

Monitoring report on respect for the rights of persons with intellectual and/or psychosocial
disabilities in institutions
at
PSIHOSAN, Mureș County

proiect derulat de:

în parteneriat cu:

MONITORING REPORT

Mureș County

Psihosan

Background of the visit

The visit took place within the context of the "Advocate for dignity" Program run since 2003 by the Centre for Legal Resources (CLR). None of the activities carried out by CLR for the purpose of monitoring and ensuring access to justice for residents with disabilities in public or private social care homes, protected dwellings, family-type homes, foster care homes or psychiatric hospitals is funded by the Ministry of Labor and Social Solidarity or by another central or local public authority.

On 29.02.2024, CLR representatives conducted an unannounced monitoring visit to Psihosan, in Bercului Street, No. 204, Ungheni, Mures County. Access was granted on the basis of the cooperation agreement concluded by CLR with the Monitoring Council for the implementation of the Convention on the Rights of Persons with Disabilities (Law no. 8 of 2016). The monitoring team consisted of [REDACTED] (manager of the "Advocate for dignity" program), [REDACTED] (legal expert, psychologist), [REDACTED] (psychologist specialized in clinical psychology), [REDACTED] (doctor specialized in pediatric psychiatry), [REDACTED] (psychologist, specialized in clinical psychology), [REDACTED] (lawyer), [REDACTED] (psychologist). The visit took place between 12:50 and 16:00.

Access was easy, the monitoring team was allowed to enter the courtyard of the building and, subsequently, the building itself, by the staff providing various services there at the time. Later, during the visit, psychiatrist M.G.-C. also participated as the administrator of Psihosan Serv SRL. CLR appreciates the manner of collaboration with the social care home's staff throughout the mission.

About Psihosan

According to the public information presented by the persons who run this social care home on the website¹, Psihosan is a *medical concept that supports all patients with mental disabilities*, being a *medical center*, designed to provide *special conditions to those with mental disabilities*. According to the same source, the social care home is aimed at persons with various mental disabilities² and includes a number of departments:

1. Department of psychiatry,
2. Occupational therapy department,
3. Physiotherapy department,
4. Consultation room.

At the same time, the social care home *provides a continuous monitoring of the health condition for all patients*, offering *accommodation, care and permanent or temporary luxury accommodation*.

¹([About us – Psihosan](#))

²depression, dementias (early and middle stages), obsessive-phobic anxiety disorders, neuroses, behavioral disorders, eating disorders, sexual dysfunction disorders, disorders related to substance use and alcohol, organic personality disorders, mild and medium cognitive disorders or other mental disorders

According to publicly available data³, the company had 21 employees in 2022. Psychiatrist M. G.-C. is registered in the documents provided as an administrator and is also at the company together with her son, Cristian G.-C. The amounts requested monthly are up to 5000 lei / beneficiary / month, the social care home not benefiting from any other amounts from state institutions for the services provided to beneficiaries.

Monitoring visit

The members of the monitoring team carried out inspections of the premises of the building on 3 axes – the social care home for the elderly, the psychiatric clinic and the spaces for household activities in the basement, ground floor and attic, respectively. Subsequently, a discussion on various documents took place in Ms M.G.-C's office. All CLR team members were allowed access to all the premises; they were usually accompanied by a Psihosan staff member. A constant dialogue was held in particular with Mrs. Timea Z.I., psychologist, and Mrs. I.B., nurse.

1. The social care home for the elderly

According to the public information presented by the persons who run this social care home on the dedicated website, the complex includes a *rehabilitation center for the elderly*, offering care and *permanent or temporary luxury accommodation*, in 22 *properly equipped studios*⁴, with access to the dining room and various spaces for activities, with *permanent surveillance services and high-level medical services*. No public information is given on the procedure for admission or discharge from this facility.

At the time of monitoring, 25 elderly residents were institutionalized (one person of whom was admitted on the day of the visit). However, the social care home has 10 rooms with 2 beds each, so another 5 were accommodated in the other section.

The rooms are clean, equipped with beds, wardrobes, bedside tables, private bathroom (sink, mirror, toilet, shower tub, sanitary equipment). There is one person in the social care home who has been there for 9 years, the oldest resident.

2. Psychiatric clinic

Public information about the clinic

Within the psychiatric clinic, according to its own information provided on the Psihosan website, 19 types of psychiatric and psychological medical services are provided, from *psychiatric and psychological evaluation to establish the diagnosis*, to *counseling, psychoeducation, individual or group, psychotherapies* (family, supportive, occupational, etc.)⁵, the fee for which depends on the complexity

³PSIHOSAN SERV SRL from Targu Mures Str. Sirguintei 8, UIC 8767670 (listaфирme.ro)

⁴Equipped, according to published information, with air conditioning, central heating, telephone, internet, cable TV, refrigerator, TV and private bathroom

