



**HUMAN RIGHTS AND EQUALITY
INSTITUTION OF TÜRKİYE**

Date : 23.01.2023

Ref. No: 18691

Subject : HREIT's Contribution (Input) to the "CRC/C/TUR/Q/4-5"

THE UNITED NATIONS COMMITTEE ON THE RIGHTS OF THE CHILD

At the ninety-third Session of the United Nations (UN) Committee on the Rights of the Child (CRC), which is responsible for implementing and monitoring the Convention on the Rights of the Child, it is envisaged that the fourth and fifth periodic country report submitted by Türkiye will be discussed at the meeting.

In Subparagraph (a) of Article 45 of the Convention, national human rights institutions are also encouraged to submit alternative reports to monitor the Convention's implementation.

Human Rights and Equality Institution of Türkiye (HREIT) was established on 20/04/2016 to operate as the national human rights institution as well as the national preventive mechanism and the equality body.

According to Article 9 of the Founding Law (No. 6701) of the HREIT, "*Monitoring the implementation of international human rights conventions to which Türkiye is a party to.*" In this regard, kindly find attached the written responses to the list of issues (LOIPR) as our Institutional Contribution (Input) "CRC/C/TUR/Q/4-5.

Please accept my best wishes and the assurance of my sincerest considerations with the upcoming the ninety-third Session of the United Nations (UN) Committee on the Rights of the Child and beyond.

Respectfully submitted for due consideration.

e-signed
Prof. Dr. Muharrem KILIÇ
Chairman

Attch: HREIT's Contribution (Input) to the "CRC/C/TUR/Q/4-5"



**The Human Rights and Equality Institution of Türkiye’s (HREIT) Contribution (Input)
to the “Committee on the Rights of the Child 93. Session The Combined Fourth and
Fifth Periodic Reports of Türkiye”**

“CRC/C/TUR/Q/4-5”

Pursuant to the Law No. 6701, published in the Official Gazette dated 20.04.2016 and numbered 29690, the Human Rights and Equality Institution of Türkiye (HREIT) was established and the Institution was mandated with fighting against discrimination and acting as **Equality Body**, in addition to its duties as a **National Human Rights Institution (NHRI)** and a **National Preventive Mechanism (NPM)**.¹ HREIT have conducted various works about child rights, up to now, within the context of its duties and powers.

Our Institution’s responses to list of issues in relation to the combined fourth and fifth periodic reports of Türkiye:

- *Part I – 2 (f) question: “Strengthen existing human rights monitoring institutions, such as the Ombudsperson Institution and the Human Rights and Equality Institution, by ensuring that they are in line with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) and that they carry out comprehensive and systematic monitoring of children’s rights;”*

➤ **As response to Part I – 2 (f) question of Questionnaire;**

Since the 1992, various human rights units or institutions/organizations have been established in Türkiye within the framework of the qualifications that national human rights institutions should have as specified in the Paris Principles. In this context, **The Human Rights Institution of Türkiye (HRIT)** was established with the "Law on the Human Rights Institution of Türkiye" dated 21 June 2012 and numbered 6332, to establish an institution in line with the Paris Principles.

¹ The Founding Law of the HREIT, <https://www.tihk.gov.tr/public/editor/uploads/1660833133.pdf>

In the next process, the existence of **HRIT was abolished** by a law amendment, and the institution was renamed as **the Human Rights and Equality Institution of Türkiye (HREIT)** and was restructured with Law No. 6701, which was published in the Official Gazette dated 20.04.2016 and numbered 29690.

The Institution is established by the law **in accordance with international legislation** in the field of human rights to which Türkiye is a party, it has administrative and financial autonomy, special budget, a public legal personality.

Establishment **purpose of HREIT**, based on human dignity, is included in the Law as,

- **Protection and promotion** of human rights,
- Effective **fight against torture and ill-treatment** and fulfilling the function of National Preventive Mechanism in this regard,
- Guaranteeing the right to equal treatment of persons, **preventing discrimination** in the enjoyment of rights and liberties legally recognized.

In this context, our Institution fulfills **three main functions**. The first one of these three main functions is the function of acting as **NHRI**. The minimum standards required for NHRIs have been determined by the document titled “National Institutions for the Promotion and Protection of Human Rights” that is known as **Paris Principles** in the literature and that was adopted by **United Nations Human Rights Council** with the decision numbered 1992/54 and by United Nations General Assembly with the decision numbered 48/134.

Within the framework of Paris Principles, **NHRIs** are expected to have **legal or constitutional basis** for establishment, be **independent from government** and have an autonomy, have **broad authority** and **competence** to protect and promote human rights, provide **pluralism and independence** in the election and appointment of members, have **adequate financial resources** and financial autonomy, be a **bridge** between civil society and the state.

The second main function of HREIT is the function of **National Preventive Mechanism (NPM)**. NPM refers to the system established to make regular visits to places where persons are deprived of their liberty within the framework of the provisions of “Optional Protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (**OPCAT**)”. In accordance with the Protocol, NPMs have opportunity to obtain any information on the number of persons **deprived of their liberty in places of detention**

centers, as well as the number and location of such places; to enter all detention centers and their buildings and facilities; to access to all information on the attitudes towards persons deprived of their liberty and the conditions of detention; to have a special interview with these persons directly without witness, or through a translator if deemed necessary, and with any other person expected to give relevant information about the issue to the best of national preventive mechanism's belief; to freely choose the places they want to visit and the people they want to meet; to contact, inform and meet with the UN Subcommittee on the Prevention of Torture, where necessary. NPMs also have authority to advice to the relevant authorities and to offer recommendations and observations on existing or draft legislation on the purpose of promoting the treatment towards persons deprived of their liberty and their conditions. According to the protocol, a each state party has the right to establish one or more independent NPMs. **In Türkiye HREIT is designated as the only authority acting as NPM.**

The third function fulfilled by HREIT is the function of **Equality Body** within the scope of anti-discrimination. **Article 10 of our Constitution** defines the concept of equality as follows *“Everyone is equal before the law without distinction as to language, race, color, sex, political opinion, philosophical belief, religion and sect, or any such grounds. Men and women have equal rights. The State has the obligation to ensure that this equality exists in practice. No privilege shall be given to any individual, family, group or class. State organs and administrative authorities are obliged to act in compliance with the principle of equality before the law in all their proceedings.”*

The prohibition of discrimination is an issue that is at the center of international human rights law and that is given a special place in many international human rights conventions. The regulations in the international conventions to which **Türkiye** is a party and the directives included in **European Union acquis** and prepared for anti-discrimination have revealed the necessity of institutionalization in the field of antidiscrimination in Türkiye. It has been deemed appropriate to carry out the function of **“Equality Institution”** within our Institution, with the legislative arrangement made considering the international criteria and exemplary practices and the needs of our country.

Our duties and activities in the Establishment Law of our Institution are evaluated under the following **six topics**:

1. Examination of applications, ex officio examination and research activity,
2. Training and awareness-raising activity,

3. Visits within the scope of NPM and preparing visit reports,
4. Annual and thematic report preparation activity,
5. International relations activity,
6. Expressing opinion, advising and monitoring activity.

In Türkiye, many actors such as ‘public institutions and organizations, CSOs, universities and bar associations’ have obligations regarding the protection and promotion of **children’s rights**. Within the scope of its duty to protect and develop human rights, **HREIT** also has a **responsibility in the field of ‘children’s rights’**. So that, the situations of children deprived of their liberty or taken under protection during NPM visits carried out within the scope of **OPCAT** are specifically handled by HREIT.

