation or gender identity remains a widespread phenomenon. Although lesbian, gay, bisexual, transgender, intersex and queer people share similar risks and concerns, each person has individual

needs. These groups of people are particularly at risk of being discriminated against, abused or subjected to degrading treatment.

Focus group An EU-wide project aims to provide a comprehensive overview of the situation of LGBTIQ+ people in detention. In November 2024, the NPM took part in a focus group organised by the Ludwig Boltzmann Institute of Fundamental and Human Rights, which aims at presenting the project and initial findings and identifying challenges and promising practices in order to draw up recommendations for strengthening the rights of this particular group.

NPM findings showed that there are currently no relevant laws, regulations or decrees in Austria that take into account the situation of or deal with the specific needs of LGBTIQ+ persons in detention. This topic is also not addressed in the training and further education of persons working in the penitentiary system.

Staff training and further education The Federal Ministry of Justice reported that from December 2024, the subject of „diversity and gender mainstream“ will be taught as part of the training of prison guards and prison officers to raise awareness of the special needs of this group of people. Staff from the executive service, the social service and the pedagogical service come in as lecturers. There is no prescribed qualification for this activity.

It seems important to address the vulnerability and the practical challenges of LGBTIQ+ persons more often in the training of staff of the penitentiary system and of forensic institutions. Further education and awareness measures for staff on international human rights standards in relation to sexual and gender identity should also be established (Yogyakarta Principles, Principle 9G). It seems sensible to initiate increased cooperation with NGOs in order to benefit from their expertise.

Pending results of a working group An initial starting point for special guidelines or directives for dealing with LGBTIQ+ persons could be the guidelines drawn up in 2015 by a working group in the Federal Ministry of Justice on the topic of „transsexuality in detention“. However, the results of this working group have not yet been published.

It is particularly important to address the respect of forms of address and pronouns, compliance with the „Standards of Care“, enabling the continuation of treatment that has been started in the event of transition and the special features of body searches for transgender persons. Internationally, it is recommended that LGBTIQ+ persons be involved – as far as possible – in decisions on the extent to which the place of detention meets their needs (Yogyakarta Principles, Principle 9C).

Recommendations of CPT on transgender persons As regards transgender persons, it is necessary to address the issue of appropriate placement (in women's or men's sections or even in specialised parts of correctional institutions) when drawing up guidelines or directives. The European Committee for the Prevention of Torture (CPT) is of the opinion

that these persons should in principle be placed in the section of a correctional institution that corresponds to the gender with which they identify.

The Penitentiary System Act (*Strafvollzugsgesetz*) states that strip searches must be carried out in the presence of two staff members who are of the same gender as the detainee. The law does not provide a special solution for persons of the third gender or transgender persons. The revised standards for the search of persons in the Austrian penitentiary system and in forensic institutions of October 2023 provide that the body searches of persons of the third gender and transgender persons should be based on external sexual characteristics. If the primary sexual characteristics do not correspond to the gender entered in the civil status registry, the person to be searched must be asked which external sexual characteristic is present or more pronounced. According to the CPT, strip searches of transgender persons should be carried out by a member of staff of the same gender as the person being searched.

If medical personnel were to carry out the search, they would not have to be of the same gender as the person to be searched. Although it is *de jure* possible to involve a doctor, there are limits in practice, as medical personnel are not always available.

The Federal Ministry of Justice announced that special guidelines (or so-called guidelines for action) for dealing with LGBTIQ⁺ persons in the Austrian penitentiary system and in forensic institutions will be developed this year with the involvement of prison practitioners and experts.

**New guidelines
are currently being
developed**

- ▶ ***Special guidelines and directives must be drawn up for dealing with LGBTIQ⁺ persons in penitentiary systems and in forensic institutions.***
- ▶ ***During their detention, LGBTIQ⁺ persons should be involved – as far as possible – in decisions on whether the place of detention takes the needs arising from their sexual orientation and gender identity into account in an adequate manner.***
- ▶ ***In the case of transgender persons, strip searches should be carried out by a member of staff of the same gender as the person being searched.***
- ▶ ***People who are seeking to make changes to their bodies as part of gender reassignment should be given access to competent, non-discriminatory treatment, care and support.***
- ▶ ***Ongoing human rights training on diversity and LGBTIQ⁺ persons should be established for all staff of facilities of the penitentiary system and of forensic institutions.***
- ▶ ***The needs of LGBTIQ⁺ persons in forensic institutions are to be addressed as part of the basic training of staff of facilities of the penitentiary system and of forensic institutions.***

2.5.4 Infrastructural fixtures and fittings

2.5.4.1 New construction required

Feldkirch correctional institution

The NPM conducted a follow-up visit to Feldkirch correctional institution in April 2024. Once again, numerous structural deficits – such as the long lock-up times, the limited work opportunities, the cramped prison conditions and the limited leisure and sports facilities – were observed, which are mainly due to the old building structure of the correctional institution.

Adaptation of the infirmary

On a positive note, the rooms of the infirmary have been adapted. On the 3rd floor there is now a waiting room, an office for the prison officers and three further rooms for the nursing, dental, general medical and psychiatric services. The doctors' rooms are furnished with modern equipment. The fact that there are now two separate examination rooms represents a significant step forward. Changes have also been made to the lock-up area. Specifically, a false ceiling was installed by closing the galleries of the wing with a load-bearing ceiling construction. This measure alone can only marginally improve the structural deficiencies, but cannot solve the basic problem.

The NPM has been calling for the realisation of the planned extension and modifications for years. A plot of land was dedicated for the new building many years ago and plans for this new building are available. Unfortunately, the construction measures for the Feldkirch correctional institution have been postponed time and again.

In 2022, the Federal Ministry of Justice announced that the Feldkirch correctional institution had been moved up the prioritisation list for renovation. However, the NPM recently learnt that a new building is currently not foreseeable from a budgetary perspective.

► ***The construction of new buildings or extensive adaptations of outdated building structures are required in order to implement a modern penitentiary system. Planned additions and modifications must be realised as soon as possible.***

2.5.4.2 Significant structural weaknesses

Few therapy rooms in the Göllersdorf correctional institution

On the occasion of its visit in May 2023, the NPM criticised the lack of adequate therapy rooms at the forensic therapeutic centre in Göllersdorf. Currently, detainees are sometimes kept in very small therapy rooms, which also ties up staff resources. There should be enough rooms on the wards so that external specialists care services can be offered there.

The Federal Ministry of Justice pointed out that there were several therapy rooms in one of the living areas. Rooms in the visitor zone are also used by employees of the forensic therapeutic centre, as well as by external therapists and chaplains. However, this did not invalidate the NPM's criticism.

Only an extension will provide a proper remedy. Construction work is scheduled to begin in 2026.

The commissions found that the acute room with its glass walls did not meet human rights standards. On the day of the visit, the emergency button, toilet flush and water dispenser button were not labelled, nor did the inmate cell have a cuboid bed. The detainee had to sleep on a mattress on a concrete base. It is true that the installation of a cuboid for sitting and lying down is not feasible due to the small size of the room and the risk of blocking both doors. The emergency button, toilet flush and water dispenser button were later colour-coded and labelled accordingly.

- ▶ ***A treatment-orientated detention of inmates in forensic institutions requires sufficient therapy rooms.***

2.5.4.3 Child-friendly equipment in visiting areas

Schwarzau correctional institution is a facility for women who often receive visits from their children. The visiting rooms of this particular correctional institution should thus be equipped in a family-friendly manner. The correctional institution had already taken up the NPM's recommendation in the previous year. It redesigned the play corner to make it more family-friendly and provided additional children's toys (NPM Report 2023, p. 133). During a follow-up visit in October 2023, the correctional institution implemented further recommendations made by the NPM. A children's table was purchased in addition to children's chairs and a changing table was provided.

**Schwarzau
correctional
institution**

- ▶ ***Visits with children should take place in a child-friendly and pleasant atmosphere.***
- ▶ ***The visiting rooms of a correctional institution for women, where children often visit, should be family-friendly.***

2.5.4.4 Major source of danger with bunk beds

The NPM has already pointed out several times that it is urgently necessary to provide bunk beds with a climbing aid and fall protection (see NPM Report 2018, p. 181). Despite the Federal Ministry's promise to equip all beds accordingly, bunk beds without appropriate safety devices can still be found in Austrian correctional institutions – as was the case in the Salzburg correctional institution in spring 2024. Due to the high number of inmates, additional beds have to be provided in many inmate cells (for more details, see chapter 2.5.6.1). It seems that the necessary climbing aids and fall protection systems are forgotten. Without these, several serious accidents have already occurred in Austrian correctional institutions. The Federal

**Salzburg correctional
institution promised
retrofitting for years**

Government has a duty of care and protection for persons entrusted to it in places of deprivation of liberty. The safety devices have now been installed in the Salzburg correctional institution.

- ▶ ***All bunk beds must be equipped with a climbing aid and fall protection.***

2.5.4.5 Lack of barrier-free accessibility in sanitary facilities

Linz correctional institution

The NPM visited the Linz correctional institution in April 2024 and observed that the wheelchair-accessible inmate cell for men does not have a shower. Access to the communal shower is not barrier-free and the shower cubicles are not wheelchair accessible. A mobile ramp to overcome the barrier (edge) is not available according to the NPM's observation. The communal shower room does not have an emergency call button.

Barrier-free shower required

The NPM recommended that a barrier-free and wheelchair-accessible shower facility should be furnished and an emergency call button installed so that detainees can call for help quickly if necessary. The Federal Ministry of Justice stated that preparations are currently being made to adapt the departmental bathroom to provide an accessible shower area using a ramp. It is also investigating whether a mobile emergency button can be technically implemented. The projects would be realised as soon as the financial resources were available.

- ▶ ***The facilities of the penitentiary system and forensic institutions should be accessible to persons with disabilities without particular difficulties and, in principle, without the help from others.***
- ▶ ***A sufficient number of accessible inmate cells and wheelchair-accessible shower facilities must be provided.***
- ▶ ***All relevant regulations and directives must be taken into account when adapting an inmate cell to make it accessible.***
- ▶ ***An emergency call button must be installed in the communal bathrooms and showers so that detainees can call for help quickly if necessary.***

2.5.5 Living and placement conditions

2.5.5.1 Overcrowding in correctional institutions

Massive load

Overcrowding is a serious structural problem in facilities of the penitentiary system and in forensic institutions in Austria (see NPM Report 2023, p. 127 et seq.). Hardly any facility is not overcrowded. The Federal Ministry of Justice cites various factors as the reason for the increase in the number of inmates, such as the increase in the general population, the backlogs that

still exist due to the pandemic-related postponement of prison admissions, developments in the area of independent court rulings, reductions in the number of inmates due to necessary construction measures and urgently needed reorganisation measures regarding detention in forensic institutions.

Overcrowding and its consequences must be categorised as problematic from a social, psychological and, in particular, violence prevention perspective (for more details, see chapter 2.5.2). Overcrowding in correctional institutions can in itself be inhumane or degrading from a psychological point of view.

In April 2024, the Linz correctional institution was occupied by almost 260 people, although the maximum number in the correctional institution (without electronically monitored house arrest, etc.) should be 206. The total number of people in the facility was over 380. The men's sections were 129 % full.

Linz correctional institution

The commissions also found 245 people in Salzburg correctional institution during a visit in spring 2024, which corresponds to an occupancy rate of 115 %. The high occupancy rate means that additional beds are needed – single cells are equipped with bunk beds. It further leads to considerable problems in the correctional institution, as it becomes difficult to ensure the separation of accomplices. The requirement to separate inmates in detention on remand from those in criminal detention can hardly be met.

Salzburg correctional institution

In June 2024, the Wels correctional institution was occupied by 182 detainees, although the maximum capacity is 156. Additional beds were set up in 13 inmate cells. In the event of a further increase in the number of detainees, the plan was to use general rooms (e.g. recreation rooms or fitness rooms) for the placement of detainees. This emergency plan did not have to be implemented due to a slight easing of the situation.

Wels correctional institution

The NPM once again called for prompt short and long-term measures to prevent overcrowding in correctional institutions nationwide. An expansion of electronically monitored house arrest by means of ankle bracelets, as has been planned for years, would relieve the overcrowding to some extent. The Federal Ministry of Justice states that it is currently unable to provide a concrete time horizon for when these plans will be implemented.

In order to be able to react quickly and flexibly to emerging developments in the placement of detainees and to achieve the best possible utilisation of existing capacities, the administration of the judiciary established an „Occupancy Management“ task force in July 2024.

Occupancy Management task force

The task force ensures a regionally coordinated approach to transfer detainees to other facilities of the penitentiary system. The new unit acts as an advisory body to the General Directorate at the Federal Ministry of Justice. In particular, the aim is to optimise the occupancy rates of satellite facilities and facilities which accommodate day release prisoners.