⁵psychiatric evaluation and diagnosis of acute mental disorders for the entire psychiatric pathology (young, adult, old), alcoholic rehabilitation and detoxification, rehabilitation and detoxification in drug addiction, psycho-pharmacological treatment of mental disorders, complex psychological and psychiatric assessment in order to establish the psychiatric diagnosis, counseling and psychoeducation with patients and their families, psychological evaluation, family psychotherapy, sports psychotherapy, occupational therapy, psychological counseling and individual and group psychotherapy, recovery through medical gymnastics, sports, swimming, sauna, medical massage, physiotherapy, socializing activities (walks in the park), the possibility of visiting residents by family and friends according to a predetermined program, permanent specialized supervision, a controlled dietary regime, cinematheque program, music therapy, art therapy

of the case. The facilities related to these services are also mentioned on the website, from the gym, treatment, library, to patient clubs, plus PC systems for permanent video surveillance of *patients*⁶. The documents required *for admission* are those that reflect *their medical history*⁷, identity card, and for *discharge* it is specified that the patient will receive a *hospital discharge form, medical letter, psychological examination, as well as recommendations for continuing outpatient treatment*. Patients are instructed to follow *medical prescriptions, to collaborate with doctors and healthcare personnel to achieve the purpose for which they were hospitalized*; to comply with procedures for *biologic sampling, investigations and treatment*. Also on the social care home's website, this facility is designated as a *hospital*, among the rules imposed on patients being included those of not leaving *the hospital without the approval of the attending physician or the chief physician of the department or to remove from the hospital by any means, goods belonging to the unit, as well as medical documentation*.

Facts noticed at the time of the monitoring

At the time of monitoring, 9 persons (maximum capacity of 14), assigned to the psychiatric clinic unit of the social care home, were institutionalized in rooms of 2 beds, with private bathroom, with access from a single corridor. The rooms were adequately furnished, with wardrobes and bedside tables. The bathrooms were clean, equipped with items necessary for personal hygiene. At monitoring time, most beneficiaries were outside their rooms, dining or socializing in the dining room situated at the end of the aisle. The dining room serves both the psychiatric ward and the social care home, according to the staff, the meal is served sequentially, per groups, to these beneficiaries.

In the last room, 2 persons were accommodated, a 64-year-old gentleman, along with a 29-year-old man who had been in this complex for 2 years. Both declare that they feel good within the complex, they are satisfied with the food, they can and are visited by their guardians, he declares that he can go out for fresh air or sunlight, whenever he wants. On the bed of the young patient there were, among other things, a phone and cigarettes - he confirms that he can talk to anyone he wants at any time and that he goes out on the terrace when he wants to smoke.

Another patient, a 22-year-old woman, complains, however, about the fact that she is allowed to use her phone only between 16:00 and 22:00, although other beneficiaries do not have this rule. She receives regular visits from family and friends. She claims that she cannot leave the perimeter of the institution's yard. She claims that she was institutionalized under her parents' pressure, eventually signing the contract, but only if she can stay for a fixed period of 30 days. She questioned this, not knowing if it was legal to stay there against her wishes. She explains that she requested change of medication due to side effects. When asked whether she was informed about the effects of the medication, she tells me that they were not informed about the side effects "so we wouldn't be scared."

Finally, another patient, 62 years old, diagnosed with schizophrenia, who has been in the social care home for over 2 years, says that she does not want to be there, that she wants to go home. She is placed under guardianship, according to documents found in her file.

3. Structures related to household activities

⁶gym, sauna, jacuzzis, swimming pool (supervised), treatment room, library, psychology cabinet, specially designed spaces for serving meals by patients admitted to safety rooms and for non-mobile patients, patient clubs – carrying out occupational, recreational activities, TV, PC systems – ensure a clear record of patients on the ward and at the same time, allowing daily procedures to be carried out in a faster and efficient manner, Video surveillance system

⁷documents attesting health issues prior to hospitalization, possibly documents related to previous hospitalizations, recent laboratory examinations for the correct assessment of patients

The basement of the building is generous and includes, besides the spaces belonging to the kitchen, laundry and the two heating plants serving the complex, also spaces, unused at the time of the visit (and, according to the staff, not used for a long time), intended for physical activity (a gym, a sauna, a covered pool, hydromassage bath).

Food was properly stored in separate refrigerators with specific marking of the expiration date. The kitchen was well equipped, with proper hygiene, it had an elevator, food transport to the ground floor where the dining room is arranged and it had displayed the menu for each meal / day of the week.

The dining room is bright and clean, CLR appreciates the use of porcelain plates for both the residents of the Elderly Home and the Psychiatric Clinic, as well as stainless steel cutlery, to the detriment of metal plates / bowls and spoons usually used in such institutions.

The laundry was washed in large and dry machines at the time of the visit – indoors, in the space allocated for heating plants – which does not allow them to be properly ventilated and is likely to affect the condition of the premises and installations concerned. On sunny days, according to staff statements, laundry dries outside.

In the attic there are spaces not used by the beneficiaries of the two Psihosan facilities – an office assigned to the activity of the company's accountant (who was not present at the time of the visit), 2 bedrooms sometimes used by Mrs. M. G.-C. and her son, a large space that was intended for group activities (very seldom used by the social care home's psychologist with some "young" patients in the psychiatric ward), a kitchenette that was never used, a massage room (according to the staff, this service has not been requested for a long time, the room is no longer used), various other storage spaces. The building, large in size, over 4000 square meters, is surrounded by a generous space – a park of over 2000 square meters, where a parking lot is arranged, with 25 places, as well as a relaxation space – benches, tennis tables, etc.

4. The activity carried out in Psihosan

After inspecting the building and after discussing with the beneficiaries, the CLR team proceeded to verify the documents regarding the establishment of the company, requesting the licenses and accreditations necessary for its operation, as well as other legal aspects regarding the activity carried out there.

