

DEPARTMENT OF HEALTH AND SOCIAL WELFARE

Special Reports Summary (May 2007)

Own-initiative investigation by the Ombudsman into the involuntary hospitalisation of mentally ill patients

On 21st May, the Ombudsman, Yorgos Kaminis, submitted to the Prime Minister and the President of Parliament, with a copy to the Minister of Health and Social Solidarity who has competence for the matter, a special report (article 3(5) of Law 3094/2003) on the Ombudsman's own-initiative investigation into the involuntary hospitalisation of mentally ill patients.

The object of the report is to investigate problems arising during the application of articles 95-100 of Law 2071/1992 ("Update and Organisation of the Health System") pertaining to the procedure for involuntary hospitalisation of mentally ill patients. More specifically, the report attempts to investigate whether the rights of mentally ill patients, established by the above law, are protected.

The Ombudsman has repeatedly received complaints from citizens in relation to the involuntary hospitalisation of mentally ill patients. To collect the research material, a series of visits was made by a team from the Ombudsman's office to the Dromokaiteio Hospital and the Psychiatric Hospital of Athens. With the cooperation of the managers of these two hospitals and the employees responsible, material was collected by randomly selecting 89 dossiers of patients of both sexes who had undergone compulsory hospitalisation during the previous two years (primary sources). The overall conclusions of the report were based on 179 compulsory committals carried out following the enforcement of Law 2071/1992. The following issues were investigated:

- 1) The content of medical opinions
- 2) The transfer of patients by the police
- 3) The observance of deadlines
- 4) The information provided to patients
- 5) The judicial review of committals and the appearance of patients in court
- 6) The length of time that patients stay at the psychiatric hospital
- 7) The court judgement.

A statistical investigation was carried out and it was established that judicial review of the committal of mentally ill patients, and therefore, the main aim of Law 2071/92 which imposes judicial review as the main guarantee and prerequisite for protecting the rights of mentally ill patients, is not applied in practice.

The findings of the investigation

- 1) As "quasi-experts", psychiatrists should justify their judgement fully and adequately, in order that the public prosecutor can properly exercise his responsibilities in respect of involuntary hospitalisation. A large proportion of medical opinions have no rationale containing reasoned and psychodynamic assumptions underlying the assessment of the mental condition of the person whose examination has been sought by the prosecutor. The opinions include no individualised appraisal of whether patients are in a position to assess their own health and whether lack of hospitalisation might aggravate their state, as the law requires. Consequently, **the legal requirement for reasoned opinions is not fulfilled**. The Ombudsman pointed out deficiencies in the reasoning of

- such opinions and underlined that such reasoning is an essential guarantee of the protection of mentally ill patients.
- 2) Ninety-seven percent (97%) of **patients were transferred by the police and not the First Aid Centre Emergency Ambulance Service**. This indicates that mentally ill patients are regarded as “potentially dangerous persons” and not as patients.
 - 3) **It is not certain that patients were properly informed “of their rights and more specifically of their right to file an appeal”**, as is required by law.
 - 4) While a prosecutor’s committal order was found in 94% of the cases, in about half of the dossiers examined, no summons to appear in Court was found and in approximately 84% of cases, no Court order for committal was found. In addition, it was established and confirmed statistically that the 10-day period specified by the law was exceeded. In the overwhelming majority of cases, the patient did not appear in Court. The operative part of the Court orders was based on the original summary opinions made during the admission of the patient. No more recent opinion or appraisal of the patient’s condition was found, even in cases where the duration of such committal was very long. In several cases, the period of time between the Court session and issue of the relevant order was greater than one month.
 - 5) Finally, **the fact that no statistically significant association between a Court order and the duration of involuntary committal was found means that in practice the basic aim of Law 2071/92, namely, the judicial review of involuntary committal of mentally ill patients, is negated.**

The Ombudsman’s suggestions

- 1) Regular direct co-operation and coordination of the competent services of the Ministry of Health & Social Solidarity and the Ministry of Justice should be instituted. Such co-operation should not be established at administrative level only; reciprocal briefing is required between the bodies and officials involved at the level of hospitals and prosecutorial and other judiciary authorities.
- 2) Psychiatrists should receive further training and should be kept continuously informed of the need to provide fully reasoned opinions, while the relevant forms should be improved with detailed pre-printed guidelines and examples.
- 3) Crisis intervention programmes, i.e. individualised units for dealing promptly with dangerous mentally ill patients, should be set up.
- 4) Primary mental health care, i.e. out-patient and, to a large extent, preventive care of mentally ill patients, should be developed. In practice, such primary care is carried out by the psychiatric departments of general hospitals and out-patient clinics of psychiatric hospitals, which are obviously not primary care units. Limited coverage of needs at primary care level inevitably forces families and patients to turn to psychiatric clinics; this accounts for the fact that in Greece, involuntary committal ranges between 40-50% of admissions, while in EU Member States it does not exceed 7-8%.
- 5) Continuity of treatment should be ensured in the provision of primary, secondary and tertiary care.
- 6) A network of support services should be developed for the families of mentally ill patients; awareness-raising and health education programmes should also be created in the community.