Transfer to other facility coordinated with correctional institutions

At present, the task force's remit only covers transfers of detainees that are ordered *ex officio*. In addition, some areas, such as security transfers or detention in forensic institutions, are excluded from the remit.

- ▶ ***Short and long-term measures must be taken to combat overcrowding in correctional institutions.***
- ▶ ***Care must be taken to ensure that detainees are given sufficient individual living space in the inmate cells.***

2.5.5.2 Purchase of consumer goods

Destitute detainees need support

During the visits, the NPM repeatedly encounters people who are destitute when they are imprisoned and suffer because, for example, they are unable to make phone calls to their relatives or are addicted to nicotine. The first few days in the correctional institution are particularly challenging. If there is no possibility of obtaining cigarettes during this time (e.g. until relatives transfer money), the situation worsens. During a visit to Salzburg correctional institution, some detainees also asked for support in this regard.

Detainees with mental illnesses or detainees in an exceptional mental state are a particularly vulnerable group. Being destitute makes them susceptible to getting into debt with other inmates and to blackmail, which often leads to incidents of violence (for more information, see chapter 2.5.2).

To date, the NPM has been able to observe that – in accordance with Section 34 (2) Penitentiary System Act (*Strafvollzugsgesetz*) – detainees are given the opportunity to purchase an appropriate amount of basic goods (using their own money) as soon as they are admitted and when they are transferred. In the absence of sufficient funds, detainees can apply for an advance payment. In such a case, the economic department evaluates the financial need with the help of the prisoner money clearing office. Those affected are informed of this possibility. In addition, all detainees receive an admission package, which contains toiletries and hygiene products (such as soap, shower gel, toothbrush and toothpaste, etc.). These are replaced free of charge after use and in the event of continued destitution.

Different approach

The NPM's findings revealed that the prisons also use various approaches to deal with destitute inmates. In the Wels correctional institution, for example, it is possible to purchase cigarettes from the prisoner support association and refund the money at a later date. Alternatively, the Linz correctional institution issues „social tobacco“. In the Salzburg correctional institution, there are so-called „listener packages“ for specially trained detainees who take up a more active role in supporting fellow inmates, e.g. if they are suicidal. In addition, the prisoners' welfare association of the Salzburg correctional institution and the management of the facility regularly provide tobacco products free of charge.

There has not yet been a standardised solution. The NPM has now proposed offering all detainees an extra package of cigarettes or sweets in addition to the normal admission package. The cost of these could then be deducted from the detainees' own funds when they first receive them.

**Austria-wide
solution required**

The Federal Ministry of Justice stated that it did not see any need for change to date, as the basic needs are covered by the provision of services by the correctional institutions and the admission package. However, it promised the NPM that it would reiterate the possibility of an advance payment at the economic department directors' meeting to be held in December 2024. The NPM's proposal for a (fee-based) additional package will be discussed.

- ▶ ***It must be ensured that detainees have the opportunity to satisfy their needs (for tobacco or similar) right after their admission.***
- ▶ ***A standardised solution must be created for the initial purchase of consumer goods.***

2.5.5.3 Minimum standards for women in the penitentiary system

During a visit to the Schwarza correctional institution, the NPM found that the placement of approx. one third of the inmates in the women only correctional institution does not meet the „minimum standards for women in the Austrian penitentiary systems“, as they are not placed in shared accommodation. The inmate cells are only opened (in addition to being outside) for 90 to a maximum of 150 minutes in the late afternoon or evening (for so-called „free time“).

**Schwarza
correctional
institution**

The minimum standards stipulate that female detainees must always be detained in shared accommodation, i.e. without locking the common rooms or gates during the day. This type of detention encourages them to assume social responsibility and thus promotes their reintegration into society after release. In the residential groups, the aim is to teach and practise norms and values that enable people to live together in harmony, non-violent conflict resolution strategies, mutual tolerance and responsibility.

The minimum standards should have been implemented since December 2016. It is incomprehensible that these standards regarding the establishment of a detention in the form of a shared accommodation in the Schwarza correctional institution have not been fully realised.

**Minimum standards
for women in prison**

The Federal Ministry of Justice confirmed that the prison conditions in the department on the first floor do not meet the minimum requirements. The women in this unit are not suitable for detention in the form of shared accommodation, as their behaviour poses a threat to security and order in the correctional institution.

The NPM took note of this implementation and will continue to pay attention to this group of persons during future visits to the Schwarzaau correctional institution. Ultimately, efforts must be made to ensure that detention in closed detention only takes place in exceptional cases.

Linz correctional institution

The NPM once again had to criticise the cell opening hours of the women's section in the Linz correctional institution (see NPM Report 2023, p. 130). There has been no improvement since the previous year.

- ***The minimum standards for women in prison provide for detention in the form of shared accommodation. Closed forms of detention may only take place in justified individual cases.***

2.5.6 Contact to the outside world

2.5.6.1 Possibility for inmates to make phone calls

Maintaining social ties

Prisoners should not lose their contacts with the outside world if it is to be expected that these will promote their later progress. They should be enabled to maintain contact with their close family. If necessary, they should be supported in doing so. It must be ensured that detainees are able to contact the outside world by telephone at favourable rates. As early as 2018, the NPM recommended amending the outdated statutory provision on telephone calls, according to which phone calls should only be granted for reasons worthy of consideration (NPM Report 2018, p. 136 et seq.). In addition, measures are to be implemented in the detention rooms so that inmates can make phone calls from their cells.

Linz correctional institution

A visit to the Linz correctional institution in April 2024 showed once again (as was already the case during the preliminary visits in July 2021 and January 2023) that the time for phone calls is limited to ten minutes per detainee. The NPM adheres to the recommendation that the telephone time of all detainees should be extended. The NPM sees it as positive that inmate telephony is to be implemented in the inmate cells as part of the refurbishment of the Linz correctional institution.

A project is currently underway at the Suben correctional institution in which a „PrisonMedia-System“ is being trialled. As a first step, the system offers the following services: Intranet with information on everyday prison life, education and training, work and occupation, digital recording and tracking of forms and applications, ELIS in the inmate cell, account information, inmate calendar, alarm clock, calculator and mini-games. Further services are to be activated at the beginning of 2025. Depending on the results of this test phase, the aim is also to implement this system in the Linz correctional institution.

Salzburg correctional institution

The NPM is repeatedly confronted with complaints about the high cost of telephone calls. This was also the case during a visit to the Salzburg correctional institution in spring 2024, when detainees said that calls abroad

were particularly cost-intensive (e.g. to Syria or Lithuania). The individual tariffs of the zones are not comprehensible. For example, calls to Germany or the USA would be cheaper than calls to the Austrian mobile network of A1.

Telephone contact with the outside world is a form of maintaining social ties that should not depend on the financial means of detainees. In view of the prison population, which has a high proportion of foreign nationals, contact by phone must be of particular relevance. The problem is mitigated by (free) video telephony, which has been popular in correctional institutions since the COVID-19 pandemic. Nevertheless, the NPM criticises the high costs of international calls via the correctional institutions' telephone systems.

The Federal Ministry of Justice explained that the existing system was introduced in 2015 and was programmed for a customer base of only a few thousand participants. The requirements of the Penitentiary System Act (*Strafvollzugsgesetz*) had to be met, which is why the system cannot simply be compared to the „conventional“ landline telephony. It must be possible to listen to and/or record interviews. All of this requires an interface to the Integrated Prison Administration (the correctional institution's IT system for managing the prison population, both in regular detention and detention on remand). In addition, the administrative effort for the prison facilities must be reduced as much as possible and at the same time detainees must be given the opportunity to make calls as independently as possible using the telephone numbers that have been activated for them. The contract is concluded between the detainee and the company PKE. The Federal Ministry of Justice has no influence on the pricing.

The NPM has already stated in the past that the Federal Government should bear the additional costs arising from the additional work involved, e.g. for call monitoring and the activation of telephone numbers – i.e. from the fulfilment of sovereign tasks. These costs should not be passed on to detainees (see most recently AOB Annual Report 2021, p. 144). The NPM called on the Federal Ministry of Justice to regularly evaluate the tariffs for phone calls and to deduct the costs resulting from monitoring these calls.

Detainees pay for the monitoring of their calls

Several detainees at the Salzburg correctional institution stated that they only ever had the opportunity to make phone calls when they were outside. They often had to queue there. The yard walk takes place at the same time every day. Potential contacts who are not available at this time, e.g. because they are at work or school, can only be contacted at the weekend. Often the lawyer cannot be reached at this time either. Although there are telephones in the department, the staff would hardly allow phone calls there.

Salzburg correctional institution

Spending time outdoors helps to maintain physical and mental health. Detainees should be encouraged to engage in healthy outdoor exercise. If the possibility of making phone calls is limited to telephone systems in the yard and the time spent outside has to be spent queuing at the telephone

Courtyard walk for exercise

systems, the purpose of the yard walk is – in the opinion of the NPM – defeated.

The Federal Ministry of Justice conceded that detainees are referred to using the telephones in the yard and are only rarely allowed to use the telephone system in the wards. It explained that using the telephone in the ward ties up staff. Two staff would be needed to open the inmate cell. It was therefore not possible to make regular phone calls in the ward due to the tight staffing situation.

- ▶ ***Contact with the outside world should be encouraged as a form of social bonding.***
- ▶ ***It must be ensured that detainees are able to contact the outside world by telephone at favourable rates.***
- ▶ ***The costs arising from the fulfilment of sovereign tasks (e.g. call monitoring) may not be transferred to detainees.***
- ▶ ***Inmate telephony is to be implemented in the detention rooms so that telephone calls can be made from the inmate cell.***

2.5.6.2 No possibility for long-term visits

A long-term visit is a special form of visiting rights and an important element in maintaining an external relationship. Provided there are no (security) concerns and „suitable rooms“ are available in the prison, there is a right to long-term visits. However, there is no entitlement to the creation of such rooms.

**Graz-Jakomini
correctional
institution: no offer
on site**

During a visit to the Graz-Jakomini correctional institution in autumn 2023, the NPM observed that there is no possibility to apply for a long-term visit in the visiting regulations. The correctional institution justified this by stating that it was dependent on approval from the Graz-Karlau correctional institution because there is no space for such a visit in the regional court prison itself. The correctional institution submitted a building application for long-term visiting facilities back in 2020, but the Federal Ministry of Justice rejected it, referring to the cooperation with the Graz-Karlau correctional institution. However, due to the occupancy situation of the Graz-Karlau correctional institution, it is no longer possible for inmates from the Graz-Jakomini correctional institution to use the facility.

**Cooperation
with Graz-Karlau
correctional
institution**

The NPM therefore urged that a solution be developed so that detainees from the Graz-Jakomini correctional institution also have the opportunity to receive a long-term visit. In June 2024, the NPM learnt that the Graz-Jakomini correctional institution would now be able to use the long-term

visit room at the Graz-Karlau correctional institution one day a week. This innovation had been included in the visitor information.

During a visit to the Linz correctional institution, the NPM also revealed that there are currently no long-term visit rooms available at the facility. Long-term visits can generally be carried out twice a month in the Wels correctional institution. The NPM recommended setting up a room for long-term visits in the Linz correctional institution. The Federal Ministry of Justice states that the creation of corresponding rooms in the Linz correctional institution is planned in the course of the refurbishment work.

Linz correctional institution

- ▶ ***Sufficient space must be made available for long-term visits.***
- ▶ ***If no suitable premises are available in the correctional institution, the visit can take place in another correctional institution. However, this must not be at the expense of the detainees there.***

2.5.7 Right to family and privacy

2.5.7.1 Offence in the case of personal searches with physical exposure

Several inmates of the Salzburg correctional institution told the NPM in March 2024 that they had to strip completely naked during a personal search.

Salzburg correctional institution

Since October 2023, new standards have been in place for the search of persons in facilities of the penitentiary system and forensic institutions. These stipulate that strip searches must be carried out in stages in accordance with the „two-phase principle“, meaning that the person to be searched does not have to be completely undressed at any time. This amendment implements a long-standing recommendation of the NPM (see most recently NPM Report 2023, p. 135).

The standards are to be covered in training and further education programmes and used in everyday prison life. Officers have now been reminded of the „two-phase principle“ again in staff meetings. In addition, the Federal Ministry of Justice has promised to hold briefings with the officers involved before targeted campaigns (e.g. raids) to explain the correct procedure.

- ▶ ***Strip searches shall only be carried out by specially trained staff of the detainee's gender.***
- ▶ ***The strip search must always be carried out in two steps so that the person to be searched does not have to undress completely.***

2.5.7.2 Body searches of children

**Schwarzau
correctional
institution**

During a visit in October 2023, the NPM learned that illegal substances had been smuggled into the Schwarzau correctional institution via children who were detained with their mothers. Children therefore had to be re-dressed or have their nappies changed after each day release in the presence of a prison guard. Some of the children concerned had internalised this procedure to such an extent that they would undress automatically on arrival at the correctional institution.