From the initial dialogue with the staff of the complex, it was confirmed that this facility includes a private psychiatric clinic and a social care home. When requesting documentation related to the two types of residential structures, ***CLR members did not receive any document attesting to the establishment and operation of the two facilities included in the Psihosan complex, according to national and international standards in the field.***

Thus, various documents were presented to the team, separately and after many searches, from the act of establishment of Psihosan SRL as a psychiatric medical office in 1999, to various sanitary authorizations for operation, respectively documents issued by the Ungheni City Hall, as follows:

- **Registration certificate issued by DSP Mures**, with no. 404931/28.07.1999, for Psihosan SRL, as a psychiatric medical office.
- **Operating permit issued by Ungheni City Hall**, no.17 of 14.04.2011, for hospital activities, NACE code 8610 and residential care activities for the elderly and disabled, NACE code 8730, with annual extension visas, up to date, including for 2024.
- **Sanitary authorization for operation, issued by DSP Mures** – no.518 / 2.04.2012 for the Medical Center SC Psihosan SRL, having as object of activity, according to CAEN codes – 8610 – hospital activities and 8622 – specialist medical practice activities, for

1. a 14-bed psychiatric ward,
2. occupational therapy compartment
3. kinesiotherapy department.

- **Sanitary authorization for operation, issued by DSP Mures** – no.1988 / 27.11.2012 for the Elderly Care and Recovery Center, having as object of activity, according to NACE codes – 8730 – residential care activities for the elderly and disabled.
- **Opinion issued by the Ministry of Health.** In 2013, the Directorate for Organization and Salary Policies of the Ministry of Health submits the opinion of this ministry for the functioning of **the Medical Center** for

1. a 14-bed psychiatric ward,
2. compartment of occupational therapy,
3. kinetotherapy department,
4. treatment room
5. consultation room.

Based on this, the Psihosan Serv SRL Center was assigned the 100155 code **for the unit with beds.**

- **Sanitary authorization for operation issued by DSP Mures** - sanitary authorization no. 928 / 25.05.2015 for the Medical Center SC Psihosan SRL, having as object of activity, according to CAEN codes - 8610 - hospital activities 8622 - specialist medical practice activities, 8690 - physiotherapeutical activities, for

1. a 14-bed psychiatric ward,
2. occupational therapy compartment
3. physiotherapy department
4. psychiatry office

From the dialogues with Mrs. M.G.-C., it appears that ***no steps have ever been taken to get the certification for the hospital beds from ANMCS (National Authority of Quality Management in Health)***. The reason for not doing this was that Psihosan's activity is carried out exclusively in relationship with individuals, ***with no settlements being made from the state budget, which is why no other certification is required.*** At the same time, ***the unit did not take any steps regarding the licensing or authorization of the structure dedicated to the elderly.***

The contract that the beneficiaries of the social care home sign upon admission is one, regardless of the admission to the social care home or to the clinic. It has on its header the reference to PSIHOSAN, MEDICAL CENTER, PRIVATE PSYCHIATRIC CLINIC, ELDERLY RECOVERY CENTER. The contract is **concluded between the company Psihosan Serv SRL** represented by the administrator, Mrs. M G.-C., as provider and each beneficiary separately.

In the contract, parties are referred to differently, using terms such as: ***resident, owner, patient, contract partners.***

The duration of the contract is one month, with possibility of extension for an indefinite period.

The preamble of the contract refers to the fact that, ***in terms of construction and equipment technology, the care establishment corresponds to the current provision on social care homes and care homes for adults, according to the rules laid down by the Romanian legislation, in particular as regards access ways, as well as sanitary facilities.***

According to the object of the contract, it is for ***the provision of services – care for the elderly***, and consists in providing ***inpatient services, basic care, care in the context of medical treatment, social counseling, accommodation and care***. For additional services, separate conventions are to be concluded – the CLR team did not take note of such agreements. Some newer contracts, from 2023, contain in the object of the contract the reference to ***the provision of services – care for the elderly / persons with mental disabilities***.

As regards medical services, the standard contract refers to the fact that ***the care establishment does not provide medical services***, all of which are to be provided by *the contracted physician of the facility*. It mentions the resident's right to freely choose his doctor, provided that he can reach the establishment and that he has the malpractice insurance. It is particularly stated that ***the establishment is not liable for medical malpractice, this being an individual fault of the attending physician chosen by the patient or guardian***.

The housing services offered under the contract consist of hot and cold water supply, heating, lighting, electricity, wastewater and waste management, cleaning the space, providing bed linen and towels, washing and drying laundry, etc. ***Care*** consists of offering 3 meals a day and two intermediate meals, adapted to the nutrition needs of the resident, etc. Aspects of termination, procedure in case of death, data protection and confidentiality are mentioned.

The contract refers to ***annexes*** containing a description of the services provided for general care services, the range of services and additional costs offered, the furniture/ furnishings brought by the resident, the house rules, information on the possibilities of counselling and complaints, the agreement on ambulance transport in the event of an emergency, the obligation of relatives to provide information on the patient's entire medical history. These annexes were not presented to the members of the monitoring team.

The contracts are ***signed*** by the residents, its guardian and the administrator of the establishment Psihosan Serv. SRL.