In the first paragraph of **Article 11 of the HREIT Law No. 6701**, “*To decide, when deemed necessary, on the membership of the Institution to international organizations working in the relevant field and cooperation of the Institution with such organizations.*” is counted among the duties and **powers of the Human Rights and Equality Board of Türkiye (the Board)**.

With the Board Decision dated 13.07.2021 and numbered 2021/170, it was **unanimously** decided to start the preparations for the **accreditation process for GANHRI** and to carry out the necessary studies.

In order to initiate the accreditation process at GANHRI, it is necessary to apply with a statement of intent to the **Secretariat of the Accreditation Subcommittee (SCA)** within GANHRI. In this context, the relevant declaration of intent was submitted to the SCA Secretariat by our Agency on 28 July 2021 and the SCA scheduled the accreditation of the institution for the second half of 2022.

The supporting documents below which were submitted to SCA;

- Brief letter for the submission of the accreditation application of the HREIT.
- A copy of founding legislation and by-laws establishing and empowering our Institution;
- An outline of the organisational structure including the details of staff and annual budget;
- A copy of the most recent annual report;

- The detailed statement demonstrating our Institution’s compliance with the Paris Principles;
- Other documents which deemed necessary to complete the application;
- The Report on Protection and Promotion of Human Rights (2020)
- The Report on National Preventive Mechanism Against Torture and Ill- Treatment (2020)
- Summary of the Strategic Plan (2019-2023)
- Invoice as a proof that we sent the hard copies and USB format of the relevant documents.

After the completion of the written phase of the accreditation process, **our Chairperson Prof. Dr. Muharrem Kılıç and the accompanying delegation** held an online meeting with SCA members on October 3, 2022. It is stated that it has been decided to accredit our Institution in **B status** in the official letter sent by the SCA Secretariat on **October 10, 2022**.² After the recommendations given from SCA to our Institution are fulfilled, it is planned to apply to the Committee again in order to be accredited with A status.

➤ *Part I – 3 (a) question: “(a) Combat discrimination against children in vulnerable situations, including children with disabilities, asylum-seeking, refugee and migrant children and children of ethnic and religious minorities;”*

✓ **As response to Part I – 3 (a) question of Questionnaire;**

The prohibition of discrimination is an essential component of **the principle of equality**. The principle of equality, based on the concept of “**human dignity**,” is at the forefront of the principles that govern the entire state, including the legislative, executive, and judicial bodies regulated by **Article 10 of Constitution of the Republic of Türkiye**. However, equality is a universal principle that has also found its place in many international and national texts. Article 10 of our Constitution states, “*Everyone is equal before the law without distinction as to language, race, colour, sex, political opinion, philosophical belief, religion and sect, or any such grounds.(...)*”.³ The principle of equality and the prohibition of discrimination are also enshrined in **Article 3 of Law No. 6701** on the HREIT.

² <https://tihek.gov.tr/en/global-alliance-of-national-human-rights-institutions-ganhri-accreditation-status-has-been-granted-to-the-hreit/> (Access Date: 20.01.2023)

³ Constitution of the Republic of Türkiye, https://www.tbmm.gov.tr/yayinlar/2021/TC_Anayasasi_ve_TBMM_Ic_Tuzugu_Ingilizce.pdf (Access Date : 20.01.2023)

According to Article 1 of Law No. 6701, *“The purpose of this law is to regulate the principles pertaining to the establishment, organization, duties and powers of the Human Rights and Equality Institution of Türkiye, which will work on the basis of human dignity, towards protection and promotion of human rights, guaranteeing individuals’ right to equal treatment, prevention of discrimination in the exercise of legally recognized rights and freedoms and which will carry out actions in line with these principles, effectively fight against torture and ill-treatment and act as National Preventive Mechanism.”*

Pursuant to **Article 3 of the Founding Law** titled *“Principle of Equality and Non-Discrimination”*; everyone is equal in benefiting from the legally recognized rights and freedoms. In case of **violation of the prohibition of discrimination**, public institutions and organizations that have duties and powers on the subject and professional organizations in the nature of public institutions are **obliged** to take the necessary measures in order to end the violation, eliminate its consequences, prevent its repetition, and ensure its legal and administrative follow-up. In terms of real and private law legal entities that are **under responsibility** within the scope of the prohibition of discrimination, they have obligations to **identify and eliminate discrimination** and **ensure equality** in matters within their jurisdiction.

It is prohibited under **the second paragraph of Article 3 of the Law** to discriminate against persons based on the grounds of sex, race, colour, language, religion, belief, sect, philosophical or political opinion, ethnical origin, wealth, birth, marital status, health status, disability and age. The aforementioned grounds have been determined by **counting (numerus clausus)**; cases where discrimination is claimed on or without any other basis are outside the scope of the Law.

According to **Article 4 of the Founding Law** titled *“Types of Discrimination”*, *“(1) Types of discrimination falling into the scope of this Law are as follows: a) Segregation, b) Instruction to discriminate and implementing such instructions, c) Multiple discrimination, ç) Direct discrimination, d) Indirect discrimination, e) Mobbing, f) Failure to make reasonable accommodations, g) Harassment, ğ) Discrimination based on an assumed ground. (2) Unfavourable treatments sustained by persons who launch administrative or judicial proceedings or take part in such proceedings in order to ensure the respect of the principle of equal treatment and prevent discrimination as well as by representatives of such persons on account of such proceedings also constitute a discrimination.”*

In **Article 5 of the Law**, the scope of the prohibition of discrimination has been regulated in a **wide framework**. According to this, public institutions and agencies, professional bodies

with public institution status, natural persons and legal persons established under private law providing services of education and training, judiciary, law enforcement, health, transportation, communication, social security, social services, social assistance, sports, accommodation, culture, tourism and similar services shall not discriminate, in respect of their activities, against persons who use or have applied to use or wishing to be informed of such services. This provision also covers access to buildings and spaces where public services are provided.

In the **Article 7 of the Law**, “Instances where a claim of discrimination cannot be made” are listed and determined that cases and **exceptions where a claim of discrimination cannot be made** under the Law such as “*different treatment which is fit for purpose and proportional and necessitated by imperative professional requirements in employment and self-employment; cases making it imperative to employ a certain sex*”; “*determining and applying age limits during admission into work and employment due to the necessities of the service, different treatment based on age provided that it is necessary and proportional*”; “*special measures and protective measures pertaining to children and persons who have to be kept at a certain place*”; “*employment at a religious establishment of persons who are members of that religion for the purpose of religious service or delivering training and education on that religion*”; “*requirement of certain conditions and qualifications related to persons wishing to join associations, foundations, trade unions, political parties and professional organizations based on purposes, principles and values mentioned in their relevant legislation and statutes*”; “*different treatment which is intended for eliminating inequalities and which is necessary, fit for purpose and proportional*”; “*different treatment towards non-citizens arising from conditions pertaining to their entry into and residence in the country and from their legal status*”.

HREIT is authorized with “*inquiring into, examining, taking a final decision on and monitoring the violations of non-discrimination principle – ex officio or upon an application*” by **subparagraph (g) of the first paragraph of Article 9 of the Law**. According to the **first paragraph of Article 17 of the Law**, titled “*Applications*”, “*Each and every natural person and legal person who claim to have suffered from violations of non-discrimination can apply to the Institution.*” There shall be **no fee charged** for applications.