**Body searches of
children after each
day release**

The NPM understands the need for searches for safety reasons. However, it seems excessive to require children to undress after every day release (without suspicion). It is therefore recommended that this procedure only be carried out on a random basis or in cases of suspicion.

Recognising the particular vulnerability of children, the Federal Ministry of Justice agreed to comply with the recommendation. The courses of action in the Schwarzau correctional institution will be changed so that the body searches of children will only take place on a random basis and in cases of suspicion.

► ***Due to the particular vulnerability of (young) children, body searches should only be carried out on a random basis or in cases of suspicion.***

2.5.7.3 Accompanied day release for mothers and their children

**Schwarzau
correctional
institution**

The prison guards wear uniforms and not civilian clothes for accompanied day releases of mothers and their children (e.g. taking them to the paediatrician, buying shoes for the children). Following a visit to the Schwarzau correctional institution in autumn 2024, the NPM made the recommendation that such accompanied day releases should be conducted in civilian clothes in order to avoid stigmatising the mother and child.

Following a new investigation into whether detainees can be accompanied in civilian clothes, the Schwarzau correctional institution decided that mothers who are already permitted to relax their prison sentence (day releases) will be accompanied to their child's medical appointments by prison guards in civilian clothes. In other cases, they will continue to be accompanied by uniformed officers.

► ***Accompanied day releases of mothers and their children should take place in civilian clothes to avoid stigmatising the mother and child.***

2.5.7.4 Access calls via the food hatch

Especially at the beginning of detention, inmates need to be cared for extensively. Interviews with the social service ensure that relatives or employers are informed and that payments for rent or loans continue to be made.

In spring 2024, detainees at Salzburg correctional institution stated that the social service's access calls were sometimes conducted through the food hatch. Confidential interviews are therefore not possible. Co-prisoners can obtain information about personal circumstances. Furthermore, it is not possible to build a relationship between staff and detainees in this way.

Salzburg correctional institution

The Penitentiary System Act (*Strafvollzugsgesetz*) guarantees inmates social care. This must, of course, take place confidentially. Even if a brief clarification of urgent questions at the door of the detention room seems easier due to a tense staff situation, this should be avoided. The Federal Ministry of Justice reacted immediately to the NPM's shortcomings and announced that access interviews will now be held in the meeting rooms of the respective department.

Confidentiality required

- ***Confidentiality must be guaranteed during interviews with the social service.***
- ***Confidential interviews should be conducted in meeting rooms, as this favours the development of a working relationship and has an impact on the quality of care.***

2.5.8 Education and occupational activities

2.5.8.1 Remuneration for handicraft work

In March 2024, the NPM determined that there are currently no employment opportunities (in a regular workplace) for cognitively impaired and mentally ill inmates in the Sonnberg correctional institution. Instead, there are „therapy jobs“ (as part of the so-called „handicraft group“), for which the inmates are not paid.

Sonnberg correctional institution: no remuneration

The NPM recommended investigating the extent to which this situation could be remedied by employing staff from the socio-pedagogical or occupational therapy sector. In principle, every prisoner (also in the sense of UN CRPD Art. 5, Art. 27) should be able to do useful work or engage in a meaningful activity.

The institution has 1.00 equivalent of a full-time employee in the field of pedagogy, which is currently filled. According to the Federal Ministry of Justice, the application to obtain 1.00 equivalent of a full-time employee in the field of occupational therapy will be considered for 2025. As soon as an occupational therapist is available, it is planned to set up the „arts and crafts group“ – which is currently run as a leisure activity on a voluntary basis and

Art business to be set up

not as an operation – as an arts and crafts operation. This will establish a therapeutic occupation that is also to be remunerated in accordance with Section 48 (3) Penitentiary System Act (*Strafvollzugsgesetz*).

- ***Efforts must be made to ensure that cognitively impaired and mentally ill inmates can also perform useful work or engage in meaningful activities.***

2.5.8.2 Limited employment opportunities for women

Salzburg correctional institution

During a visit to the Salzburg correctional institution in spring 2024, the NPM observed discrimination against female inmates in terms of employment. The workplaces are not open to them; they are usually only allowed to perform cleaning services.

Joint work by women and men

Female inmates should have access to meaningful activities and various employment opportunities on an equal footing with male inmates (see European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (2002) 1 – Rev. 2010, p. 92). They should not be restricted to cleaning activities. In order to meet the minimum standards for the women penitentiary system, women and men must be equally integrated into the labour market. The NPM therefore recommends a greater mix of female and male detainees in the labour market. The Federal Ministry of Justice announced that the kitchen and waste disposal operations are now also open to women.

- ***The range of work opportunities for female detainees must be expanded. They must not be put at a disadvantage compared to male inmates.***
- ***A mix of male and female inmates should be aimed for in the workplaces.***

2.5.9 Access to information

2.5.9.1 Information about TV set

Salzburg correctional institution

In the Salzburg correctional institution, detainees learn about the prison's procedures through information provided on the television in the inmate cell, among other things. Some inmates complained that they could not follow this because the sequence was too fast.

Lack of knowledge about processes is unsettling

Information about the applicable rules and procedures helps to avoid misunderstandings and thus contributes to safety and order. A lack of information is stressful and unsettling, especially in a situation where people are very isolated from the outside world. Detainees must be given comprehensive information about their rights and obligations and the procedures in the prison upon admission and as often as necessary thereafter (see also the European Prison Rules, Principle 30.1.).

Even if the house rules are accessible via the screens, it must be ensured that people who have difficulty understanding this information due to various limitations understand it. Additional, detailed interviews are therefore required.

The Federal Ministry of Justice announced that the televisions in the inmate cells would be reconfigured on an ongoing basis. This should make it possible to solve the problem with the (excessively) fast scrolling of the house rules on the information channel.

- ***It must be ensured that detainees are informed about their rights and obligations.***
- ***Access to information about the procedures in an institution must also be guaranteed for detainees who speak a foreign language.***

2.5.10 Measures which restrict freedom

2.5.10.1 Specially secured cells

As set out in last year's report, specially secured cells in new buildings and general refurbishments are to be constructed in accordance with the new minimum standards (as far as possible). Adjustments are to be made to existing inmate cells, provided the financial resources are available and the spatial conditions permit it (NPM Report 2023, p. 129 et seq.).

The Garsten forensic therapeutic centre has three specially secured cells. Two of these rooms have since been remodelled and were inspected during a visit by the commissions in November 2023. The NPM made a recommendation to equip the specially secured cells with a clock with a date display. This recommendation has since been complied with. It is regrettable that no TV was installed in the course of the conversion. According to the Federal Ministry of Justice, this was not possible due to the old brickwork. The specially secured cell, which has not yet been remodelled, is still regularly occupied. The NPM recommends ensuring that the remodelling work is carried out as soon as possible. The Federal Ministry of Justice pointed out that a large part of the remodelling work was done in-house. This not only saves costs, but also keeps detainees occupied in a meaningful way. Even though it may take a little longer to complete the work.

**Garsten forensic
therapeutic centre**

During a visit to the Sonnberg correctional institution in March 2024, the commissions also inspected the specially secured cells. It observed that the cells are barred with crossbars.

**Sonnberg
correctional
institution**

The NPM has already pointed out in the past that there is a risk of strangulation if the partition (or „separating grids“) between the specially secured cell has cross struts (see NPM Report 2023, p. 139). These can be used for suicide (attempts) by hanging. A case in the Stein correctional

**Adaptations
promised**

institution in 2023, where an inmate strangled himself, once again demonstrated the urgent need to cover the separating grids. Specially secured cells must be designed in such a way that the potential for self-harm is minimised. The Sonnberg correctional institution agreed to work with the security officer to develop a solution with shatterproof Perspex in the near future.

Göllersdorf forensic therapeutic centre

The NPM also criticised the specially secured cells in the Göllersdorf forensic therapeutic centre. The bars with cross struts in front of the windows and in front of the detention room doors harbour an acute risk of injury. There is also sharp-edged stainless steel panelling on a washbasin. The forensic therapeutic centre agreed to make improvements: It ordered Perspex panelling and cladding the sanitary facilities so that they are injury-proof.

Feldkirch correctional institution

The specially secured cells at the Feldkirch correctional institution, which were inspected by the NPM in April 2024, also show signs of danger: The screws in the window frames are protruding. The showers in both specially secured cells have a plinth. In addition, there is no visible clock with a date display.

The Federal Ministry of Justice stated that the screws had been replaced immediately after the inspection, so that there are now no protruding ends. Both radios and clocks with a date display were purchased for the specially secured cells. Regrettably, the slightly higher base in the toilet area is unavoidable, as a flush-mounted design is not feasible due to the existing floor structure.

- ▶ ***When furnishing the specially secured cells, attention must be paid to preventing self-harm or suicide attempts.***
- ▶ ***Specially secured cells should be equipped with a drinking water tap and a radio and/or television.***
- ▶ ***Detainees who are placed in a specially secured cell should always be able to keep track of the time. A clock with a day display should therefore be visibly displayed.***

2.5.10.2 No register for measures which restrict freedom

Regional hospital Hall

During its visit to ward A6 in the Hall regional hospital (forensic psychiatry) in January 2024, the NPM came across a case in which there were gaps in the documentation of a measure, which restricted freedom.

Hall Regional Hospital records measures, which restrict freedom, in two places in the hospital's internal database system. In the case in question, an isolation measure was cancelled and entered in writing in one place in the database. However, a note is missing in the second documentation.

The Hall regional hospital regretted the mistake, which was due to the high workload of the day shift, and assured that it was aware of its duty to exercise the utmost care when carrying out and documenting measures, which restrict freedom.

The maintenance of a centralised restraint register, which records all measures which restrict freedom per ward, is a recommendation made several times by the NPM (2013, 2014, 2017, 2018), which is based on repeated requests made by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT). The NPM pointed out the advantage of a separate (special) register, not only to have a detailed and accurate record of measures, which restrict freedom, but also to gain an overview of how often they are applied. This makes it possible to record the number of coercive measures used, their duration, the reasons for their use, the circumstances of the case, the name of the doctor who ordered them and any injuries suffered by the patient or members of the nursing staff.

The Hall regional hospital has not yet followed this recommendation and therefore no separate register is kept on ward A6.

No centralised register

- ***A centralised register of all measures, which restrict freedom, must be kept – in addition to the entries in the medical records.***

2.5.11 Health care

2.5.11.1 Medical clarification of incidents of violence

No medical specialists were called in to clarify the situation at the Garsten forensic therapeutic centre following an incident of violence. However, international standards, such as the Istanbul Protocol, stipulate that a medical assessment must be carried out quickly after an incident of violence. If the Medical Service is unstaffed at the time of the incident, an emergency doctor must be contacted. An assessment by a carer alone is not sufficient.

Garsten forensic therapeutic centre

On the occasion of the case reported by the NPM, the AOB discussed the problem in detail with the Federal Ministry of Justice. It was agreed that a corresponding medical clarification will be carried out in every case in the future.

- ***A medical assessment must be carried out quickly after an incident of violence. If the Medical Service is unstaffed at the time of the incident, the emergency doctor must be contacted.***

2.5.11.2 Psychiatric care

Linz correctional institution

A visit to the Linz correctional institution in April 2024 showed that a psychiatrist is still only available once a week for all inmates (approx. 260 on the day of the visit).

Persons suffering from mental illnesses and substance use disorders should undergo a health examination upon arrival and be presented to special psychiatric services as soon as possible. Appropriate medical psychiatric care also includes prompt assistance at doctor's appointments if detainees request it. A long waiting time does not fulfil the requirement to maintain the physical and mental health of prisoners.

The Federal Ministry of Justice took note of the recommendation with approval, although practical implementation was not possible due to a lack of specialised staff. However, there is good cooperation with the Kepler University Clinic – Neuromed Campus, Clinic for Psychiatry with a forensic focus.

Garsten forensic therapeutic centre

The restructuring into a forensic therapeutic centre has made Garsten the largest facility in Austria for people with serious and long-term mental illnesses (inmates under Section 21 (2) Austrian Criminal Code). The majority of these people require intensive psychiatric care and treatment.

The State must ensure that the quality and quantity of healthcare is sufficient. An adequately staffed and well-functioning psychiatric service is essential, especially in a forensic therapeutic centre. If the facility itself is unable to provide an adequate level of medical psychiatric care for all detainees, cooperation and networking with external healthcare providers, including medical facilities, must be guaranteed.

Staff shortages in psychiatric service

The Garsten forensic therapeutic centre has a capacity of around 270 people. In May 2024, the Federal Ministry of Justice announced that only 13 hours per week of psychiatric care were covered. 2.03 full-time employment equivalents are planned, of which only 0.26 were filled in September 2024.

Possible solution: training centre

The Federal Ministry of Justice is seeking approval for a training centre for the Garsten forensic therapeutic centre. In this way, new medical specialists are made aware of the enforcement and professionally linked to it. The Federal Ministry of Justice is conducting negotiations with the Provincial Directorate of Health, but these are expected to take some time.