Other documents studied during the monitoring visit include:

1. ***General clinical observation sheets*** drawn up on the letterhead of the Psihosan Medical Center, by the psychiatrist, who signs by hand and certifies by doctor's stamp, with diagnosis ***at hospitalization, at 72 hours***, respectively at ***discharge***. For example, analyzing the sheet of a hospitalized person, Mr. D.S., on 10.07.2023, upon request, the diagnosis at admission was of mixed anxiety-depressive disorder, at 72 hours of major depressive episode, and at discharge that took place shortly after, on 13.07.2023, death by strangulation was recorded. In fact, this was the only observation sheet observed in patients' documents.
2. ***Medical letters*** drawn up on the letterhead of the Psihosan Medical Center, by the psychiatrist, who signs by hand and certifies by doctor's stamp, containing elements of anamnesis, medical treatments offered during admission (eg anxiolytics, antidepressants, etc.), the issuance or not of prescriptions or medical leave.
3. ***Medical records*** also include documents such as general clinical examination, history of disease, evolution and treatment sheet, temperature sheet, etc.

No files/documents regarding the treatment or social services offered to the beneficiaries of the center were presented to the monitoring team. Ms M.G.G states that the social services carried out within the institution she leads refer to social counselling, 'that is, a story'.

From ***the inspection register*** presented during the evaluation mission, it appears that the social care home was inspected during 2023 by police structures – with regards to fire prevention and protection, respectively by structures of DSP (Directorate of Public Health) – thus, during August 2023,

representatives of DSP Mures carried out inspections in June 2023; CPJC Mures, DSVSA (The Directorate of Veterinary Health and Food Safety), DSP Mures (based on Prefect Order no. 233 / 27.07.2023) and IPJ Mures, in August 2023, the grounds of controls being GO 21/1992, L.333/2003, L.95/2006. There were no inspections carried out by MMSS (Ministry of Labor and Social Solidarity) structures. Instead, it was found that DSP Mures, during the inspection of August 11, 2023, checked the Elderly Care and Recovery Center, noting that it operates under ASF 1988 / 27.11.2012, NACE code 8730, having 20 beneficiaries, accommodated in 10 rooms.

Among the documents received by the CLR team for verification was a binder containing the **accreditation file of some wards within the Targu Mures County Hospital.**

Findings

Access to and from the building/rooms

According to staff statements, access to the building is free, persons hospitalized in this complex can go out whenever they want. However, there were situations found by the CLR team members themselves, **when the main access door was closed with the key which was located at one of the persons of the complex, with no real possibility to exit the building.** One of the beneficiaries told us about an incident in which another beneficiary had to jump the fence surrounding the complex to get out.

The complex also benefits from security service during the day, until 22:00 o'clock, not being able to enter or exit without reporting it to the guard on duty, the entire area being surrounded by high walls. After 10 p.m. the building is also closed. Discussions with staff reveal that during the night there are **only 2 persons in charge of monitoring persons in both facilities.**

Access to the first floor or basement is made **by stairs that were not equipped with ramps or other devices that allow the use of wheelchairs.** Moreover, according to staff statements, it is clear that the beneficiaries of the complex use only the ground floor premises, sometimes, very rarely, those who can move by themselves, usually from the clinical department, go up to the attic for some group activities coordinated by the psychologist. All rooms are equipped with locks, they allow **closing on the outside, the keys are kept by the staff of the institution.**

Accommodation and food conditions

The conditions offered are adequate, maintained in good hygiene parameters, the food seems to be varied and properly cooked / served, the members of the monitoring team did not receive information that show otherwise, following dialogues with the beneficiaries.

Types of services offered

Given that the website itself presents this location as a **psychiatric hospital** and the medical documents are drawn up accordingly, there are NACE codes related to healthcare, and the operating authorization mentions 14 hospital beds, but, in reality, from what the CLR team members found, medical services are provided, **This institution is not subject to any of the rules which are mandatory for the operation of a private hospital or clinic, having been operating in this way for years, for the simple reason that it does not report in documents what it actually provides and concludes extremely unclear contracts with the beneficiaries.** This is also the reason why, although it has been operating for a long time, **none of the state authorities that checked the activity of this institution on medical aspects referred to the standards and procedures necessary for a hospital.** This fact was noted and mentioned by the CLR team, preliminarily during the visit, recommending the resumption of procedures related to authorization as a hospital, even if the institution does not have relations with

CNAS (National Health Insurance House). **Representatives of the institution noted this recommendation.**

Similarly, although public information is exposed regarding the existence **of a rehabilitation institutions for the elderly, providing permanent or temporary luxury care and accommodation, in 22 studios**, with contracts concluded in this regard and related NACE codes, **this institution is not subject to any of the norms mandatory for the operation of such an establishment**, apart from the minimum ones regarding accommodation and meal conditions. The staff could not provide the CLR team with any document reflecting any of the specific procedures applicable in a social care home for the elderly – contract with social assistance, beneficiary's file, assistance and treatment plan, procedure for notifying the deaths occurred to the Monitoring Committee, etc. In fact, the services offered are minimal - accommodation and food. Apart from psychiatric or emergency medical services, no other types of activities are carried out, and the access of beneficiaries, if done (although the infrastructure of the building does not reflect it - stairs not provided with ramps, lack of special devices for transporting debilitated persons) is minimal - only access to the ground floor, to the terrace and, possibly, to the green space. This fact was noted and mentioned by the CLR team, as a preliminary point during the visit, recommending the resumption of the procedures related to the obtaining the authorization as a social care home, even if the institution does not have beneficiaries admitted from state structures. **Representatives of the institution noted this recommendation.**

CLR points out that, from a factual perspective, in this social care home there are persons **medically hospitalized, at their own initiative or at the initiative of their relatives**, the persons benefiting from psychiatric medical services and not being able to leave the facility at will, the rooms (at night, at least), and the entire establishment being closed. In this complex are also **accommodated, at their own initiative or at the initiative of their relatives**, persons who benefit from some elements of the social services mentioned on the website – such as counseling, group therapy, melotherapy, etc., again, they cannot leave the institution at their own initiative.