The Institution is authorized to **impose administrative sanctions** on the relevant public institutions and agencies, professional organizations with public institution status, natural persons and legal persons established under private law responsible in case of violation of the prohibition of discrimination. According to **the first paragraph of Article 25 of the Law**:

“In case of violation of non-discrimination principle, an administrative fine ranging from one thousand Turkish lira to fifteen thousand Turkish lira depending on the gravity of the effects and consequences of such violation, financial situation of the perpetrator and aggravating effect of the multiple discrimination, shall be imposed on the relevant public institutions and agencies, professional organizations with public institution status, natural persons and legal persons established under private law responsible for the violation.”

The revaluation rate determined by the repeated Article 298 of the Tax Procedure Law No. 213 has been announced as **122,93% for 2023**. According to the rate published in the Official Gazette dated 24.11.2022 and numbered 32023, within the scope of the first paragraph of Article 25, as a result of the revaluation rate applied as of 2023, **the lower fine limit** has been updated as **5.958 Turkish Liras** and **the upper fine limit** as **89.571 Turkish Liras**. However, if it is determined that the violations are criminal, it is possible to **file a criminal complaint**.

In this context, **children, his/her custodian or trustee** can personally apply to HREIT with the claim that the prohibition of discrimination **has been violated based on the grounds** listed in the law. Besides the individual application, the Human Rights and Equality Board of Türkiye, which is the decision-making body of the Institution, can also **initiate an ex officio investigation** about the actions or proceedings that come to the agenda with the allegation that the prohibition of discrimination is violated. As much as ex officio inquiries into alleged violations of human rights and non-discrimination are concerned, it is **imperative** that **explicit consent of the victim of violation** or his/her legal representative be sought in cases where s/he is identifiable. However, the consent of the legal representative shall not be sought in cases required by the best interest of the child.

Alleged violations sent to the Institution are divided into categories within the scope of the duties and powers of our Institution after **preliminary examination**; the procedures are carried out by the relevant units in this regard. In the context of activities of the Preliminary Unit, there are **3 individual applications in 2021** and **27 individual applications in the year 2022 regarding to child rights**. Anti-Discrimination and Equality Unit continues to **examine two applications on the merits**, the victims of which are children, alleging that children are discriminated against on the basis of **religion, belief and health status**.

According to Article 9 of the Institutional Law; the duties of the Institution includes raising public awareness on anti-discrimination through information and training by also using

mass media. In this context, **guides and handbooks** are prepared in order to both raise awareness and contribute to the literature regarding duty to combat discrimination. "**Age-Based Discrimination**" was prepared under the title of the series on the basis of discrimination and shared with the public on the Institution's website.⁴ The guides on discrimination grounds will be published as a set as soon.

One of the crucial tasks undertaken by the Institution is to **prepare annual reports** on the protection and promotion of human rights, the fight against torture and ill-treatment and the fight against discrimination, to be submitted to **the President of the Republic of Türkiye and Bureau of the Grand National Assembly of Türkiye**. During the preparation process of Anti-Discrimination 2021 Report, opinions, suggestions and data were requested from public institutions and organizations, NGOs, trade unions, social and professional organizations. Also, a separate title was opened **on the basis of age**, and evaluations were made specifically for **children**. It is expected that Anti-Discrimination 2021 Report will be finalized in the near future.

The Consultative Commission was formed by our Institution to discuss the problems and solution suggestions on the issues related to the prohibition of discrimination and to exchange information and opinions on these issues within the scope of **the first paragraph of Article 22 of Law No. 6701**. **At the 3rd meeting of Consultative Commission** which was held on November 3, 2022.⁵ Opinions and suggestions on the protection of privacy and personal data, **especially for children in the digital environment** were put forward by members of the Consultative Commission.

HREIT **closely monitors** internet resources, especially social media, and immediate reaction is taken in case of discriminatory statements and actions. In this context, press releases are published, emphasizing national and international standards, and if necessary, an **ex officio investigation** can be initiated by Board.

"Roma Rights Summit" was held by HREIT on May 26, 2022.⁶ The aim of the Roma Rights Summit is to raise awareness about Roma rights, to reveal the deficiencies encountered in the access of Roma communities to their rights and to present suggestions for eliminating

⁴ <https://www.tihек.gov.tr/kategori/pages/yas-temelinde-ayrimcilik> (Access Date:20.01.2023)

⁵ <https://tiheк.gov.tr/istisare-komisyонunun-ucuncu-toplantisi-gerceklestirildi/> (Access Date:20.01.2023)

⁶ <https://www.tihек.gov.tr/kurumumuz-tarafindan-roman-haklari-zirvesi-gerceklestirildi/> (Access Date:20.01.2023)

these deficiencies. Within the scope of the summit, it is aimed to provide comprehensive information about the history and culture of the Romani communities, to protect and develop the rights of the Roma in the context of human rights, to reveal the difficulties in front of this and to discuss the solution proposals regarding the issue. One of the topics included at the Roma Rights Summit was "**The Right to Access Education for Roma Youth and Children**" and a paper on the subject has been presented.

Upon the news in the media that some restaurants do not accept children, "**Press Release on Not Allowing Families with Children to Businesses**" was published on the website of the Institution on October 3, 2022.⁷ In this statement, it is stated that the healthy development of the physical and mental personalities of children, who are the guarantee of the future of the societies, depends on the family structure and social environment of love, tolerance and solidarity, and this situation should be respected for the dignity, welfare, development and social participation of the child as a subject of rights. It requires a '**child rights-oriented approach**' that eliminates all forms of discrimination against children. **The principle of "best interests of the child"**, which is included in the **UN Convention on the Rights of the Child of 1989 and in Article 41 of the Constitution**, to which Türkiye is also a party, includes many duties and responsibilities towards states, societies, families and adults for the children's personalities to develop healthily. It has been emphasized that any treatment that prevents or makes it difficult for individuals and/or groups to enjoy equal rights and freedoms compared to those in comparable situations without a reasonable and objective justification is incompatible with the universal human rights principles and constitutes a violation of the prohibition of discrimination.

- *Part I – 5 (a) question: "(a) Prevent torture and inhuman and degrading treatment and incommunicado detention by prison guards in closed institutions, including in the Diyarbakir closed penal institution, and prosecute and punish perpetrators of such treatment;*
- ✓ **As response to Part I – 5 (a) question of Questionnaire;**

Pursuant to **Article 9 of Law No. 6701**, HREIT has the duty to combat torture and ill-treatment and to act as a national preventive mechanism within the framework of the provisions of the **OPCAT**. According to Law No. 6701, persons deprived of their liberty or taken under

⁷ <https://www.tihек.gov.tr/cocuklu-ailelerin-isletmelere-alinmamalari-hakkinda-basin-aciklamasi>
(Access Date:20.01.2023)

protection in places of detention such as penitentiary institutions, detention houses, removal centers, **child and elderly care homes**, rehabilitation centers, psychiatry clinics, within the scope of the national preventive mechanism function, can apply to the Institution. As a NPM our Institution organizes informed/unannounced regular visits to places where people deprived of their liberty or taken under protection are found, and reports are prepared after the visits.