Inmates who suffer from a severe mental illness and are not able to understand why they are taking medication, present a particular challenge. They usually require complex psychiatric treatment to stabilise their state of health, which is only possible in a medical psychiatric setting such as a psychiatric ward or forensic facility.

In principle, public medical facilities are legally obliged to admit and treat (mentally) ill detainees. As „officially admitted“ patients, detainees in a correctional institution or forensic therapeutic centre belong to the group of so-called „non-refusable persons“.

It is difficult to transfer patients to a psychiatric ward because of the general structural bottlenecks in psychiatric care in Upper Austria. Due to overcrowding, the psychiatric clinics in Linz no longer accept patients from the forensic therapeutic centre in Garsten. If necessary, psychiatric care is provided at the Pyhrn-Eisenwurzen hospital in Steyr. However, the hospital is not structurally suitable for this.

Cooperation with the Pyhrn-Eisenwurzen hospital

The NPM gained the impression that numerous placements in a specially secured cell are due to the lack of psychiatric care for the detainees in the Garsten forensic therapeutic centre. Isolation measures are ordered due to a lack of alternatives.

Isolation measures due to lack of alternatives

The Federal Ministry of Justice agreed with the NPM that liaising with external treatment and care facilities is of great importance. Networking with external psychiatric hospitals is also a priority for the prison administration, which is why specialised staff from the hospital have recently been invited to further education courses on forensic issues within the justice system.

The Federal Ministry of Justice also stated that acute psychiatric care at the Pyhrn-Eisenwurzen Hospital would soon be improved with security measures so that patients undergoing measures could also be better guarded. The conversion of a regular hospital room into a separate room for „inmates in need of acute psychiatric care“ is currently being planned.

On a positive note, since the beginning of the transformation of the Garsten correctional institution into a forensic therapeutic centre, training courses in the specialist area of forensic therapy have been held in the infirmary, as well as for prison guard staff, in order to prepare all staff for the changing circumstances. These training courses are actively offered on an ongoing basis and repeated at regular intervals.

Good practice

- ▶ ***Medical psychiatric care must be ensured for all detainees to an appropriate extent.***
- ▶ ***A long wait for treatment does not fulfil the requirement to maintain the physical and mental health of prisoners.***
- ▶ ***Detainees and prisoners who have an urgent indication for psychiatric inpatient treatment should not be held in specially secured cells for longer periods or on a recurring basis due to the chronic shortage of beds in psychiatric wards.***
- ▶ ***If the facility itself cannot guarantee medical psychiatric care, it must be ensured that public psychiatric hospitals fulfil their legal obligation, and admit and treat (mentally) ill detainees.***

2.5.12 Personnel

2.5.12.1 Staff shortages in the penitentiary system and in forensic institutions

The nationwide shortage of staff in both executive and non-executive services was once again one of the most pressing issues in the prevention of inhuman and degrading treatment of prisoners this year. If there is a lack of staff, all services and activities in a correctional institution are adversely affected. The lock-up times of prisoners increase, businesses that employ prisoners have to close more often and leisure activities cannot be organised. Deficits in medical, psychological and social care are inevitable if the special services are understaffed.

Overworked staff If a correctional institution has too few staff and has to care for more detainees than originally planned due to overcrowding, this further exacerbates the detrimental effects on all areas of life in the correctional institution (see chapter 2.5.6.1). The overall quality of life in the facility is significantly worsened and staff are confronted with massive overload. Staff are worried about suffering burnouts.

In order to address the nationwide problem of staff shortages, the Federal Ministry of Justice set up the Human Resources Working Group „Making work in facilities of the penitentiary system and in forensic institutions more attractive – improving the staffing situation in prison guards and other professional groups“ and the „Duty roster optimisation“ project. The latter project aims to optimise the use of resources in the areas of „executive“ (including guardrooms and departments) and „employment“ in the correctional facilities.

Use of resources In the first phase of the „executive“ area, a group of experts reviewed and analysed the organisational and administrative structures of all correctional facilities and reflected on them based on the recommendations to the correctional facilities. The prisons were then called upon to implement the recommendations in their operations. The subsequent evaluation phase aims at showing the effects achieved. A further round of reflection with the prisons will follow. The aim is to complete this part of the project by around mid-2025. The second area to be optimised is the employment of people in detention. The project structure corresponds to that of the „executive“ area. The „employment“ part of the project is expected to be completed by around the end of 2025.

Salzburg correctional institution During a visit in March 2024, the staffing situation at the Salzburg correctional institution was extremely tense, with a staffing ratio of 90.93 %. Some members of staff had also reduced their weekly hours, two colleagues were on maternity leave and there were also some long-term sickness absences. Nevertheless, the correctional institution is endeavouring to keep

operations open – staff are being cut in areas that do not directly affect detainees, for example in administrative areas (such as the economic office).

The Federal Ministry of Justice confirmed that the number of posts in the Salzburg correctional institution in the executive service is lower than in similarly sized (court) prisons. Intensive personnel recruiting measures continue to be implemented. In addition to participating in events, job fairs, etc., targeted measures are being taken to improve the situation in view of the declining number of applications, including at *Land* of Salzburg correctional institution. A meeting was held with the Linz training centre and the recruiting officer competent for the west. In October 2024, the justice system – including the penitentiary system and forensic institutions – was represented at the Innsbruck Autumn Fair. Posters with the slogan „Find your vocation as a prison guard“ were also displayed. The number of interested parties has recently increased.

The NPM welcomes the efforts to recruit additional staff. However, it cannot be ruled out that a further increase in personnel will be necessary in order to adapt the personnel resources to the real requirements of modern day-to-day enforcement. In the year under review, the NPM observed that facilities in the Stein correctional institution were frequently closed due to staff shortages. Closures have a significant impact on the prison climate and the living and accommodation conditions of detainees. The NPM again recommended that the facilities should not be closed due to staff shortages.

Stein correctional institution

The Federal Ministry of Justice shared the NPM's recommendation. For this reason, it discussed a reorganisation of the operational structure with those responsible at the Stein correctional institution. It requested a report on this, which was received by the Federal Ministry of Justice in mid-2024. The new head of Stein correctional institution was appointed in the course of 2024, with whom further steps are to be discussed.

The Feldkirch correctional institution has also been suffering from staff shortage for years. Due to its proximity to the border with Switzerland and Liechtenstein and the better earning opportunities there, there are hardly any applicants despite the initiatives taken to date. It has sometimes only been possible to keep the correctional institution operational by transferring staff.

Feldkirch correctional institution

In particular, the NPM pointed out that the psychological service is understaffed and the support contacts with detainees are correspondingly low. The Federal Ministry of Justice confirmed that one full-time position in the psychological service is currently vacant.

There is an urgent need to develop concrete measures to attract people – especially in the west of Austria – to work in the penitentiary system. It will probably also have to be taken into account that earning opportunities in this region will have to be adjusted in order to remain competitive with neighbouring countries.

**Graz-Jakomini
correctional
institution**

During a visit to the Graz-Jakomini correctional institution in November 2023, the NPM observed that sufficient individual care support for inmates – especially in the juvenile ward – is hardly possible, for example in the social service. Overall, the staffing situation is very tense, there are too few sports and leisure activities and there are also frequent closures.

In response to the criticism, the Federal Ministry of Justice announced that already approved hours in the area of social services would be filled from the autumn. This results in a care ratio of 1:66. 2024 has also seen a significant improvement in the area of care. There is a new principle of a minimum of two full-time staff in the social and psychological services. This means that there is no complete standstill in caregiver services if one employee is absent.

The Federal Ministry of Justice also stated that the institution had a staffing level of 100.76 % in the executive division in April 2024. The NPM noted that due to the tight staffing situation, it cannot be assumed that there will be sufficient staff in the institution even with this level of staffing.

**Sonnberg
correctional
institution**

In order to prevent sexual offenders and high-risk offenders from reoffending, more social work is required, especially when it comes to preparing for the release from prison. This must also be taken into account when determining the staffing ratio. With around 350 inmates, including around 186 high-risk offenders, the social service at the Sonnberg correctional institution has the equivalent of 4.5 full-time employment positions according to the Federal Ministry of Justice, including a permanent position for a prison guard who is also used for night shifts and other enforcement activities. In August 2024, the equivalent of 2.75 of these full-time employment positions were filled.

It is therefore understandable that the management of the facility applied for additional posts. According to the Federal Ministry of Justice, the planning assumptions for 2024 led to an increase of one position in the area of social workers.

- ▶ ***Human resources must be adapted to the real requirements of modern day-to-day enforcement.***
- ▶ ***There is an urgent need to develop concrete measures to attract people – especially in the west of Austria – to work in the penitentiary system.***
- ▶ ***Working premises should not be closed due to staff shortages.***
- ▶ ***The occupancy situation is currently tense. It is therefore safe to assume that there is not enough staff, even if all the available positions are filled by 100 %.***
- ▶ ***A facility that focuses on the treatment and care of detainees with high therapeutic needs must have sufficient staff resources available in the relevant special services.***

2.5.13 Return and release

2.5.13.1 Mutual deadlock during release

During a visit to the Garsten forensic therapeutic centre in November 2023, the NPM found out that the Federal Office for Immigration and Asylum is suspending proceedings concerning the removal measures of detainees until a date for a possible conditional release has been set. The courts, in turn, are waiting for the right of residence to be clarified before deciding on the conditional release. This creates a reciprocal standstill that is detrimental for the persons concerned. The Federal Ministry of Justice, which is dealing with this matter, has promised to take remedial action or to introduce improvement measures.

► ***Measures to relax enforcement should not be made more difficult by the interruption of proceedings before the Federal Office for Immigration and Asylum.***

2.5.13.2 More difficult access to relaxed detention

The NPM's visit in April 2024 showed once again that detention in relaxed detention was significantly reduced due to the closure of the Dornbirn satellite facility at the end of September 2022 (NPM Report 2022, p. 114 et seq.). The satellite facility was the only release unit in Vorarlberg. This has a negative impact on preparations for release.

**Feldkirch correctional institution:
closure of Dornbirn
satellite facility**

The Federal Ministry of Justice pointed out that the closure of the satellite facility in Dornbirn had been unavoidable. Furthermore, the existence of a satellite facility is not a prerequisite for the implementation of relaxed detention. Rather, the penitentiary system could be carried out in a relaxed form in any department of a correctional institution.

The NPM criticised the fact that the number of relaxations granted has decreased significantly since the closure of the satellite facility. In this respect, it urgently recommended that concrete measures be taken to implement relaxed detention under the current circumstances. The recommendation that more prison places should also be established for relaxed detention remains unchanged.

**Significant reduction
in relaxations**

► ***If a correctional institution has neither a „day release prisoner house" nor a department for relaxed detention, concrete measures must be taken to implement relaxed detention and day release as part of the preparations for release to the greatest extent possible.***

2.5.13.3 Insufficient range of therapies in follow-up care facilities

SeneCura Pölfing-Brunn social centre

The NPM received a mixed impression during its visit to the SeneCura Pölfing-Brunn Social Centre follow-up care facility in Styria. The centre made a clean and tidy impression; the corridors and rooms are attractively furnished. One positive aspect was that the residents have the opportunity to organise their own rooms. There are regular excursions and celebrations are organised with the involvement of relatives.

However, the NPM criticised the fact that agreements on conditions that residents have to sign when they move into the home contain phrases such as „without discussion or objection“. The support services also appeared to be pretty generalised. Activities such as „handing out pocket money“, „thoroughly cleaning the smoking area“ and „rolling cigarettes“ are cannot be seen as therapeutic measures.

Little therapy

It is also noticeable that a home help with a diploma in „senior citizens animation“ provides the entire leisure and activity programme. For the people with a forensic background accommodated there, it would be more appropriate to have caregivers from the social care or occupational therapy sector in order to better meet the individual needs of the people concerned.

The Federal Ministry of Justice was able to ensure that the wording of the agreement was changed and imperative forms of address were deleted. It also agreed with the NPM that everyday activities for residents, such as „handing out pocket money“, „cleaning the smoking area“ and „rolling cigarettes“, cannot be seen as therapeutic measures.

Undersupply negated

With regard to the identified care needs, the Federal Ministry of Justice stated that the follow-up care facility was a nursing home whose staff complied with the *Laender's* equipment ordinance. Depending on their geriatric and/or psychiatric illness and their self-care deficits, those accommodated would be provided with suitable professional caregivers.

However, the NPM did not observe a lack of nursing care, but rather a lack of therapy. In view of the fact that there are not only people in this facility who have been conditionally released, but also inmates whose placement has been interrupted, the lack of insight is regrettable.