Legal framework.

The investigations carried out with regard to this company revealed the following:

- according to information obtained from the National Trade Register Office (O.N.R.C.), **Psihosan Serv SRL** is registered under order number J26/551/1996 and has as a main activity **specialist medical practice activities, according to NACE CODE 8622**. As secondary activities we find the following NACE codes:
 - 8610 - Hospital activities
 - 8621 - General medical practice activities;
 - 8690 - Physiotherapeutical activities ;
 - 8710 - Residential nursing care activities ;
 - 8720 - Residential care activities for mental retardation, mental health and substance abuse;
 - 8730 - Residential care activities for the elderly and disabled .

Also, according to O.N.R.C. information, CLR members note that **PSIHOSAN SERV SRL** owns 3 working points, and in two of them there are social care homes for the elderly. They are located in Targu Mures, Belșugului Street no. 24, Mures County, respectively in Ungheni, Bercului Street nr. 204, Mures County, both working points having as **main activity residential care activities for the elderly and disabled - NACE code 8730**.

In order to obtain a license for social services, activities for which this company has been registered, it is necessary to meet certain criteria and comply with quality standards. These include:

- **Infrastructure conditions:** These include accommodation, sanitary facilities, kitchen, recreation areas and accessibility for persons with disabilities.

CLR members found that the accommodation spaces **were not equipped with ramps or other devices that allow the use of wheelchairs for persons with disabilities**, so some beneficiaries **do not have access to recreational spaces** or, simply, in the courtyard of the complex.

- **qualified staff:** The institution must have well-trained staff specialized in caring for the elderly.

CLR members were not provided with any document confirming the organizational chart of this social care home and reflecting that there are well-trained staff available to beneficiaries at any time of the day.

- **Individualized assistance plans:** Each beneficiary must have an individualized assistance plan, adapted to their specific needs and conditions. This plan may include medical care, psychological counseling, recreational activities, and other services.

The staff could not provide the CLR team with any documentation regarding the specific procedures applicable in a social care home for the elderly, such as the contract with social assistance, the beneficiary's file, the assistance and treatment plan or the procedure for notifying deaths to the Monitoring Committee. In reality, the services provided are limited to accommodation and food.

- **Safety and security:** The institution must ensure a safe and secure environment for beneficiaries.

According to staff statements, access to the building is free, and residents can leave the complex anytime. However, there have been reports of the main door being locked with a key without being able to leave the building. One beneficiary told how he had to jump the fence in order to leave the complex. The complex benefits from security service until 10 pm, with registration of entrances and exits, and during the night there are only two supervisors for both facilities.

- **Legal compliance:** Licensing involves compliance with local and national social services laws and regulations. The institution must be registered and must operate in accordance with these regulations.

According to the verifications carried out by CLR members, given that the staff did not provide any document attesting the licensing of the institutions as private social services, but only 2 documents regarding the sanitary authorization and an operating permit issued by the Ungheni City Hall in 2012, we have discovered that this company does not appear in the list *of licensed social care homes for elderly persons on 11.03.2024 (social service code 8730 CR-V-I)* issued by the Ministry of Labor nor in the previous lists (2023, 2022).

The documents presented to CLR members at the time of the visit and mentioned at the beginning of the monitoring report reveal that there is no clarity regarding the legal functioning of these establishments.

From discussions with Mrs. M.G.-C., as well as the submission of limited and incomplete documents, it turned out that the hospital beds at Psihosan Serv SRL were never accredited to the National Authority for Quality Management in Health (ANMCS). The main reason for not carrying out this process was that the unit focuses exclusively on services provided to private individuals, without receiving settlements from the state budget. That is why the management believes that accreditation is not necessary.

According to the law, obtaining accreditation is necessary for both public and private units that want to enter into contractual relationships with the National Health Insurance Houses (CNAS). Obtaining accreditation confirms that a healthcare facility has the necessary resources and professional skills to provide medical care. Therefore, patients will have greater confidence to address an accredited healthcare facility than to a non-accredited facility. They will be confident that they will be properly informed about their health issues, about the possibilities of the clinic to treat them and about ensuring the continuity of medical care until recovery.

If a clinic is certified, it means that it provides conditions for applying best practices in the field and for taking all measures to avoid the risks of the patient suffering harm of any kind of injury during the period in which the treatment applied.

Also, Psihosan Serv SRL **has not initiated any steps to obtain a license or authorization for the structure dedicated to the elderly.**

According to the law, the unit providing services dedicated to the elderly **is obliged to obtain a license or operating authorization from the competent authorities.** The lack of these documents can be considered a violation of current legislation.