Vulnerable groups in places of detention are also protected by the prohibition of discrimination, and people with special needs or care, such as disabled, pregnant and elderly people may have different needs in places of detention. In this context, during the visits carried out within the framework of the NPM, **one-to-one or private meetings** are held with the women who have been deprived of their liberty or taken under protection, depending on the type of place of detention, and their demands and complaints are listened. During the visits, it is investigated **whether children are directly or indirectly exposed to any discriminatory treatment;**⁸ interviews are held on questions about disabled and elderly individuals and **children**, and the findings and observations are linked to the report. Through NPM reports; recommendations are made to those concerned in line with national and international standards **for children aged 0-6 staying in prison with their mothers** and other vulnerable/disadvantaged groups. In particular, according to the report on the visit to **Antalya L Type Closed Penitentiary Institution**, children staying with their mothers in penitentiary should never be treated as **“prisoners”** strongly recommended to the administration of Institution. In addition to this, taking care to provide food for the children staying with their mothers, and food suitable for breastfeeding mothers, continuing cooperation on the supply of free cloth diapers, to establish children's playgrounds within the institution, to organize activities for children through psycho-social service, to provide children with materials that will contribute to their development such as toys, drawing books and paints were recommended to official authorities.⁹

Also, according to the report on the visit to **Bolu Semiha Şakir Sarıgöl Barrier-Free Living Care, Rehabilitation and Family Counseling Centre**, which is accepted by the

⁸ According to the NPM Report No:2022/12, it is stated that our delegation primarily interviews with the mother who's staying with her child and investigated whether her claim that she had never met the psychologist until the time of the visit. During the visit delegation's inspection of the psychologist interview records, it was determined that the psychologist met the mother many times. For more information: NPM Report No:2022/12, The Report on the Visit to Çanakkale E-Type Closed Prison, p.9-10, <https://www.tihек.gov.tr/public/images/kararlar/id1hog.pdf> (Access Date:20.01.2023)

⁹ NPM Report No:2022/16, The Report on the Visit to Antalya L Type Closed Penitentiary Institution, p.18-19, <https://www.tihек.gov.tr/public/images/kararlar/23E366.pdf> (Access Date:20.01.2023)

decision of the Board dated 09.08.2022 and numbered 2022/536; some recommendations were made to the Centre's administration such as taking the necessary action regarding the areas that need to be repainted in two rooms in the children's homes in the center and placing bathroom handles and disabled bathroom apparatus; regular dental checkups for disabled children under protection and care, re-implementation of activities outside the Center, extending the recording time of security cameras.¹⁰ In addition, on the report to the Visit to **Directorate of Bitlis Children's Shelter Building Complex**, in accordance with the principle of the best interests of children, reorganizing the living spaces of children aged 0-6 in the center for their safety has been recommended to the centre's administration.¹¹

HREIT conducted a visit to **Diyarbakır Juvenile and Youth Closed Penal Institution on December 4, 2022**. Representatives from the Azerbaijan Ombudsman were also present during the visit. Azerbaijan Ombudsman Sabina Aliyeva and their delegation visited Diyarbakır Juvenile and Youth Closed Penal Institution as part of the NPM mandate of HREIT. In the examinations made with the Azerbaijan Delegation, the common and different aspects of the practices of the juvenile and youth penal institutions of the two countries were consulted.¹² As in all visits, a report containing our findings, evaluations and recommendations will be prepared as a result of this visit. The main objective of the report will be to prevent torture and ill-treatment, as well as to improve detention conditions.

The work carried out by the **NPM Unit on children's rights**, in line with its prevention mission, mainly consists of visits to places where children are deprived of their liberty or taken under protection and examination of applications submitted to the Institution regarding the rights of children in such places.

The visits are carried out **in accordance with international standards** and the reports prepared after the visits are shared with the relevant institutions and mostly the public. In all visits, **the rights of vulnerable groups, especially children**, are among the main issues that visit committees focus on. If children are present in the institution visited, children are the first group to be seen.

¹⁰ NPM Report No:2022/45, The report on the visit to Bolu Semiha Şakir Sarıgöl Barrier-Free Living Care, Rehabilitation and Family Counseling Centre, p.11-12, <https://www.tihek.gov.tr/public/images/kararlar/yshwa5.pdf> (Access Date:20.01.2023)

¹¹ For more information: NPM Report No:2022/36, The report to the Visit to Directorate of Bitlis Children's Shelter Building Complex, <https://www.tihek.gov.tr/public/images/kararlar/v2dmah.10> (Access Date:22.01.2023)

¹² <https://www.tihek.gov.tr/en/visit-to-diyarbakir-juvenile-and-youth-closed-penal-institution> (Access Date:20.01.2023)

➤ *Part I – 5 (c) question: “Raise the awareness of relevant professionals, including social workers and teachers, to recognize and effectively respond to incidents of all forms of violence against children;”*

➤ **As response to Part I – 5 (c) question of Questionnaire;**

As earlier mentioned above before, within the scope of its duty to protect and develop human rights, there are many **awareness-raising activities** in order to **prevent violence against children** and effectively respond to incidents of all forms of violence against children.

HREIT’s raising-awareness activities in the field of ‘**children’s rights**’ are listed below:

- ❖ On November 20, 2021, in cooperation with Antalya Bilim University and UNICEF, “**The Children’s Rights Symposium**” was held in Antalya, on the 32nd anniversary of the adoption of the UN Convention on the Rights of the Child. In the next process, the “**Children’s Rights Symposium**” **proceedings book** has been published through our official website.¹³
- ❖ Education and training are not only a necessity but also a constitutional right. However, as stated in the UN Convention on the Rights of the Child, **access to the right to education** is protected by taking into account the child’s best interests without any discrimination. Access to the right to education is a human rights issue, especially for children who have become disadvantaged as a result of an illness. Therefore, our Institution has aimed to raise awareness about the process, needs and deficiencies by bringing this issue to the agenda with this sensitivity. On November 21, 2022, “**The Panel on Access of Hospitalized Children to the Right to Education**” was held in Ankara with the participation of our Board Members as well as many guests.¹⁴
- ❖ To raise awareness on human rights issues, discussions on human rights with the name of **HREIT Academy**¹⁵ is **broadcasted in Youtube channel** of the Institution, with the participation of many academicians working in the field of human rights. An interview on “**Children’s Rights from the Perspective of Criminal Law**” was held with Assoc.

¹³ <https://www.tih.gov.tr/kategori/pages/Cocuk-Haklari-Sempozyumu-Kitabi-Yayimlandi>
(Access Date:20.01.2023)

¹⁴ <https://www.tih.gov.tr/en/access-to-the-right-to-education-for-hospitalized-children-panel-was-held>
(Access Date:20.01.2023)

¹⁵ <https://www.tih.gov.tr/kategori/pages/Tih-Akademi> (Access Date:20.01.2023)

Dr. Pınar KARTAL and televised on our Youtube account.¹⁶

- ❖ On November 25, 2022, "**Children's Rights Program**" was held in Ankara Ostim Primary School on the occasion of 20 November World Child Rights Day.
- ❖ **1,000 children's rights brochures** were printed in 2022.
- ❖ In order to identify the problems that children have experienced in accessing justice and to offer solutions, "**Children's Right to Access to Justice Thematic Report**" has been started by our Institution. In this context, relevant institutions and organizations such as the Ministry of Justice, the Ministry of Health, the Ministry of National Education, the Union of Turkish Bar Associations and UNICEF were identified as stakeholders, and representatives from different general directorates of the Ministry of Justice came together to consult.¹⁷ As part of the writing of the thematic report, meetings were held with public institutions and civil society organizations (CSOs).¹⁸ The thematic report is planned to be completed in the first quarter of 2023.
- ❖ As it is known, children cannot fully understand and foresee the consequences of their actions and that's why the juvenile justice system is needed since the children have different needs and characteristics than adults. For this reason, "**Fact Sheets No.1 - Child Friendly Justice System**" has been prepared and published English version our Institution's official website in 2022,¹⁹ in order to raise public awareness with the reference of the international fundamental principles on juvenile justice. The current and latest studies of international expert organizations such as UNICEF and OHCHR were inserted and utilized in preparing the Fact Sheet.
- ❖ "**Monitoring the places where children are deprived of their liberties**" training was given to the employees of the National Preventive Mechanism and the Anti-Discrimination and Equality Unit within the scope of the **Council of Europe project** "Strengthening the Protection of Migrants and Victims of Trafficking in Türkiye in terms of Human Rights" in the Horizontal Facility 2019-2022 program for the Western