- ▶ ***Daytime activities that are intended to help people in care to structure their everyday lives are not a substitute for therapy.***
- ▶ ***Follow-up care facilities can only fulfil their care mandate if they have enough therapists.***

2.5.14 Legislative recommendations

2.5.14.1 No complete ban on conduct during house arrest

The NPM already addressed the duration of house arrest and the ban on contact with the outside world during the disciplinary sanction in the previous year. House arrest is the most severe penalty for the misbehaviour of detainees. Those affected are isolated in an inmate cell and are only allowed to leave it to go to the yard. The NPM recommended shortening the duration of disciplinary solitary confinement to 14 days and lifting the complete ban on contact with the outside world (except with a lawyer) (NPM Report 2023, p. 156).

The Federal Ministry of Justice adheres to the maximum length of house arrest of four weeks. It has not yet complied with the recommendation. This is despite the contradiction with international standards, as pointed out by the NPM.

**Up to 4 weeks
solitary confinement**

On the occasion of a visit to the Schwarzaue correctional institution in October 2023, the NPM reiterated the demand that prisoners under house arrest should never be subject to a complete contact ban with their families. According to the NPM, such a ban should only be applied if the offence is related to family contact. The NPM also recommended that persons in solitary confinement be allowed two hours of human contact per day and daily interviews with an appropriate prison officer.

**Complete ban on
contact with family
members**

The Federal Ministry of Justice agreed with the NPM's comments that amendments to the law should be orientated as closely as possible to relevant international standards. For future amendments, it held out the prospect of introducing a flexible provision that would allow correctional institutions (as with simple house arrest) to maintain contact with relatives even in cases of strict house arrest. However, it remains to be seen when the law will be amended accordingly. The amendment to the Penitentiary System Act (*Strafvollzugsgesetz*) announced years ago is still awaited.

**Prospect of
legislative changes**

- ***Prisoners in solitary confinement as part of a disciplinary sanction should never be subject to a complete contact ban. In particular, disciplinary measures should not include a complete contact ban with the family.***

2.5.14.2 Principle of immediacy for the enforcement court

Prisoners may only be placed in a specially secured cell if they pose a danger to themselves, other persons or property that would not permit placement in another inmate cell. This cell must have an adequate supply of air and sufficient daylight. If there are no concerns, a mattress and a spoon for eating meals must be provided in any case. Special safety measures shall be imposed to the extent and for as long as absolutely necessary in view of the

**Strictest deprivation
of liberty**

degree and persistence of the danger, due to which these measures were ordered.

Judicial monitoring The continuation of such a measure beyond one week can only be ordered by the enforcement court, which must decide on this at the request of the facility management. If the court orders that the measure be continued, it shall at the same time determine its maximum permissible duration; if the reasons that led to the placement in a specially secured cell cease to exist before the expiry of this period, the facility management shall immediately revoke the measure.

Not just file proceedings The NPM suggested that the enforcement court should gain a personal impression of the person detained in the specially secured cell before making its decision. This would also eliminate the unequal treatment between detainees under the Hospitalisation of Persons with Mental Illnesses Act (*Unterbringungsgesetz*) and the Penitentiary System Act (*Strafvollzugsgesetz*). Under the Hospitalisation of Persons with Mental Illnesses Act the court is responsible for making decisions in the event of restrictions on freedom of movement. The court must hold an oral hearing both before imposing restrictions and afterwards. If the restriction is still in place, the court must „gain a personal impression of the patient and their situation on the spot“.

Although the Federal Ministry of Justice pointed out the different decision-making processes and powers to issue orders, it ultimately conceded that amendments to Section 103 of the Penitentiary System Act are planned as part of a general reform of the Penitentiary System Act. In the course of this, it shall be investigated whether it is appropriate to possibly oblige the enforcement court to obtain a personal impression of the person concerned if placement in a specially secured cell is maintained beyond one week.

2.5.14.3 Inter-agency networking between police detention centres and correctional institutions

No electronic interface On the occasion of a visit to the Hernalser Gürtel police detention centre in August 2023, the NPM pointed out that no inter-agency (electronic) interface for the transmission of medical information from correctional institutions to police detention centres has yet been established. According to the Federal Ministry of Justice, detainees awaiting forced return who are transferred from a correctional institution to a police detention centre receive their medical documents in a sealed envelope – just like when they are released to freedom. However, these documents are not always available in the police detention centres.

Detainees often do not provide any medical documents and are also unable to provide any information regarding previous medical treatment or medication. In these cases, the correctional institution is contacted by

telephone in cases of medical need or acute cases. This exchange generally works well. However, it is time-consuming and labour-intensive and the medical information is not immediately available.

An inter-agency (electronic) network would be desirable so that relevant health data for the police detention centre can be accessed at any time if necessary. This would ensure that prisoners receive the most continuous healthcare possible.

However, in order to be able to make this category of particularly sensitive data available to external institutions, a correspondingly specific legal authorisation is required, according to the Federal Ministry of Justice. Such a statutory basis has been lacking to date. The NPM therefore recommends establishing a statutory basis for institutionalised networking (e.g. as part of the planned amendment to the Penitentiary System Act).

- ***Cross-agency (electronic) networking between correctional institutions and police detention centres would ensure that relevant health data can be retrieved immediately at any time if necessary. The necessary statutory basis for this should be created.***

2.6 Police detention centres

Introduction

10 visits In 2024, the commissions conducted ten visits to police detention centres, the Vordernberg detention centre and the Zinnergasse family accommodation. As in the past, the commissions monitored the conditions of detention and determined the structural and hygienic condition.

Monitoring priorities The commissions paid particular attention to the three monitoring focal points defined for 2023 and 2024. The results of their evaluation are presented below.

2.6.1 Monitoring focal points

As explained in the Annual Report 2023, the NPM defined three monitoring focal points with the involvement of the MRB. These related to (spare) clothing for destitute detainees, access for detainees to medical doctors of their own choice within the meaning of Section 10 (5) Detention Regulation and a de-escalating approach when handling detainees (see NPM Report 2023, p. 159 et seq.).

Evaluation results 2023 During ten of the thirteen visits to police detention centres in 2023, the commissions devoted themselves to monitoring the stock of (spare) clothing for indigent inmates and the extent to which the inmates are aware of and have access to the stock. During another visit, the commissions reported on improvements to the clothing supply. During nine visits, the commissions observed that there was a sufficient, properly stored supply of clean (spare) clothing and that detainees were informed of the option to have their own clothes cleaned. During a visit to the police detention centre, one of the commissions criticised the fact that until then only the chaplain working there had filled the clothing supply. The NPM therefore made a recommendation to the Federal Ministry of the Interior that the police detention centre management or the Police Department should organise the filling of the supply in the future. The Federal Ministry of the Interior credibly explained that the supply of clothing needed in this police detention centre does not come exclusively from donations from the chaplain working there.

In the course of twelve visits, the commissions found that the detainees had access to medical doctors of their own choice for curative examinations and treatments. Although none of the facilities had a list of the potential medical doctors, several inmates interviewed were aware of their right under Section 10 (5) Detention Regulation and stated that they were satisfied with their caregiver. During numerous monitoring visits, the commissions noted the willingness of staff to assist inmates in finding or contacting medical doctors of their own choice if necessary. In the course of three

visits, the commissions criticised the fact that the inmates interviewed were not informed of their right under Section 10 (5) Detention Regulation. In response to the recommendation that inmates should be informed of this during their initial examination by a public medical officer, the Federal Ministry of the Interior replied that the „Information sheet for detainees“ and the „Detention log“ form would contain the relevant information. On this basis, the Federal Ministry of the Interior refused to add a reference to Section 10 (5) Detention Regulation to the „Information sheet on personal hygiene and medical service in the police detention centre“. However, the Federal Ministry of the Interior announced including a reference to the right under Section 10 (5) Detention Regulation as part of a future revision of the „Health Questionnaire“, which was translated at great expense into numerous foreign languages in 2017 and must be completed by every inmate.

The commissions determined the de-escalating treatment of detainees during eleven visits. In the course of two further visits, one commission did not note the monitoring focal points, but made observations on this topic. During most of the visits, the commissions found that staff receive training in de-escalation as part of their basic training or as part of further training measures – such as the e-learning module on suicide prevention or mandatory operational training. Upon the commission’s recommendations established on the occasion of three visits, the NPM suggested to the Federal Ministry of the Interior that training measures should be developed in order to train the practical implementation of theoretical training content. The Federal Ministry of the Interior explained that as part of the basic police training, practical training in social-communicative skills totalling 204 teaching units and further training in appreciative and de-escalating communication in the „Modular Competence Training“ training module are provided. In addition, law enforcement officers receive practical training in appropriate and customised intervention as part of the mandatory, sometimes institution-specific operational training.

On the occasion of a visit, the NPM also made the recommendation to establish an anonymous whistle-blower system in the Federal Ministry of the Interior so that law enforcement officers can also report misconduct by other, possibly superior, employees anonymously if necessary. In this context, the Federal Ministry of the Interior referred to an amendment to Section 54 (4) Civil Servants Employment Act (*Beamten-Dienstrechtsgesetz*) in February 2023, which enables such reports to be made without following official channels. This provision also takes into account reports under the Whistle-blower Protection Act and reports of criminal offences, the investigation of which is the responsibility of the Federal Bureau of Anti-Corruption.

During three visits, the commissions observed that the stock of (spare) clothing for destitute inmates was sufficient to meet their needs. On the

**Evaluation
results 2024**

occasion of another visit, the commissions recommended that the stock found was particularly tidy and clearly organised. None of the commissions criticised the provision of (spare) clothing for destitute inmates during the visits.

During two of the visits, the commissions did not determine the access of detainees to medical doctors of their own choice for curative examinations and treatment, but referred to the results of previous visits. Although no lists of potential medical doctors of their own choice were found during two further visits, the commissions refrained from making any further enquiries due to the lack of need for medical doctors. During the visit to the Vordernberg detention centre, the commissions did not note this monitoring focal point, but positively highlighted the medical care provided to inmates by the outpatient staff working there on a contract basis.

The commissions addressed the de-escalating approach when handling the detainees on all nine visits, although they only explicitly noted the monitoring focal points on four visits. During two visits, a commission limited its findings to the observation that inmates had been placed in a "normal" single cell before being transferred to a specially secured cell. Therefore, priority had been given to the usage of de-escalation measures. A commission proposed that the Federal Ministry of the Interior should provide training in de-escalation measures for all police detention centre officers. However, the NPM refrained from doing so, as this recommendation was identical to a recommendation made during a visit by the commissions to another police detention centre and the Federal Ministry of the Interior had already comprehensibly rejected its implementation in 2024.

**Summary of
the evaluation**

From the surveys regarding (spare) clothing for destitute inmates, it can be deduced that the police detention centres have sufficient stocks of clothing to cover their needs and that the inmates are aware of these. The different amounts of clothing stocks appear to result from the specific capacity of the respective facilities and the enforcement of different types of detention (administrative detention and/or detention pending forced return).

Based on the examination of detainees' access to medical doctors of their own choice within the meaning of Section 10 (5) Detention Regulation for curative examinations and treatment, it is clear that none of the police detention centres have a list of such potential medical doctors. However, a corresponding recommendation to the Federal Ministry of the Interior does not appear to be expedient. Numerous inmates interviewed do not see any need to consult medical doctors of their own choice and the creation of such lists would require the willingness of doctors to act as medical doctors of one's own choice, which ultimately cannot be enforced by the Federal Ministry of the Interior.

The surveys concerning the de-escalating approach when handling detainees determined that law enforcement officers do not receive any special training in de-escalation before starting their work in a detention centre. However, building on the theoretical and practical training in the basic training for all areas of police activity, mandatory operational training courses are held several times a year, in which training content specific to the facility or target group is also taught.

The definition of new monitoring focal points regarding detention centres for the year 2025 was still in progress at the time of going to press. The NPM will present the new monitoring focal points, including the evaluation, in the next annual report.

New monitoring focal points planned

2.6.2 Implementation of NPM recommendations

In May 2016 and December 2017, the NPM recommended that the Federal Ministry of the Interior should implement the standards for detention enforcement adopted by the working group (WG) together with the Federal Ministry of the Interior (see NPM Report 2020, p. 138).

During a monitoring visit to the Roßauer Lände police detention centre in June 2023, the Commission observed that the emergency call buttons installed under a wall panel in two specially secured cells were defective (see NPM Report 2023, p. 166). Upon recommendation that these defects should be repaired quickly, the Federal Ministry of the Interior reported in its response, which was only received in 2024, that the police detention centre staff had restored the proper condition of the two call buttons shortly after the end of the visit.

Broken emergency call buttons repaired immediately

As reported in the NPM Report 2023 (p. 166), a fire in the Eisenstadt police detention centre destroyed the only specially secured and padded cell there. As another cell was converted into a visitors' room during the visit of the commissions in August 2023, the NPM recommended restoring the padded cell there and converting another cell into a visitors' room.