Licensing and authorization are necessary to ensure the quality of services provided to the elderly. By obtaining these approvals, the unit is subject to rigorous control and monitoring criteria, which contributes to increase the trust of elderly persons and their families in those services.

Failure to obtain a license or authorization can lead to legal consequences for the establishment, including fines and even being suspended. Older persons benefiting from those services may also be exposed to higher risks in the absence of regulatory quality standards.

As a result of licensing and authorization procedures, the unit can benefit from greater transparency and recognition of its work, which can help strengthen relations with public authorities, the elderly and other interested persons.

Moreover, CLR members found certain irregularities in drawing up contracts between the social care home and beneficiaries. There is a standard contract with 19 types of psychiatric and psychological medical services related to them, from psychiatric and psychological assessment to establish the diagnosis, to counseling, individual or group psychoeducation sessions, psychotherapies (family, supportive, occupational, etc.).

The preamble of the contract refers to the fact that, in terms of construction and equipment technology, the care establishment corresponds to the current provision on social care homes for the elderly and care homes for adults, according to the Romanian legislation, in particular as regards access routes, as well as sanitary facilities, although they were not made available to CLR members at the time of the visit and given that the administrator of the facility, M. G-C. mentioned that no steps had been initiated to obtain accreditation and licensing of the social care homes, according to the law.

The standard contract provides for the provision of care services for the elderly, including the provision of inpatient, basic care and medical treatment, social counselling services, accommodation and care. For additional services, separate conventions will be concluded, **although the CLR team has not been informed about them and no such conventions have been identified.** Newer contracts, from 2023, also include the reference to caring for persons with mental disabilities and the elderly.

The standard contract refers to the fact that the care establishment does not provide medical services, which are to be provided by the contracted doctors of the establishment. The resident has the right to freely choose his doctor, provided that he can be found at the establishment and with the obligation to

have malpractice insurance. It is clearly specified that the establishment is not liable for medical malpractices, which are the individual faults of the doctor chosen by the patient or his/her guardian.

The legislation in force in the field of care for elderly persons with disabilities in Romania includes Law no. 292/2011 on social assistance for the elderly, Law no. 53/2003 on the Labor Code, and Law no. 448/2006 on the protection and promotion of the rights of persons with disabilities.

According to these laws, social care homes for elderly persons with disabilities have the obligation to hire qualified personnel to ensure their care and supervision. Qualified personnel may include social workers, nurses, psychologists, therapists, physiotherapists or other categories of specialists in the field of care for elderly persons with disabilities.

The housing services provided in the **standard contract** include the supply of hot and cold water, heating, lighting, electricity, wastewater and waste management, cleaning of the space, provision of bed linen and towels, washing and drying of laundry, etc. The care consists of providing 3 main meals and 2 (two) intermediate meals, adapted to the nutrition needs of the resident. The contract regulates issues such as termination, procedure in case of death, data protection and their confidentiality.

It should be noted that according to the statements of the administrator (the person who concludes the contracts with the beneficiaries or relatives), the fee has a fixed amount of 5,000 lei / month / beneficiary.

The standard contract includes annexes which should detail specific care services, additional costs, furniture/ furnishings brought by the resident, housekeeping rules, information on counselling possibilities and complaints procedures, agreement for ambulance transport in case of emergency, and the obligation of relatives to provide information on the patient's medical history. **The rules and provisions in these annexes have not been communicated to the monitoring team and no legally relevant opinions can be given.**

What we can see is that these standard contracts raise possible questions about their drafting, both in terms of form and substance. They contain vague terms, general and confusing explanations which may mislead beneficiaries. In this context, beneficiaries may feel that the one-month duration of the contracts keeps them in a state of uncertainty about their living conditions (note here that the oldest resident has been living there for 9 (nine) years old). However, from another perspective, there is a possibility that this type of contract could be more flexible and give beneficiaries the option of not being obliged to stay in a facility for a long period of time. From this point of view, we believe that a contract should be adapted to the needs of each beneficiary, drafted to meet the needs of each beneficiary. It is problematic to fit this institution into one of the mechanisms known or monitored by the Center for Legal Resources (CLR), as the situation is unprecedented in CLR jurisprudence.

However, the website of the establishment presents the location as a psychiatric hospital, the medical documents drawn up confirm this information, there are NACE codes in the field of health, and the operating authorization mentions 14 hospital beds, but not their accreditation. However, the CLR team's observations indicate that the institution provides medical services without complying with the mandatory norms for the operation of a private hospital or clinic.

Over the years, the institution has operated in this way thanks to the practice of declaring in documents something other than what it actually provides and concluding unclear contracts with its beneficiaries. This is why, although the activity of the social care home is long, no state authority that supervised the activity of it, with regard to medical aspects, has verified compliance with the standards and procedures required for a hospital, nor the documents necessary for the legal functioning of the social care home for the elderly.

According to the opinion and recommendations of CLR, it is imperative to obtain accreditation by this structure, according to the provisions of Law no. 197/2012 on quality assurance in the social services sector.

It is necessary to immediately clarify the legal status of the complex in terms of the services it provides, given the absence of accreditation as a medical facility or institution. Any recommendation must be based on the legal, social and medical framework in which the provision of services takes place, so it is difficult to formulate specific recommendations. The way employees and representatives of the unit perform their duties is directly influenced by the type of unit/service, the rules and legislation governing the respective activity. The lack of clear knowledge of the type of unit/service and of the ambiguous administrative, organizational and legal aspects presented to the CLR team by the management and staff of the unit makes it impossible to correctly assess the service/unit.