¹⁶ <https://www.youtube.com/watch?v=ScRZx4hBSNo> (Access Date:20.01.2023)

¹⁷ <https://www.tihек.gov.tr/en/meeting-on-the-thematic-report-study-on-childrens-right-to-access-to-justice> (Access Date:20.01.2023)

¹⁸ <https://www.tihек.gov.tr/en/second-and-third-meetings-on-the-thematic-report-studies-on-childrens-right-to-access-to-justice> (Access Date:20.01.2023)

¹⁹ <https://www.tihек.gov.tr/public/editor/uploads/Child%20Friendly%20Justice%20System.pdf> (Access Date:20.01.2023)

Balkans and Türkiye.²⁰

- ❖ On October 6-7, 2021, “**Training on Monitoring and Reporting of Women's and Children's Rights Violations**” was organized by UNICEF for our staff.
- ❖ On June 28, 2022, our Institution provided human rights training to the members of **the Disabled Child Rights Network** and totally 26 people participated the event.
- ❖ UNICEF Regional Office for Europe and Central Asia (ECARO) conducted the “**Training for Trainers on Supporting National Human Rights Institutions on Child-Friendly Practices**” online for our staff, between 2-7 November 2022.
- ❖ On 29 June, 2021, with regard to The Government of the Republic of Türkiye & UNICEF 2021-2025 Country Program, our staff participated in **the 2021 Intersectoral Children's Board Meeting**.
- ❖ On August 12, 2021, our staff also attended to study visit “**The Project on Elimination of the Child Labour in Seasonal Agriculture**” and on March 30, 2022, “Technical Assistance for the Support for Children's Rights in Türkiye” in the **Project Steering Committee Meetings**.
- ❖ In cooperation with UNICEF, the National Prevention Mechanism brochure has been **simplified for children**. In this context, it is aimed to inform children about their rights by reading the relevant document directly and easily.
- ❖ Our Institution has also prepared and published “**The Human Rights Activity Book for Children**”, in order to raise awareness of human rights among primary school students. The 12-page book includes crossword (puzzle), maze puzzles, matching, picture puzzles and painting activities.²¹
- *Part I – 7 (b) question: “(b) Ensure independent monitoring of alternative care settings, in particular residential care institutions, in a regular and systematic manner;”*
- ✓ **As response to Part I – 7 (b) question of Questionnaire;**

²⁰<https://www.tihек.gov.tr/en/participated-in-the-training-of-monitoring-the-places-where-children-are-deprived-of-their-liberties> (Access Date:20.01.2023)

²¹ <https://www.tihек.gov.tr/insan-haklari-etkinlik-kitabi-yayimlandi> ; <https://www.turkiyehukuk.org/tihекten-cocuklar-icin-insan-haklari-etkinlik-kitabi/> (Access Date:20.01.2023)

According to Law No. 6701, it is regulated that HREIT may visit “the places where persons deprived of their liberty or taken under protection are kept”. Acting as NPM under OPCAT, HREIT has the authority to visit and investigate many detention centers, **including children’s education centers and child care centers**. Regular visits to children's homes and child care centers continue. In this context, visits to **4 different children's home sites** were organized in **2022**. In 2021, visits were made to **2 different children's home sites** and **1 spastic cerebral palsy children care and rehabilitation center**. It is planned to organize visits to similar places in the visit planning for 2023.²²

➤ *Part I – 7 (c) question: “(c) Strengthen family reunification, including for refugee children”.*

✓ **As response to Part I – 7 (c) question of Questionnaire;**

During the NPM visits conducted by HREIT within the scope of OPCAT, the situation of children deprived of their liberty or placed under protection is **given special consideration**. After Türkiye opened its borders to refugees, **Afghan national Şefika Nazari**, who applied to HREIT about her two children, whom she had been separated from in the turmoil caused by the Greek police's intervention while crossing the Meriç (Evros) River and crossing to Greece, was reunited with her children as a result of the diplomatic initiatives of our Institution. The HREIT took up the application and took actions and contacted many national and international institutions such as the Directorate General of Migration Management, the Ministry of Foreign Affairs, the UN High Commissioner for Human Rights, the Greek authorities, UNICEF and the Afghanistan Embassy. Finally, with the contribution of the Turkish Red Crescent and the Red Cross cooperation, **75 days after the incident**, the children were **returned back to the family at the Edirne Pazarkule border gate**.²³

²² One of the recent visit has been conducted to Safranbolu Hasan Doğan Children’s Homes Site as part of its national preventive mechanism mandate. The delegation made observations and examinations by interviewing those who are under care and protection and the personnel in charge. As part of the visit accommodation conditions and treatment of those who are under care and protection were examined in line with national and international standards. As a result of the visit, report containing the assessments and recommendations regarding the examinations and interviews held during the visit will be prepared and shared with the relevant institutions and the public. Source: <https://www.tihек.gov.tr/visit-to-safranbolu-hasan-dog-an-childrens-homes-site/> (Access Date:20.01.2023)

²³ <https://www.aa.com.tr/tr/dunya-basininda-bugun/yunanistanda-kalan-cocuklarina-kavusan-afgan-anneden-tiheke-tesekkur-ziyareti/1863812> (Access Date:20.01.2023)

In addition to this, during the NPM visits, on-site research is conducted to determine **whether the return of children under care and protection to their families** is given priority, and it is questioned whether the children are willing to return to their families.

➤ *Part I - 8 (c) question: “Combat prejudices and negative views that result in discrimination against children with disabilities”;*

✓ **As response to Part I – 8 (c) question of Questionnaire;**

The Institution accepts applications in two fields of activity in parallel with its duties and powers. The first of these areas is the fight against discrimination and equality. In this context, any natural or legal person claiming to be harmed by the violation of the prohibition of discrimination, the details of which are included in the corporate law, may apply to the Institution. The second area is the applications of individuals who have been deprived of their liberty in places of detention or taken under protection within the framework of the NPM mandate.

According to **the Founding Law**, “**age**” and “**disability**” are listed as a ground of discrimination. Therefore, due to the examination and evaluation made by our institution, **administrative fines** may be imposed for **discriminatory practices that children** are exposed to due to their age and/or disability.

HREIT also has the duty and authority to investigate the alleged human rights violations ex officio, to **file a criminal complaint** against the relevant persons if there is an act constituting a crime, and to take the necessary actions to end and eliminate these violations. Ex officio examinations can be carried out on concrete violations upon a notification, or they can be carried out exclusively on a particular subject.