Lack of padded security cell justified

In its response received in 2024, the Federal Ministry of the Interior rejected the new facility of a padded cell on the conclusive grounds that the need to create a visitor room in the police detention centre had previously been greater than the need to use a padded cell. The Federal Ministry of the Interior also announced that in future cases, inmates whose placement in a specially secured cell was absolutely necessary would be transferred to the Roßauer Lände police detention centre in Vienna. The Federal Ministry of the Interior also announced that the new police detention centre planned for the medium term will have all types of security cells in accordance with the Detention Regulation.

Incomplete partitioning of toilets

As reported in the NPM Report 2023 (p. 165 et seq.), during a visit to the Graz Police Detention Centre in August 2023 the commissions observed that the toilets in the cells for multiple inmates and those in the recreation room for male inmates did not have such a partition. In view of this and other structural deficiencies, the NPM recommended pushing ahead with the planned new construction of the police detention centre at the current location.

In its response, which was only received in 2024, the Federal Ministry of the Interior assured that it would also press ahead with this construction project. However, it stated that no more investments would be made in structural measures in the existing building until the new police detention centre was built. As the toilets mentioned were not completely separated from the rest of the inmate cell, contrary to the recommendation of the NPM from December 2017, the NPM identified this deficiency and considered it to be in the process of being rectified due to the planned construction of the new police detention centre.

Wels police detention centre not refurbished as planned

During the visit to the Wels police detention centre in November 2024, the toilets in the cells for multiple inmates in the police detention centre were not completely separated from the rest of the inmate cell. The commissions also observed that no construction work had taken place in the police detention centre prior to the visit, although the Federal Ministry of the Interior had announced in 2022 that renovation work would begin in 2023 (see NPM Report 2022, p. 133).

In addition, there were numerous racist, Islamophobic, National Socialist and other derogatory texts and depictions on the walls of several cells. The NPM made recommendations to the Federal Ministry of the Interior to remove these immediately and requested clarification about the omitted construction measures. The Federal Ministry of the Interior had not yet responded at the time of going to press.

No information on police detention centre library

During the visit to the Hernalser Gürtel police detention centre in August 2024, the commissions met two inmates who did not know that they could borrow books from the library. In response to a corresponding reminder, the Federal Ministry of the Interior reported on the revision of the house rules posted in the police detention centre within the meaning of Section 1 (3) Detention Regulation, which since then have also included a reference to the possibility of using the police detention centre library.

Lack of employment opportunities

During the visit to the Zinnergasse family accommodation in April 2024, the commissions criticised the lack of activities on offer for detainees and in particular those for the children and adolescents detained. The television in the recreation room only received three German-language programmes and there were hardly any foreign-language (children's) books among the books provided. Apart from balls and an incomplete puzzle game, there were no other toys available for younger children, although other toys were

stored in the basement of the building. Until the visit, crayons etc. were only handed out in exceptional cases as, according to the staff, their use was accompanied by soiling of the room walls. In addition, the staff pointed out unresolved liability issues regarding the detainees' stay in the facility's garden and the use of play and sports equipment there.

The NPM made recommendations to the Federal Ministry of the Interior to provide age-appropriate and adequate occupational opportunities for all detainees inside and outside the facility and to finally clarify any liability issues. The Federal Ministry of the Interior's response was not yet available at the time of going to press.

As part of its future visits, the NPM will continue to pursue the realisation of all standards (including structural ones) that it recommended to the Federal Ministry of the Interior in May 2016 and December 2017 and that the Federal Ministry of the Interior laid down in its current decree on detention enforcement from June 2022.

- ▶ ***All single cells must have a call button which can be confirmed at the cell and must be clearly labelled.***
- ▶ ***All police detention centres must have a sufficient number of inmate cells that are suitable for the enforcement of solitary confinement in accordance with Section 5 or Section 5b (2) (4) Detention Regulation.***
- ▶ ***The access of detainees in police detention centres to hygienic sanitary facilities and the protection of their privacy at all times must be guaranteed by structural and organisational measures.***
- ▶ ***Toilets in cells for multiple inmates in police detention centres must be completely separate from the rest of the inmate cell.***
- ▶ ***All detainees in police detention centres should be provided with employment and leisure opportunities to the extent agreed with the NPM.***

2.6.3 Realisation of table visits in detention

The NPM also pursued the facilitation of table visits *ex officio* in 2024. As explained in the NPM Report 2023 (p. 167), it was only possible to carry out trial table visits at the Hernalser Gürtel police detention centre at two of the twelve existing visiting stations until the end of the previous year. This was due to delays in the remodelling work commissioned by the Federal Real Estate and Property Corporation (BIG).

In its first progress report, the Federal Ministry of the Interior announced that there were still only two visiting stations available for table visits until May 2024 and that the BIG had promised to start the refurbishing work in

Start of the planned trial operation delayed several times

May 2024. The Federal Ministry of the Interior also requested a six-month extension of the first of the two agreed trial operations (see NPM Report 2021, p. 152). The NPM complied with the request in order to obtain meaningful results of the evaluation.

In a further report, the Federal Ministry of the Interior admitted that, according to the BIG, the necessary refurbishing work is not expected to be completed until September 2024. The Ministry also reported to have instructed the Vienna Police Department to keep detailed records on the progress of the trial operation once fully established at the twelve visiting stations.

In December 2024, the Federal Ministry of the Interior announced that the refurbishing work on the visiting stations had only been completed by the end of October 2025. The Federal Ministry of the Interior justified this delay with a faulty design of the panes between the inmates' seats and those of the visitors in the consultation booths. Instead of continuous panes that could be slid away in a frame, the contracted company installed two sashes that could be swivelled to the side. As there was a gap between the sashes for the transfer of any prohibited items, the Federal Ministry of the Interior had to commission panes that were in line with the concept.

The NPM will continue to monitor the further progress of the agreed trial operations for the implementation of table visits in the Hernalser Gürtel police detention centre.

- ***Except where certain security-related criteria are met and in the case of prisoners in court custody, visits to detainees in police detention centres should take the form of table visits. The undisturbed organisation of table visits must be ensured – also through structural measures. A separate room with a table must be provided for visits by underage relatives in police detention centres.***

2.6.4 Fire protection in police detention centres

Further progress in implementing recommendations of Dialogue Committee on Civil Society

In 2024, the NPM also pursued the implementation of the recommendations of the Dialogue Committee on Civil Society of the Federal Ministry of the Interior („*Polizei.Macht.Menschen.Rechte*“) for the improvement of fire protection in police custody *ex officio* (see NPM Report 2018, p. 147). The Federal Ministry of the Interior informed the NPM in two reports about several advances in the realisation of these recommendations. In July 2024, the Federal Ministry of the Interior submitted the final version of the new „Technical Guidelines for Fire Prevention“ entitled „Correctional Institutions, Police Detention Centres and Custody Cells in Police Stations“ to the competent Technical Guidelines for Fire Prevention working group at the Austrian Federal Fire Brigade Association. According to the Federal Ministry of the Interior, the formal proceedings to promulgate the new Technical Guidelines for Fire Prevention should be completed in summer 2025.

The Federal Ministry of the Interior assured that until then, all Police Departments are instructed to apply the Technical Guidelines for Fire Prevention in refurbished buildings, as well as newly constructed ones, until the new Technical Guidelines for Fire Prevention are published. According to the Federal Ministry of the Interior, this explicitly includes tamper-proof multi-criteria fire detectors in the respective fire alarm system for inmate cells and areas of relaxed detention. The final version of the Technical Guidelines for Fire Prevention would also explicitly stipulate that inmate cells must be equipped with difficultly flammable mattresses and permanently flame-retardant bedding.

Furthermore, the Federal Ministry of the Interior announced that it had commissioned the technical (digital) recording of all official buildings in October 2024 following the completion of the training of the functionaries primarily responsible for fire protection in the Police Departments. This should be completed in spring 2025. The NPM will continue to monitor the implementation of the recommendations for improving fire safety in the detention centres.

- ▶ ***The level of fire protection in police maintenance must at least be adapted to the standard applicable to correctional institutions.***
- ▶ ***The Federal Ministry of the Interior is to develop an overall strategy for the nationwide standardisation of preventive and defensive fire protection and issue corresponding guidelines.***
- ▶ ***All inmate cells used for long-term police detention should be equipped with suitable automatic fire alarm systems.***

2.6.5 Deficiencies in documentation of detention

The complete and error-free documentation of official acts serves in particular to make the actions of law enforcement officers and the course of official acts traceable. It also enables law enforcement officers to subsequently provide information about the course of an official act and protect themselves against any incorrect allegations. In the police detention centres, detentions are primarily documented on the „detention log“ form and in the electronic „Detention file prison administration“ application.

Correct documentation promotes transparency

Arrested or detained persons have certain rights to information and communication (see NPM Report 2018, p. 159 et seq.). They must be demonstrably informed of their rights. This must be documented in the detention log. The person must sign to confirm that they have been informed or have received information sheets or have waived their rights.

Inadequate documentation

During an ad hoc visit to the Innsbruck police detention centre in August 2024, the commissions inspected the detention logs of twelve persons admitted to the police detention centre at the time and observed deficiencies in the documentation. Eight of the visit reports were not fully completed and did not contain an entry stating that the person in question had received information about their rights and options for informing third parties about their arrest or had waived the information. Several files were also missing the „Information sheet on personal hygiene and medical service in the police detention centre“ to be handed out to inmates or notes that they had refused to accept the form. One detention log contained obviously false information about the identity of the person concerned.

The NPM made a recommendation to the Federal Ministry of the Interior to structurally improve the management of detention logs in the police detention centre and the Police Department Tyrol. The Federal Ministry of the Interior's response was not yet available at the time of going to press.

► ***Detentions in police detention centres must be fully and comprehensively documented.***

2.6.6 Positive observations

During all visits to detention centres in 2024, the commissions observed a high level of cooperation on the part of the staff.

Hernalser Gürtel police detention centre

During a visit to the Hernalser Gürtel police detention centre in August 2023, the commissions were able to see for themselves that additional video cameras had been installed in the stairwell of the police detention centre. It welcomed this measure, as all areas of the stairwell are now fully visible.

Innsbruck police detention centre

In June 2024, during a visit to Innsbruck police detention centre, the commissions observed that before inmates were placed in the specially secured segregation cells, they were first transferred to solitary confinement in accordance with Section 5 Detention Regulation. The commissions considered the course of action of gradually restricting the freedom of persons in detention if necessary to be a de-escalation measure.

Klagenfurt police detention centre

During the visit to the Klagenfurt police detention centre at the end of October 2024, the commissions made particularly positive recommendations regarding the storage of (spare) clothing for destitute inmates. The stock of clean clothing was hygienically stored and very clearly organised.

Wels police detention centre

During the visit to the Wels police detention centre in November 2024, the commissions welcomed the purchase of a refrigerator to store the prisoners' meals so that they can be heated in a microwave if necessary. In future, this will also enable those inmates who are admitted to the police detention centre at night to receive a hot meal when needed.

2.7 Police stations

Introduction

In the year under review, the commissions conducted 62 visits to police stations, slightly more than in the two previous years (2023: 46, 2022: 55 visits). By the time of going to press, 59 visits had been analysed. As in previous years, the visit delegations focussed on the proper documentation of measures involving the deprivation of liberty and the infrastructural fixtures and fittings of the departments.

62 visits to police stations

In 2023 and 2024, the NPM focussed its monitoring focal points on communication and alarm protection in custody cells and the documentation of detentions, paying particular attention to the information and communication rights of detainees. The results of the evaluation are summarised in chapter 2.7.1 „Monitoring focal points“. The barrier-free accessibility of all police stations in Austria remains an issue (see chapter 2.7.3) and the NPM was concerned with the understaffing of departments (see chapter 2.7.4).

Monitoring focal points

2.7.1 Monitoring focal points

As presented in the Annual Report 2022, the NPM determined the monitoring focal points with the involvement of the Human Rights Advisory Council. For 2023, these were communication and alarm protection in custody cells and the proper documentation of detentions with special consideration of the information and communication rights of detainees (see NPM Report 2022, p. 145 et seq.). The NPM considered the continuation of the two priorities in 2024 to be expedient. The NPM analysed a total of 95 visit reports over a period of two years:

In 2023, the NPM evaluated 39 visit reports on police stations. In 21 departments, communication and alarm protection was in place without restrictions. Seven police stations did not have custody cells, which is why the commissions did not criticise them. In one case, the commissions observed a faulty alarm button in an inmate cell. In one specially secured cell, the commissions observed that the alarm button was difficult to operate. In another case, the commissions criticised an alarm button installed at a height of 180 cm. As the head of the department immediately promised to repair or investigate a relocation during these three visits, the commissions did not consider any further action necessary. The NPM identified shortcomings in the lack of labelling alarm buttons in six cases and considered the deficiency to have been rectified due to improvements that had been made or promised. In two police stations, the commissions neither made observations regarding inmate cells nor was the monitoring focal point explicitly noted in the visit report.