Clarifying the situation is essential for the unit's contractual relationship with its customers, given that the contracts analysed between the unit and customers contain vague and ambiguous, general and confusing terms that may be misleading. The CLR team considers that these contracts could be misleading for citizens who do not have legal knowledge or who suffer from mental disabilities. Misunderstanding of the conditions, commitments and restrictions set out in the contract can have dangerous consequences for beneficiaries or their guardians.

It is recommended to take the necessary steps to obtain accreditation/licensing for both types of institutions and implement specific procedures, such as hospitalization procedures, registers, monitoring the use of restrictions, drawing up the beneficiary's file and treatment plan.

It is also recommended to effectively ensure social intervention activities, in order to complement the accommodation and meals services offered to beneficiaries, according to the social assistance law nr. 292 of 2011.

Moreover, it is worth mentioning an aspect reported by the staff of the complex which states that access to the building is free, the persons hospitalized in this complex being able to go out whenever they want. In reality, there were situations found by the CLR team members themselves, when the main access door was closed with the key which was located at the staff of the complex, there being no real possibility to leave the building. One of the beneficiaries told us a story in which another beneficiary had to jump the fence surrounding the complex to get out.

In light of the provisions of the legislation in force, it is imperative to recognize the institution as **a place of detention according to Article 34 of Law nr. 35/1997 letter j** *any other place that meets the conditions set out in para. (1) or is part of the health system or social assistance system*, concerning the organization and functioning of the Ombudsman. This implies not only access to the institution by monitoring authorities, but also compliance with national, European and international standards imposed in this field.

In the absence of proper accreditation, as in the presented situation, there is a risk that healthcare services will be provided ambiguously, through unclear contracts that can seriously affect individual rights and freedoms. Such a practice, tacitly accepted by representatives of the facilities, beneficiaries and local authorities, can lead to the provision of medical services below accepted standards, endangering the health and safety of hospitalized persons.

CLR warns of the serious consequences of the ambiguous nature of the unit, especially with regard to suicide risk situations. The lack of clear protocols for managing such situations, as well as the necessary information on staff training to intervene in cases of psychiatric crisis, poses a serious threat to patient safety.

An example can be found in the documents verified and mentioned earlier in the report - General clinical observation sheets drawn up on the letterhead of the Psihosan Medical Center, by the psychiatrist, who signs by hand and certifies by doctor's stamp, with diagnosis at hospitalization, at 72 hours, respectively at discharge, analyzing the sheet of an hospitalized person, Mr. D.S., on 10.07.2023, upon request, the diagnosis at admission was of mixed anxiety-depressive disorder, at 72 hours of major depressive episode, and at discharge that took place shortly after, on 13.07.2023, death by strangulation was recorded. In fact, this was the only observation sheet observed in patients' documents.

Legal framework for incident response

Social service is defined in art. 27 para. 1 of the Law on Social Assistance no. 292 of 2011 as the activity or set of activities carried out to meet social needs, as well as special needs, individual, family or group, in order to overcome situations of difficulty, prevent and combat the risk of social exclusion, promote social inclusion and increase the quality of life.

The care of a person who requires help for more than 60 days to carry out the basic and instrumental activities of daily life is defined as long-term care (Art. 32 para. 2 of the Social Assistance Act No. 292 of 2011).

The beneficiaries of personal care services are the elderly, persons with disabilities and the chronically ill (Article 36 para. 2 of the Law on Social Assistance no. 292 of 2011).

Social service providers are individuals or legal entities, of public or private law (Article 37 para. 1 of the Social Assistance Law no. 292 of 2011).

In order to achieve an efficient management, in the case of social assistance units, the responsibility for coordinating and managing the human and material resources related to that service may be delegated to the head of the unit (Article 41 para. 4 of the Law on Social Assistance no. 292 of 2011).

Social assistance institutions and units operate under various names, such as: day or residential centers, sheltered housing and protected units, multifunctional complexes or service complexes, social canteens, mobile food distribution services, etc. (Art. 41 para. 5 of the Social Assistance Act No. 292 of 2011).

In order to develop social services, local public administration authorities may conclude public-private partnership contracts, under the terms of the Law on public-private partnership no. 178/2010, with subsequent amendments and completions (Article 42 para. 4 of the Law on Social Assistance no. 292 of 2011).

Law 448/2006 defines persons with disabilities as those persons who face restrictions in activities specific to daily life due to a physical, mental, sensory or intellectual disability.

This law stipulates that public authorities are obliged to take measures to ensure access for persons with disabilities to education, employment, medical services, transport, housing and public spaces. These measures include adapting buildings and infrastructure to facilitate access for persons with disabilities, implementing school and vocational integration programs, and providing specialized health and social care services.

They are obliged to ensure a safe and adapted working environment for persons with disabilities. This may include adapting workplaces, providing special equipment or changing working hours to suit persons with disabilities. The law states that persons with disabilities are entitled to social assistance and various forms of benefits to help them meet their daily needs.