The Board, which is the decision making body of the Institution, may decide on the applications made with the claim of discrimination and ex officio examinations regarding that there is decision of non-examination, decision for reasoned inadmissibility, decision for submission, violation decision, administrative sanction decision, conciliation decision, rejection decision and no decision. In cases where the Institution determines that the prohibition of discrimination has been violated, it **imposes an administrative fine** on public institutions and agencies, professional organizations with public institution status, natural persons and legal persons depending on the gravity of the effects and consequences of such violation, financial situation of the perpetrator and aggravating effect of the multiple discrimination.

Within the scope of the provisions as mentioned above, the applications made to our Institution **on children's rights** or the decisions taken as a result of the ex officio examination initiated by our Institution are listed below:

HREIT, Decision No. 2020/143, December 12, 2020²⁴

In Decision No. 2020/143, December 12, 2020, the Board decided to **the prohibition of discrimination based on disability violated** of the individual applications. The applicant, who is A.K.Ş. Primary school middle-severe intellectual disability special education 3rd grade disabled student, claims that he has suffered from the lack of school bus services. It was decided to impose an **administrative fine of 2.000 Turkish Liras** against the K. District Governor's Office of the District National Education Directorate.

HREIT, Decision No. 2020/183, August 25, 2020²⁵

HREIT, Decision No. 2020/183, August 25, 2020, the claim that rejection of the request of M.M.A, who is 40% hearing disabled inclusive student studying at A. Primary School, to receive individual support training outside of class hours by the P. District Governor's Office of the District National Education Directorate violates the prohibition of discrimination has examined. Finally, it is decided that **there has been a violation of the prohibition of discrimination** in terms of the applicant's claim that s/he has been discriminated against on the basis of **disability**, an **administrative fine of 2.000 Turkish Liras** against interlocutor, to convert the administrative fine into a **warning penalty** in accordance with Article 25/4 of the Law No. 6701.

²⁴ The decision can be accessed from the official website of our Institution, "*Non-Discrimination Decisions Book 2018-2020*" https://www.tihek.gov.tr/upload/file_editor/2022/02/1645712182.pdf, p.499, (Access Date:20.01.2023)

²⁵ The decision can be accessed from the official website of our Institution, "*Non-Discrimination Decisions Book 2018-2020*": https://www.tihek.gov.tr/upload/file_editor/2022/02/1645712182.pdf, p.513, (Access Date: 20.01.2023)

It is decided that closing the special education class in which his/her son (for whom s/he applied for custody) is a 3rd grade student with epilepsy and 90% visually disabled, **violates the prohibition of discrimination on the basis of disability** because reasonable arrangements suitable for his needs were not evaluated. It was decided to impose an **administrative fine of 5.000 Turkish Liras** against the K. District Governor's Office of the District National Education Directorate.

Events and Facts

H.K., who is 90% visually impaired, also has epilepsy. It is claimed by the applicant that when his/her child reached school age s/he wanted him/her to receive education in the same class as his/her peers; S/He went to the District Directorate of National Education when the child was 7-8 years old, when s/he conveyed the problems to the District Directorate of National Education it was stated that “a classroom cannot be opened for only one child”, A. Primary School Principal S.T. stated that it was not appropriate for her/him to be educated at school and that the possibility of falling during breaks poses a risk, for three years, s/he persistently wanted to take her/his child to school, but for the same reasons, H.K.'s education at A. Primary School was not found appropriate.

Board Decision

Article 28 of the Convention on the Rights of the Child emphasizes the realization of children's right to education on the basis of equal opportunity. For this purpose, it is necessary to ensure effective access to educational opportunities for children with disabilities “in order for the child's personality, abilities, mental and physical capacity to reach the highest possible level.” (*Committee on the Rights of the Child, General Comment 9 Children with Disabilities, para. 66*) The unhindered participation of children with disabilities in social life requires the right to education on equal terms with other children.

In the examination made it is observed that while it is necessary to provide an education service prepared by the interlocutor within the scope of the basic principles of special education, taking into account the individual differences, developmental characteristics and

²⁶ The decision can be accessed from the official website of our Institution.
<https://www.tihk.gov.tr/public/images/kararlar/8E3CE1.pdf> (Access Date:20.01.2023)

educational needs of the student, H.K. could only receive education in a special education class for one semester. However, even in this process, it was observed that there was not enough equipment in the special education class opened, and that it could not benefit from appropriate teaching materials, equipment and auxiliary devices.

It is decided that the training service provided by the addressee institution is not sufficient to keep H.K. in the system, could not access the right to education on an equal basis with her/his peers due to the failure to evaluate **reasonable arrangements** suitable for her/his needs and **violated the prohibition of discrimination on the grounds that her/his education life** was interrupted.

HREIT, Decision No. 2022/489, August 9, 2022²⁷

Within the scope of the official letter of the Ministry of National Education on "facilitator", an **administrative fine of 5,000 Turkish Liras** was imposed on the Ministry of National Education on the grounds that only the students with **Autism Spectrum Disorder** had the right to benefit from the facilitator, creating direct discrimination among students with special needs on the basis of disability; pursuant to the paragraph of Article 25 of the Law No. 6701, it is decided to convert the administrative fine into a **warning penalty**.

Events and Facts:

An application was made by the **Turkish Down Syndrome Association** on the subject on October 26, 2021; but since the legal personality of the association was not directly damaged by the violation of the prohibition of discrimination in the concrete case, it was decided to be inadmissible because it did not have the capacity to be a party. However, with the decision dated 29.12.2021 and numbered 2021/325, it was decided to initiate an ex officio investigation by the Human Rights and Equality Board of Türkiye in order to investigate the aforementioned allegations.

It has been stated by the Ministry of National Education that a facilitator is needed since adaptation and behavior problems are seen intensely in students with ASD, and it is appropriate for students with ASD to have a facilitator at school since parents and NGOs make intense demands on this issue. On the other hand, although the interlocutor stated that

²⁷ The decision can be accessed from the official website of our Institution.
<https://www.tihkek.gov.tr/public/images/kararlar/004r9o.pdf> (Access Date:20.01.2023)

the monitoring and evaluation studies regarding the facilitator application are continuing and that legislative amendments will be made in line with the data to be obtained, it has been observed that there is uncertainty about when the said studies will be completed and if they will cover all students with disabilities.

Board Decision:

In the Board decision it is stated that; it is essential to consider the best interests of the child and the prohibition of discrimination in all actions regarding children, necessary measures should be taken to enable them to access their right to education, therefore in the provision of educational services, the health status of disabled students and their social, emotional and physical etc. needs should be taken into account, but in this way, steps can be taken for the disabled individual to participate effectively, independently and equally in social life in connection with the right to education. Considering that educational services are indispensable for a strong human rights system in a democratic society; it has been evaluated that the facilitator's being suitable only for students with ASD and not including other students with special needs constitutes is direct discrimination on the basis of disability.

HREIT, Decision No. 2022/658, September 22, 2022²⁸

HREIT was launched an ex officio investigation in the context of human rights regarding whether the right to education was violated due to the fact that **Y.Ö's grandchildren were not enrolled in school**. In the relevant decision, it was decided that there was a violation of human rights and that the rights of the victims Y.Ö and T.Ö to education, which are guaranteed in the Constitution, were violated.