Evaluation results 2023

In 2023, the commissions observed proper documentation of detentions in 25 police stations, with particular observation of the information and communication rights of detainees. The NPM criticised deficiencies in seven cases and considered these to have been rectified due to awareness-raising measures. The commissions did not note the monitoring focal points in five visits, but made observations in four of these cases, anyway. In three cases, the suspicion that detainees had been inadequately informed of their rights could not be substantiated. Based on the observations of the commissions, four visit reports did not contain any proposals for resolution to the NPM.

Evaluation results 2024

In 2024, the NPM analysed 56 visit reports. Communication and alarm protection was in place without restrictions in 22 departments. 27 police stations did not have an inmate cell, which is why the commissions did not criticise them. An alarm button was missing in one detention room. In two departments, the functional alarm button in the custody cells was not labelled. In all three cases, the Federal Ministry of the Interior rectified the deficiencies immediately. One monitoring visit had not yet been completed at the time of the evaluation. In two police stations, the commissions did not make any observations regarding custody cells, nor was the monitoring focal point explicitly noted.

In 2024, the commissions observed proper documentation of detentions in 41 police stations, paying particular attention to the information and communication rights of detainees. The commissions did not make any recommendations regarding five departments, as no arrests had been made in these departments for several years. Although the commissions did not note the monitoring focal points in only four of 56 visit reports, they nevertheless observed them. In two departments, the NPM criticised a discrepancy between foreign-language detention logs and the German version. The Federal Ministry of the Interior promised an improvement. The commissions observed deficiencies in the detention documentation in seven police stations. Due to sensitisation, the NPM considered the deficiencies to have been rectified. One investigative proceedings had not yet been completed at the time of the evaluation.

Summary of the 2023/2024 evaluation

In 2023, the NPM observed inadequate communication and alarm protection in around 23 % of all police stations visited. In 2024, identified shortcomings in this monitoring focal point: only 5 % of all cases had deficiencies.

During the examination of proper documentation of detentions with particular observation of the rights of detainees to information and communication, the NPM observed deficiencies in 18 % of all visits in 2023. In 2024, 16 % of the visit reports analysed showed a deficiency in the detention documentation.

Over a period of two years, the commissions visited 95 departments for the two monitoring focal points: 19 each in Upper Austria and Salzburg, twelve each in Styria, Carinthia and Burgenland, nine in Lower Austria, eight in

Vienna and four in Tyrol. The commissions did not visit any police stations in Vorarlberg in 2023 and 2024. A total of 53 initial visits and 42 follow-up visits were made.

From the NPM's perspective, the majority of visits show that proper communication and alarm protection and careful documentation of detentions are in place. Unfortunately, due to the lack of visits to a police station in Vorarlberg, an Austria-wide evaluation of the two monitoring focal points was not possible.

At the time of going to press, the definition of new monitoring focal points in the area of short-term police custody for 2025 had not yet been finalised. The new focal points and their evaluation will be presented in detail in the next report.

New monitoring focal points planned

2.7.2 Inadequate documentation of detention

Restrictions on liberty are serious interventions, which is why they must be fully documented. During their visits, the commissions therefore regularly inspect the detention books and detention logs.

Detained persons are entitled to certain rights to information and communication (see most recently NPM Report 2023, p. 176 et seq.). If these rights are not respected, the constitutionally guaranteed right to personal freedom is violated. Public security officers must inform detainees of their rights and document this. The detained person confirms receipt and the utilisation or waiver of information and communication rights. If a person refuses to sign, the executive body must record this in the visit report.

Measures, which restrict freedom, must be documented in a comprehensible manner. For example, the beginning and end of handcuffing must be recorded. A long period of restraint must be justified.

As in previous years, the commissions observed deficits in the documentation of detention and drew the attention of the department heads to this in concluding meetings. In some cases, the detention logs were not fully completed and the signatures of the law enforcement officers involved were missing. The NPM criticised the incomprehensible documentation in the detention logs at some police stations visited. The NPM again identified shortcomings in the documentation when handing out information sheets (see Chapter 2.7.1). The Federal Ministry of the Interior implemented awareness measures in all cases.

Documentation deficits

In the course of the visits to Kopernikusgasse, Tannengasse and Wattgasse police stations, the NPM identified shortcomings in foreign-language detention logs in relation to the German version. In some languages, these did not contain any information about the legal on-call service or the

Detentions must be fully documented

handover of the relevant information sheet. There was also no confirmation of the handover of the information sheets by means of a signature or information on the possible assumption of costs incurred when contacting or consulting the on-call legal service. The Federal Ministry of the Interior took the criticism as an opportunity to revise the detention log in its entirety and translate it into the most common languages. As the Federal Ministry of the Interior held out the prospect of a new version of the detention log, the NPM considered this deficiency to be in the process of being rectified.

In July 2017, the Federal Ministry of the Interior issued a decree stating that all police stations with usable inmate cells must keep a detention book (see NPM Report 2019, p. 172). This clearly regulates which entries are to be made in the detention book. At the Kefermarkt motorway police station, the NPM identified shortcomings in the fact that a detention of a person in custody cells for around six hours in 2023 had not been recorded in the detention book. The NPM considered this deficiency to have been rectified after sensitising the staff.

- ▶ ***Detentions in police stations must be fully and comprehensibly documented.***
- ▶ ***Detention logs should ensure all information and communication rights in common languages and in the same way as in the German version.***

2.7.3 Inadequate infrastructural fixtures and fittings at police stations

If the commissions observe deficiencies in the infrastructural fixtures and fittings during their visits, they usually discuss them with the head of department during the concluding meetings. Minor defects are often rectified quickly. If no solution can be found in this way, the NPM informs the Federal Ministry of the Interior.

Inadequate notification and alarm protection

Due to the prioritisation, the monitoring of communication and alarm protection in custody cells in police stations was intensified in 2023 and 2024, although the commissions had already regularly investigated this important aspect beforehand (see chapter 2.7.1). At Linz Central Station police station, the NPM criticised the fact that the alarm button in the detention room was missing. According to the applicable Directive on Workplaces, both custody and inmate cells must be equipped with a clearly recognisable call button to notify law enforcement officers. During the period under review, the NPM identified shortcomings with regard to labelling functional alarm buttons in the departments in Seiersberg, Salzburg-Gnigl, Mauthausen and Hartberg. The Federal Ministry of the Interior rectified all deficiencies.

The Directive on Workplaces generally provides for a security gate in the entrance area of a police station. The Federal Ministry of the Interior

acknowledged the lack of a security interlock, when evaluating the Bad Zell police station. As it was unable to provide a timetable for a move to a department that meets all structural requirements, the NPM identified this security deficiency. The NPM also had security concerns at the Mondsee police station. There, the commissions observed an open window handle in the cell's anteroom and drew the attention of the department head to the fact that it is possible to ventilate the inmate cell without opening the handle. The commissions also criticised cracks in the plaster of the cell. Due to the sensitisation, the NPM considered this deficiency to have been remedied.

The commissions criticised the poor hygienic condition of four custody cells at the Hohenbergstraße police station. As a result, the Federal Ministry of the Interior promised to paint them with a washable coat of paint by the end of 2024. In the detention room at the Salzburg-Gnigl police station, the commissions observed dried dirt, which was removed during the visit.

Hygiene deficiencies

The Federal Ministry of the Interior erected an additional sign to help locate the Seewalchen motorway police station more easily. The Federal Ministry of the Interior recognised that the Kopernikusgasse police station was in need of renovation and announced improvements.

One point of criticism that generally cannot be remedied or cannot be remedied quickly is the lack of barrier-free accessibility. A solution, such as relocation, should have been found by the end of 2019 for those departments where barrier-free accessibility cannot be technically realised. Based on its focus in 2021 and 2022, the NPM observed that many police stations in Austria are not barrier-freely accessible (see NPM Report 2022, p. 145 et seq.).

Lack of barrier-free accessibility

The commissions routinely investigate the barrier-free accessibility of the departments visited. As in previous years, the NPM also revealed the lack of barrier-free accessibility of numerous police stations in this period under review: some were only accessible via stairs or intercoms were mounted too high. Two departments had access that was dangerous for people in wheelchairs. One police station lacked a tactile guidance system in the entrance area, while the width of the entrance door at another was too narrow for wheelchair users. In one department, a heavy entrance door was an obstacle.

In some of these cases, the Federal Ministry of the Interior immediately complied with the NPM's recommendation or promised improvements in the near future. The Federal Ministry of the Interior was unable to provide a timetable for accessibility in six departments.

If a police station has a designated customer sanitary facility, this must be accessible to people with disabilities (see NPM Report 2018, p. 163). In four police stations, the visitor toilet was not accessible. The Federal Ministry of the Interior promised prompt adaptations in two cases. In one department,

the toilet is to be made available to visitors again after a planned conversion. In another police station, improvements were made immediately after criticism by the commissions, but these did not comply with the regulations for barrier-free accessibility. In one department, the visitor toilet, which was in principle barrier-free, could not be used without hindrance due to a parked cleaning trolley. During the visit, the commander promised to resolve the problem.

The Federal Ministry of the Interior stated that the reasons for the lack of accessibility in some police stations were manifold (e.g. lack of owner consent, protection of historic buildings, structural feasibility, disproportionate effort, no suitable rental property for relocation). Furthermore, those reasons were generally beyond the control of the respective Police Department.

The NPM understands that the respective Police Department often depends on cooperation with the owner of the building in which the department is located when implementing barrier-free accessibility. However, the Federal Ministry of the Interior has long been aware of the problem of the numerous police stations that are not barrier-free. The deadline for implementing barrier-free accessibility expired at the end of 2019.

- ▶ ***Alarm buttons in custody cells must be functional and adequately labelled so that detainees can contact the guards.***
- ▶ ***Police stations should have their own security systems and ensure adequate custody of detainees in inmate cells.***
- ▶ ***Inmate cells must be clean.***
- ▶ ***Police stations must be barrier-free.***

2.7.4 Staff shortages at Kandlgasse police station

For years, the NPM has criticised poorly staffed police stations and the corresponding workload of law enforcement officers due to overtime and night shifts (most recently NPM Report 2023, p. 181 et seq.).

Blatant staff shortage

During its visit to the Kandlgasse police station, the commissions suggested adjusting the actual number of staff (22) to the systemised level (35) due to the high workload.

Shortfall of almost one third

In the investigative proceedings, the Federal Ministry of the Interior conceded a staff shortfall of 32.5 %. At 34 hours per month per head, overtime in the entire Josefstadt municipal police headquarters was below the Vienna-wide average. Therefore, there were no plans to increase the actual number of staff at the Kandlgasse police station.

The NPM understands that the staffing level in a police station may be below the planned target level at times for various reasons (sick leave, assignments, training, etc.). Organisational measures should be taken to avoid overloading staff, as this factor can also have a negative impact on people who are detained.

The NPM shares the view that not all staff are always available at times in operational organisations. It therefore also considers it justifiable that the staff actually available may deviate by up to one fifth of the total staff, if the workload at the department does not exceed the average level.

Regardless of the actual workload situation, the NPM considers it problematic if more than one fifth of the staff is missing. The NPM criticised the fact that the actual staffing level at the Kandlgasse police station is almost a third below the target.

Not more than one fifth of the total staff should be missing

- ***The number of staff in the police stations should correspond to the planned target level. Understaffing leads to stress and overload. Both can have a negative impact on detainees.***

2.7.5 Positive observations

During each visit, the commissions record their observations in a visit report. The commissions also note positive aspects and improvements and communicate them in the concluding meetings. In several cases, the commissions requested that the NPM also bring the positive observations to the attention of the Federal Ministry of the Interior as the supreme body in written form. Both the Federal Ministry of the Interior and the departments concerned recognised this.

The Völkermarkt police station impressed the commissions for several reasons: The modern and functionally equipped department is accessible without barriers. In addition to the willingness to cooperate, the commissions praised the careful documentation of detentions and the cleanliness of the custody cells. The considerate organisation of the duty roster, including a low overtime workload and training opportunities, contribute to the perceived good working atmosphere.

**Völkermarkt
police station**

The commissions praised the good working atmosphere, the high proportion of female staff and the barrier-free accessibility of Voitsberg police station.

**Voitsberg
police station**

During the follow-up visits to the Wals police station, the commissions observed the structural improvements in the detention room since the previous visit in 2020. The non-vandal-proof plasterboard panels were replaced with resistant wood-based panels and also tiled (see NPM Report 2020, p. 158). As a result, an adequate safety standard was achieved in the

Wals police station

detention room. The commissions also praised the perceived willingness to cooperate and the carefully kept detention book.

**Steyregg
police station**

During the initial visit to the Steyregg police station, the commissions observed the perceived willingness of the staff to cooperate, the good observation of the accessible and modern design of the department and its cleanliness.

**Obertauern
police station**

During its visit to the Obertauern police station in January 2024, the commissions positively observed the willingness of the staff to cooperate, the well equipment barrier-free and modern design of the department, as well as the proper detention documentation.