This may also include home care services, financial aid or other forms of support to adapt to their condition. The law provides procedures for awarding the certificate of school and vocational guidance, which helps persons with disabilities to find a job or follow a certain form of education. This law establishes the role of public authorities in promoting the rights of persons with disabilities and implementing the necessary measures to ensure their access to the services and facilities they need. The authorities are responsible for developing and implementing policies and programs for persons with disabilities.

Regarding the right to work, regardless of the degree or type of disability, persons with disabilities can be employed, according to their professional training and work capacity attested by the certificate of classification in the degree of disability.

The State has the obligation to provide the necessary resources for the integration and social inclusion of persons with disabilities, including training programs and financial support. The law stipulates that persons with disabilities have the right to a regular assessment of their needs and to the development of an individualized support plan, adapted to their specific needs.

Persons with disabilities benefit from tax incentives and tax exemptions for the purchase of medical equipment and housing adaptations to facilitate their access and mobility.

It also provides measures to protect against discrimination and exclusion of persons with disabilities, promoting equal opportunities and respect for their fundamental rights.

Law 35/1997 establishes the duties of the People's Advocate in protecting the rights of elderly and disabled persons. According to this law, the People's Advocate aims to ensure that the rights and interests of elderly and disabled persons are upheld before public authorities, autonomous institutions and bodies, as well as economic operators. He has the right to investigate complaints and claims received from these persons and to intervene with the authorities if their rights are violated.

Also, according to the law, the Ombudsman may take legal action on behalf of elderly and disabled persons to protect their rights. It may also make recommendations and proposals for improving legislation and public policies relating to these categories of persons.

Through Law 35/1997, the People's Advocate has the role of defending the rights and interests of elderly and disabled persons before authorities and institutions, ensuring that they benefit from protection and support against possible abuses or discrimination.

General recommendations

CLR draws attention to the consequences, which can be extremely serious, of the ambiguous character of the unit, which can create **a special situation in relation to suicide risk situations**. Thus, as it was already the case in the unit visited, if a person comes with a depressive background and/or suicidal risk, it is not known whether the unit has and applies a precise protocol for managing this situation. There is no information about specific specializations and training courses for working with the psychiatric patient from which the staff of the unit benefited. There is no clear information about how episodes of psychomotor agitation with or without auto or heteroaggression are managed. Generally, the unit staff describe that if a person is agitated, they try to calm the person down through discussion. If, however, this approach does not work, then they call the ambulance service/112.

Also, CLR recalls that there is an obligation **to certify all structures which, having included social services in their object of activity, actually provide these services**, especially those that are **places of detention, in the sense specified above**, regardless of how they name them in the contract concluded with the beneficiaries. Thus, in the opinion of CLR, it is necessary to obtain at least

accreditation for this structure, under Law no.197/2012 on quality assurance in the field of social services.

In relation to the services actually provided, ***this complex operates beyond the specific legal provisions, being accredited neither as a medical unit nor as a social care home.***

It is therefore an urgent need to **clarify the status of the unit visited** in line with the above and throughout this report. Any recommendation must be related to the actual framework (legal, social, medical, etc.) of providing certain services, so it is difficult to formulate specific recommendations.

The manner in which a particular unit, its employees and representatives fulfill their duties, obligations and contractual commitments directly depends on the type of unit/service, the rules and legislation governing the performance of the activity of that service, etc. Consequently, the lack of exact knowledge of the type of unit/service, the ambiguous administrative, organizational and legal aspects presented to the CLR team by the management and staff of the unit, makes it impossible to correctly classify and analyze the visited service/unit.

The above-mentioned clarification is mandatory and urgent also from the perspective of the contractual relationship of the visited establishment with its customers. As mentioned in this report, the analysis of the contracts between the unit and its customers reveals ambiguous language, general and unclear clarifications, misleading expressions. The impression of the CLR team is that these contracts, as they are currently used, can easily mislead the citizens and customers of the unit, all the more so if the persons signing the contract do not have an extended cultural horizon or if they are affected by a mental disability. The consequences of customers or signatories of contracts misunderstanding the conditions, commitments and boundaries contained in the contract can be particularly dangerous.

In relation to the medical/therapeutic character of the unit, we recommend the implementation with priority of any types of interventions, programs and services to meet neurological and psychiatric disabilities, other than the administration of prescribed neurological and/or psychotropic medication or random, sporadic walks of some of the unit's clients in the inner courtyard of the building. We specify that neurological, degenerative, psychiatric disabilities must be managed with complex strategies involving specific recovery and rehabilitation programs, leisure, emotional and cognitive stimulation, intra and extra-institutional socialization, etc.

It is recommended to take steps towards accreditation/licensing for both types of facilities and to adopt procedures specific to them – hospitalization procedures, registers, monitoring containment, drawing up the beneficiary's file, treatment plan, etc. It is also recommended to provide social intervention activities, in addition to accommodation and food offered to beneficiaries.

Public health assistance is coordinated by the Ministry of Health, according to art.2 of Law no.185/2017, as the Ministry of Labor and Social Protection is responsible for organizing, coordinating and implementing the process of quality assurance in the field of social services, according to art.1 of Law no.197/2012 on quality assurance in the field of social services. In this context, taking into account the situation observed, CLR ***will ask the two ministers, of health and labor and social solidarity, to have thematic controls*** to find out if situations like the one found by CLR in Ungheni are replicated in other locations in the country or are singular, by checking all entities that have declared NACE codes specific to medical and social services.