HREIT, Decision No. 2022/792, November 9, 2022²⁹

HREIT examined **the age discrimination claims** that the applicant, his/her mother and his/her two children aged three and five were removed from the children's concert because of the **4-8 age restriction** even though they bought tickets. It has been concluded that there is no discriminatory treatment that would interfere with the right of children to participate in

²⁸ The relevant decision can be accessed on the official website of our Institution.: <https://www.tihk.gov.tr/public/images/kararlar/v6gyvc.pdf> (Access Date:20.01.2023)

²⁹ The relevant decision can be accessed on the official website of our Institution.: <https://www.tihk.gov.tr/public/images/kararlar/bdushr.pdf> (Access Date:20.01.2023)

cultural, artistic and leisure activities, which is **guaranteed in Article 31 of the Convention on the Rights of the Child**. In the context, age restriction has a legitimate aim and also, the age restriction depends on the type of activity, the place where leisure activity is organized, the target audience, concentration and attention spans, pedagogical harmony, etc. Therefore, it may vary, based on a scientific and justifiable reason, and taking into account the child's best interests.

➤ *Part I – 10 (a) question: “Increase the enrolment and attendance rates, especially in upper secondary education, of all children, in particular asylum-seeking and refugee children and Roma children;”*

➤ **As response to Part I – 10 (a) question of Questionnaire;**

On-site investigations are carried out regarding the participation of the children staying in the centres in formal education and whether they go to the schools of **their choice** and the critical issues are reflected in the report as recommendations.

➤ *Part I – 12 (e) question: “(e) Improve detention conditions for children in closed juvenile prisons.”*

➤ **As response to Part I – 12 (e) question of Questionnaire;**

Visits to be carried out within the scope of the NPM are;³⁰

- Visits within the framework of a regular visit plan to observe the existing conditions and treatment of persons in places where they are deprived of their liberty or under protection;

- Follow-up visits in order to see the developments after the visit in places visited before, and to determine whether torture and ill-treatment were applied to the people who were interviewed after the visit,

- Visits to examine allegations and applications regarding torture and ill-treatment, and

- Visits with or withouta prior notice.

Regarding the examination of the conditions of detention in closed juvenile prisons; **recommendations** are provided including occupational therapy, the existence of courses for vocational or personal development, registration for continuing education, communication with the family, mental health studies and making changes on the missing points (*if necessary, such as changing the regulation, eliminating the lack of personnel*).

³⁰ The Human Rights and Equality Institution of Türkiye, 2020 Report on the National Preventive Mechanism Against Torture and Ill-Treatment, 25.11.2021, Ankara, p.75, <https://www.tihk.gov.tr/public/editor/uploads/1660762563.pdf> (Access Date:20.01.2023)

In 2022, 63 unannounced visits were made. In this context, the following centers were visited in 2022.

NPM Visits in 2022 year:

1. Ankara Courthouse Pre-trial Prisoner Waiting Area
2. Kilis L Type Closed Penitentiary Institution
3. Ankara West Courthouse Pre-trial Prisoner Waiting Area
4. Aksaray T Type Closed Penitentiary Institution
5. Niğde Children's Homes Site
6. Silivri No. 5 L Type Penitentiary Institution
7. İzmir Harmandalı Removal Center
8. Trabzon E Type Closed Penitentiary Institution
9. Gümüşhane Provincial Police Department Detention Centers
10. İstanbul Beyoğlu Sub-Provincial Police Department Detention Centers
11. Bingöl M Type Closed Penitentiary Institution
12. Erzincan T Type Closed Penitentiary Institution
13. Adıyaman Provincial Police Department Detention Centers
14. Adıyaman - Gölbaşı K1 Type Closed Penitentiary Institution
15. Muş Provincial Police Department Detention Centers
16. Muş - Merkez Muş Lalesi Girl Children's Homes Site
17. Yozgat Accommodation Center
18. Isparta Old Age Asylum Care and Rehabilitation Center
19. Çankırı Şabanözü Care and Rehabilitation Center
20. Tunceli A3 Type Closed Penitentiary Institution
21. Burdur E Type Opened Penitentiary Institution
22. Burdur Provincial Police Department Detention Centers
23. Karaman Ahmet Mete Old Age Asylum Care and Rehabilitation Center
24. Afyonkarahisar No.1 Closed Penitentiary Institution
25. Düzce Akçakoca Anka Private Care Center
26. Private Bartın Care Center
27. Gaziantep Removal Center
28. Kırklareli Pehlivan köy Removal Center
29. Uşak Old Age Asylum Care and Rehabilitation Center
30. Tokat Dr. Cevdet Aykan Mental and Nervous Diseases

31. Çorum Provincial Police Department Detention Centers
32. Ardahan T Tipi Open Penitentiary Institution
33. Aydın Removal Center
34. Bilecik Children's Homes Site (13-18 age boy)
35. Giresun Espiye L Type Closed Penitentiary Institution
36. Sincan 1 No.lu L Type Closed Penitentiary Institution
37. Ankara – Çankaya Sub-Provincial Police Department Detention Centers
38. Sinop Open Penitentiary Institution
39. Karadeniz Ereğli A2 Type Closed Penitentiary Institution
40. Yalova A3 Type Closed Penitentiary Institution
41. Hakkâri K Type Closed Penitentiary Institution
42. Tuzla Removal Center
43. Iğdır Removal Center
44. İzmir No.2 Type Closed Penitentiary Institution
45. Adnan Menderes Airport Transit Transition Point
46. Şırnak T Type Closed and Open Penitentiary Institution
47. Bodrum S Type Closed and Open Penitentiary Institution
48. Amasya E Type Closed Penitentiary Institution
49. Kastamonu Provincial Police Department Detention Centers
50. Karabük- Safranbolu Hasan Doğan Children's Homes Site
51. Manisa Psychiatric Hospital
52. Sakarya - Hendek Women's Open Penitentiary Institution
53. Mersin - Tarsus Women's Closed Penitentiary Institution
54. İncek MİA Private Old Age Asylum Care Center
55. Mamak Sub-Provincial Police Department Detention Centers
56. Diyarbakır Juvenile and Youth Closed Penal Institution
57. Siirt Provincial Police Department Detention Centers
58. Siirt Old Age Asylum Care and Rehabilitation Center
59. Esenboğa Airport Transit Transition Point
60. Ankara Dr. Ahmet Yurtaslan Oncology Training and Research Hospital Psychiatry Service and Community Mental Health Center
61. Nevşehir Ürgüp Hanife - Memiş Aksoy Care, Rehabilitation and Family Counseling Center

62. İstanbul Erenköy Mental and Nervous Diseases Training and Research Hospital

63. Ankara Sincan Youth Closed Penitentiary Institution (*jointly UNICEF*)³¹

The visits planned in 2021 were started as of March due to pandemic measures. In 2021, **56 unannounced visits** were made.³² In this context, the following centres were visited in 2021.