**Kefermarkt
police station**

The commissions were impressed by the willingness to cooperate, the new, well-equipped and barrier-free department, the opportunity for staff to have a say in the construction of this police station, the wide range of training and special tasks of the staff working there and the cleanliness of the department.

**Feistritz im Rosental
police station**

At the Feistritz im Rosental police station, the commissions praised the high level of cooperation, the good staffing levels, the accessible design of the department and the good provision of language mediators.

**Hartberg
police station**

During the visit to Hartberg police station, the commissions were impressed by the willingness to cooperate, the accessible design of the department both inside and outside, the good working atmosphere, the well-equipped inmate cells and the daily morning service meetings.

**Leoben Josef-Heißl-
Straße police station**

During its follow-up visits to the Leoben Josef-Heißl-Straße police station, the commissions were struck by the modern equipment of the two detention rooms, the exemplary implementation of barrier-free accessibility, the willingness to cooperate and the careful documentation of detentions. The commissions also praised the good working atmosphere, the existence of psychological support for staff and the consideration given to any needs when catering for detainees.

**St. Marein im Mürztal
police station**

During its visit to the St. Marein im Mürztal police station, the commissions noted the willingness to cooperate, the good working atmosphere, the department's designation as „dementia-friendly“ and the positive assessment of psychological support provided by staff when needed. The commissions particularly praised the department's specially trained dementia officer.

2.8 Coercive acts

Introduction

As part of the OPCAT mandate, the AOB has been investigating the behaviour of the police when exercising direct administrative power and coercive measures for over ten years. An act of direct administrative power and coercive measures is when the police exercise coercion or issue an order against one or more persons in the execution of administrative laws.

In the year under review 2024, the NPM observed 24 police operations, the majority of which were inspections regarding basic reception conditions, football games and demonstrations. In addition, the commissions observed a police operation at a public viewing, a forced return and a targeted campaign in the area of migration/trafficking.

Monitoring 24 police operations

In the area of reception conditions under the Basic Provision Agreement, the commissions, with the involvement of the Aliens' Police, monitored the reports of persons encountered and paid attention to any anomalies in asylum accommodation.

Reception conditions under the Basic Provision Agreement

In 2024, the Federal Agency for Reception and Support Services (*Bundesagentur für Betreuungs- und Unterstützungsleistungen*) submitted a large number of reports to the NPM on observations of forced returns, such as the most recent observation of a return to Nigeria and Ghana in December 2024. Together with Germany, Austria organised a forced return by plane from Vienna via Frankfurt to Lagos and Accra for a total of 40 returnees from Ghana, Sierra Leone and Nigeria. Iceland and Luxembourg also took part with returnees from Nigeria. A doctor and a paramedic accompanied the forced return. The human rights observers described that the escort officers handled the returnees correctly at all times and praised their calm and professional approach. As an additional source of information to the commission reports, these monitor reports provided the NPM with a broad and multi-professional perspective. In this way, the NPM was able to observe, as in 2023, that the vast majority of the overall observed acts of direct administrative power and coercive measures were conducted in a factually correct and professional manner.

Monitoring forced returns

2.8.1 Demonstrations

In last year's report, the NPM noted that the positioning of tactical communication vehicles and the perceptibility of loudspeaker announcements at demonstrations are of major importance. The Federal Ministry of the Interior immediately informed the NPM that a further tactical communication vehicle was already being procured in order to strengthen the area of tactical communication, particularly at demonstrations, assemblies and major

Purchase of another tactical communication vehicle

events nationwide. In addition, corresponding training and further education programmes are being held on an ongoing basis.

Impressions of demonstration in Innsbruck

In October 2023, the demonstration „European Union kills – criticism of the European and Austrian border system“ took place in Innsbruck. According to the commissions’ observations, there were no incidents and the demonstration took place without any problems despite a change of route. On the other hand, however, the commissions criticised the disproportionately high police presence during the demonstration.

High police presence despite lack of danger

The commissions were well aware that, based on the risk analysis, comparable demonstrations such as „Borders Kill“ in 2021 and 2023 would result in a higher police presence. Nevertheless, in the view of the commissions, the police should have realised, at the latest after the demonstration marched off, that there was no longer a threatening situation (p.e. no „black bloc“). In the end, the police strength was in a ratio of 1:1 to the demonstrators; in addition, six dog squads were deployed.

No de-escalation due to less police presence

In the NPM’s opinion, the police force should have been reduced accordingly in the interests of proportionality and de-escalation after it became clear that the police’s risk assessment did not correspond to the facts. The Federal Ministry of the Interior replied that, despite all available information and knowledge, the course of a demonstration could never be predicted with certainty. The Federal Ministry of the Interior therefore felt that the number of police present was appropriate based on the experience of recent years.

In conclusion, the NPM stated to the Federal Ministry of the Interior that the Austrian police force distinguishes itself internationally above all by its de-escalatory approach, which involves deploying the necessary number of officers. In this specific case, units could have been withdrawn – as is usually the case – and kept in reserve.

2.8.2 Football games

Admission and outflow of fans was well organized

On 26 September 2023, the football cup match between *SV Austria Salzburg* and *RB Salzburg* took place in Grödig. The NPM commissions praised the police: the majority of the measures taken to ensure a coordinated flow of people during admission and after the end of the match were moderate and well organised. The arrest of an unruly football fan was carried out calmly and correctly.

Official announcements by stadium speaker

In particular, the commissions criticised the fact that a spokesman for *SV Austria Salzburg*, and not the police, issued a police directive to a large crowd by using a megaphone. He asked a group of fans to move back so that a players’ bus could pass.

The Federal Ministry of the Interior replied that the police's megaphone was located in another part of the stadium, which is why the police could not make the announcement themselves. The police had therefore contacted a security officer of the home team. In addition, issuing the police directive through the home team's security officer was said to have served to de-escalate the situation.

The NPM could not understand this argument from a legal perspective and upheld its criticism.

On 25 February 2024, the commissions observed the Vienna derby between *Rapid Vienna* and *Austria Vienna*. As in many previous derbies, the commissions again observed excessive use of pyrotechnics. The NPM criticised the fact that the police had not made use of their right under Section 41 (3) Austrian Security Police Act (*Sicherheitspolizeigesetz*) to search persons at the entrances, at least the known troublemakers. This provision allows the police to search persons at the entrances themselves. Although a forced police search is not permitted, persons who refuse to be searched can be excluded from the event.

Excessive use of pyrotechnics at Vienna derbies

The NPM considered the Federal Ministry of the Interior's statement of opinion unsatisfactory. Thus, it invited representatives of the Federal Ministry of the Interior, the Police Department of the *Land*, the Austrian Bundesliga, the Austrian Football Association and the football clubs *SK Rapid Vienna* and *SK Austria Vienna* to a „round table“ at the premises of the AOB on 15 October 2024. As the Vienna derby on 22 September 2024 once again led to excessive use of pyrotechnics and outbreaks of violence among fans on the pitch, the „round table“ became particularly explosive.

Round table in the AOB

The issue is not a purely police-related one, but must be considered in its entirety. Topics of discussion were also the relationship between the clubs and their fans, questions of football and fan culture, as well as the need for any legislative recommendations. For this reason, the NPM saw itself more as a mediator in the function of preventive human rights protection at this round table.

NPM as mediator

The discussions were open and were perceived as very enriching by all sides. It was clear to all participants that action must be taken. There were good suggestions from all participants as to how excessive pyrotechnics can be reduced in the future. Together with the commissions, the NPM will also address this issue in other *Laender* where similar problems exist. It was agreed that an exchange between the NPM, its commissions, football clubs and the Federal Ministry of the Interior and the Police Departments will continue to take place in the future.

Further exchange planned

2.8.3 Inspection regarding basic reception conditions

Right to information With regard to basic reception conditions, the NPM emphasised the importance of the right to information in its last report. The Federal Ministry of the Interior reported that a revision of the information sheets was being implemented, taking into account the NPM's recommendations.

The commissions also emphasised positively that the information sheet was available in 14 foreign languages and was handed out to those affected in their native language. However, as already stated in the 2023 report, the commissions recommended that the information sheets be revised or supplemented in a new edition. This should explain the purpose of the inspection regarding basic reception conditions and refer to the aforementioned legal provisions. These should also be described in simple and understandable language. On the occasion of an inspection regarding basic reception conditions in the district of Eisenstadt, the commissions also emphasised positively that all persons concerned had received a leaflet in their native language. The leaflet was available in 16 different languages.

2.8.4 Positive observations

Public viewing at the Vienna Rathausplatz In July 2024, the commissions observed a public viewing of the European Championship match between Austria and Turkey. The commissions recommended that the police deployment was appropriate and reported that police operations at the event were calm. Arrests, where observed, were correct and proportionate.

Forced return Another commission observed a contact meeting at the Roßbauer Lände police detention centre and a forced return by charter to Bulgaria in November 2023. The contact conversations were conducted in a very calm and objective tone. All steps of the planned forced return (pick-up at the police detention centre, determination of fitness to fly by a public medical officer, transport to the airport and the exact flight route) were discussed in detail with the returnees. They were also given the opportunity to make phone calls during the contact meeting or to have their luggage brought to the Roßbauer Lände police detention centre.

Inspection regarding basic reception conditions In March 2024, a NPM commission observed a monitoring of the basic care accommodation, starting from the Roßbauer Lände police detention centre in Vienna. According to the commission, it was positive from a human rights perspective that the preparation and conduct of the operation was planned in great detail and was extremely professional at all times. In particular, the intervening officers treated the persons being monitored with respect and appreciation at all times and, where necessary, in a child-friendly manner.

Another commission observed an inspection regarding basic reception conditions in Salzburg-Umgebung in January 2024. Out of consideration for (small) children, the end of the monitoring was set in advance at 8 pm. A person with knowledge of the Russian or Ukrainian language was very helpful during the interviews. Women were represented in every control team, which proved to be necessary, especially as women and/or children were often communicated with and their premises were entered. Each person monitored was given an information sheet and was also informed verbally about the purpose of the intervention. The commission recommended that the intervention of the law enforcement officers was remarkably friendly, objective, organised, informative and correct. Another inspection regarding basic reception conditions in Salzburg-Umgebung in May 2024 was equally exemplary.

A commission observed an inspection regarding basic reception conditions in Klagenfurt. The operation was routinely well prepared and discussed in advance. The officers' strength was adequate and no behaviour was observed that was contrary to the guidelines, disrespectful or discriminatory in any way. The officers respected privacy and distributed information sheets in the respective language.

During an inspection regarding basic reception conditions in the district of Mattersburg, the commission reported that the officers were courteous, helpful and polite. They were also fluent in foreign languages, were able to communicate with the persons concerned and provided written information about the operation in their foreign language.

In January 2024, a NPM commission observed the deployment of a targeted campaign on illegal migration and smuggling to combat cross-border crime in the district of Neusiedl am See. Three female officers and 19 male officers from various units were involved in the operation. On several occasions, the commission was able to observe how the officers monitored the stopped vehicles and their occupants. In particular, the commission praised the professionalism and courtesy of the officers deployed and the good organisation of the operation.

**Targeted campaign
on illegal migration /
smuggling**

In February 2024, Commission 3 observed the assembly „Defending democracy, solidarity rally for human rights and democracy – civil society protest against right-wing extremist tendencies“ in Graz. In a concluding meeting, the commission emphasised the smooth and peaceful conduct of the demonstration. The tactical communication vehicle travelled at the head of the demonstration and set the pace. Information on any image and sound recordings was announced via a clearly visible ticker. The commission particularly emphasised the use of several sign language interpreters, which also gave great importance to the topic of „inclusion“ at this demonstration.

Demonstrations

Commission 5 observed the March for Life in Vienna in October 2024. The police managed to avoid an escalation between demonstrators and counter-demonstrators. The commission praised the police's de-escalating and cautious approach, for example in pushing back the counter-demonstrators.

At a demonstration in Innsbruck, Landhausplatz, in February 2024, the competent commission observed that the police was deployed in a proportionate and de-escalating manner. The announcements were mostly audible through the tactical communication vehicle and were repeated again and again. The use of cameras was announced.

Football games In the course of the observation of the UEFA Champions League football game between *FC Salzburg* and *FC Twente Enschede* (NL) in August 2024, the competent commission provided positive feedback. The commission categorised the fact that information was provided in advance to the Dutch visiting that carrying cannabis was prohibited as a very positive preventive measure.

The police carried out arrests in the course of the Austrian Football Association's Cup Final on 1 May 2024 at the Wörthersee Stadium in Klagenfurt calmly and professionally. The security and safety measures for arrivals and departures were good. The police actively communicated with the fan clubs of both teams.

A commission observed the football test match between *LASK* and *Galatasaray Istanbul* in Linz on 11 July 2024 and reported that all measures to ensure a coordinated and smooth process during entry and departure, admission, the match and when leaving the stadium were observed to be moderate.

Annex

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