NPM Visits in 2021 year:

1. Batman M Type Closed Penitentiary Institution
2. Batman Private Yenihayat Care Center
3. Ankara Gölbaşı Sub-Provincial Police Department Detention Centers (Osman Tan Police Station and İncek Şehit Hayati Tokgöz Police Station)
4. Kırıkkale F Type High Security Closed Penitentiary Institution
5. Kırıkkale Keskin T Type Closed Penitentiary Institution
6. Antalya L Type Closed Penitentiary Institution
7. Antalya Removal Center
8. Antalya Provincial Police Department Anti-Terror Branch Detention Center
9. Ankara Sincan Yenikent No. 1 F Type Penitentiary Institution
10. Ankara Sincan Women's Closed Penitentiary Institution
11. Kırşehir Open Penitentiary Institution
12. Kırşehir Barrier-Free Living and Care Center
13. Kocaeli Gündoğdu Removal Center
14. Kahramanmaraş E Type Closed Penitentiary Institution
15. Kahramanmaraş Türkoğlu No. 1 L Type Closed Penitentiary Institution
16. Kahramanmaraş Temporary Accommodation Center
17. Ağrı Doğubayazıt T Type Closed Penitentiary Institution
18. Ağrı Removal Center
19. Ağrı Provincial Police Department Detention Centers
20. Ağrı Patnos L Type Closed Penitentiary Institution
21. Kayseri Removal Center
22. Kayseri Private Specialized Disabled Care Center
23. Diyarbakır D Type Closed Penitentiary Institution
24. Çanakkale E Type Closed Penitentiary Institution

³¹ <https://www.tih.gov.tr/sincan-cocuk-kapali-ceza-infaz-kurumuna-ziyaret> (Access Date:20.01.2023)

³²The Human Rights and Equality Institution of Türkiye, 2021 Annual Report, “Visit Statistics”, p.93, <https://www.tih.gov.tr/public/editor/uploads/1660143074.pdf> (Access Date:20.01.2023)

25. Çanakkale Ayvacık Removal Center
26. Çanakkale Private Care Center
27. Bayburt M Type Closed Penitentiary Institution
28. Bayburt Memnune Evsen Old Age Asylum Care and Rehabilitation Center
29. Antalya Fethi Bayçın Old Age Asylum
30. Eskişehir City Hospital Prisoner's Division
31. Kars T Type Closed Penitentiary Institution
32. Kars Police Department Detention Centers
33. İzmir Menemen R Type Closed Penitentiary Institution
34. İzmir Karşıyaka Children's Homes Site
35. İzmir Adnan Menderes Airport Transit Transition Point
36. Artvin Closed Penitentiary Institution
37. Artvin Provincial Police Department Detention Centers
38. Mardin E Type Closed Penitentiary Institution
39. Mardin Provincial Police Department Detention Centers
40. Diyarbakır E Type Closed Penitentiary Institution
41. Diyarbakır Provincial Police Department Detention Centers
42. İstanbul Silivri No.3 L Type Closed Penitentiary Institution
43. İstanbul Silivri Open Penitentiary Institution
44. Bolu İzzet Baysal Mental Health and Diseases Hospital
45. Bolu Police Department Detention Centers
46. İstanbul Silivri No. 1 L Type Closed Penitentiary Institution
47. Tekirdağ No.1 T Type Closed Penitentiary Institution
48. Bolu Semiha Şakir Spastic Cerebral Palsy Children Care and Rehabilitation Center
49. Bitlis E Type Closed Penitentiary Institution
50. Bitlis General Directorate of Children's Homes Site
51. Edirne F Type Closed Penitentiary Institution
52. Edirne Provincial Police Department Detention Centers
53. Adana F Type High Security Closed Penitentiary Institution
54. Adana Dr. Ekrem Tok Mental Health and Diseases Hospital
55. Adana Ataköşkü Private Care Center
56. Ankara Elmadağ Old Age Asylum Care and Rehabilitation Center

➤ *Part I – 13 (b) question: “Ensure that the rights and interests of the child victims of offences prohibited under the Optional Protocol are protected at all stages of the criminal justice process”*

➤ **As response to Part I – 13 (b) question of Questionnaire;**

Although individuals who have been deprived of their liberty or taken under protection within the scope of the NPM can apply to our Institution, there has been no application submitted to our Institution regarding children's rights within the scope of OPCAT in the mentioned years. **11 applications** related to children's rights out of **1852** applications submitted to our Institution in 2021-22 are statistics related to applications other than OPCAT. The study, which contains detailed statistical information on the applications, is also presented in the appendix. On the other hand, information regarding the applications that are in the nature of notice or out of the scope of duty of the Institution are presented below:

- Attorney LLM, E.E.A., in his petition dated 29.01.2022, states that he is the chairman of the board of directors of the "Değerlisin Derneği", that they have visited various places such as children's homes and compassion houses in Istanbul within the scope of the activities of the association, but that children under protection are mistreated in **Göztepe Semiha Şakir Kindergarten**. He claimed that witnessed it. The applicant was informed that the relevant center would be evaluated within the scope of the visit plan.
- Applicant G.A., who is staying in Elmadağ Juvenile Prison on 02.04.2021. **Legal guidance and aid** were given to him regarding the application made by him.

➤ *Part III – 20 (c) and (d) question: “Ensure that the rights and interests of the child victims of offences prohibited under the Optional Protocol are protected at all stages of the criminal justice process”*

➤ **As response to Part III – 20 (c), (d), (e) question of Questionnaire;**

Children’s homes are social service institutions established to protect children between the ages of 0-18, who are in need of protection, against whom protection or injunctions have been taken within the scope of **the Juvenile Protection Law No. 5395**, tasked and obliged to make, monitor and support them in a business or profession, established in flats or detached flats close to schools and hospitals in the city center, preferably in the social and cultural areas of each province, which are suitable for raising children and each hosting 5 to

8 children. **Children's home sites**, on the other hand, are conservation centers that contain small villa-type structures. The purpose of the establishment of these centers is to raise children in need of protection as individuals who are self-confident and can look to the future with hope, by learning the necessities of life intertwined with the society by experiencing concepts such as friendship, neighborhood, social customs, morals and values, and by ensuring their active participation in social life.

Child support centers are residential social service institutions that provide temporary care and protection for children who are determined to need psychosocial support, for whom a care measure or protection decision has been given due to being driven to crime, being a victim of crime or facing social dangers on the street, until these needs are met, where studies on the regulation of family, close environment and community relations are carried out and structured or specialized according to the victimization, delinquency, age and sex status of children.

According to **2019 Report on the National Preventive Mechanism Against Torture and Ill-Treatment**, the number of children between the ages of 12 and 18 held in penitentiary institutions in 2019 is **2.448**.³³ According to 2020 Report on the National Preventive Mechanism Against Torture and Ill-Treatment, the number of children between the ages of 12 and 18 held in penitentiary institutions in 2020 is **1.767**.³⁴ According to the official data dated March 31, 2022 **Ministry of Justice General Directorate of Prisons and Detention Houses**, the number of imprisoned children between the ages 12 and 18 is **2.076**.³⁵

According to **2020 Report on the National Preventive Mechanism Against Torture and Ill-Treatment**, there are a total of **1193 children's homes** and **111 children's home sites** in Türkiye. The number of children taken care of in children's home sites is **5.956**, and the number of children in children's homes is **6.181**. The number of child support centers is

³³ The Human Rights and Equality Institution of Türkiye, 2019 Report on the National Preventive Mechanism Against Torture and Ill-Treatment, Ankara, 2020, p.34, <https://www.tihek.gov.tr/public/editor/uploads/1512202113582019-iskencepdf.pdf> (Access Date:20.01.2023)

³⁴ The Human Rights and Equality Institution of Türkiye, 2020 Report on the National Preventive Mechanism Against Torture and Ill-Treatment, 25.11.2021, Ankara, p.55, <https://www.tihek.gov.tr/public/editor/uploads/1660762563.pdf> (Access Date:20.01.2023)

³⁵ <https://cte.adalet.gov.tr/Resimler/Dokuman/istatistik/istatistik-4.pdf> (Access Date:20.01.2023)

65 and the number of children cared for in these centers is 1.387. As of the end of 2020, the total number of children under protection and care is 13.524.³⁶

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