

4.1.1. Decision of S.G. no. 560-4609 dated 05/12/2018

Claims of the Applicant

In the application subject to the decision, according to the medical board report of the applicant, who is held in Penitentiary Institution, it is claimed that the applicant has 54% bodily function loss due to the applicant's mental and orthopaedic handicap, that the applicant receives a neurologic treatment, that the applicant has disability in mobility and trouble in personal care, that the wards are two-storey and standard, that the ward of the applicant is over capacity limit with 33 people, that there is no toilet bowl, also, that the applicant is deprived of personal hygiene because of limited means, the applicant's transfer to a new penitentiary institution with a ward suitable for disabled people has been requested due to the applicant's physical condition besides informing the Ministry of Justice about the applicant's condition.

Procedure

Claims of the applicant have been evaluated within the scope of prohibition of ill treatment and discrimination. It may cause the violation of prohibition of torture and ill treatment if the conditions of being held are not suitable for the health conditions of the persons with disabilities and deprived of liberty. It is evaluated that some measures should be taken so that the pecuniary and non-pecuniary (physical and mental) results that occur from the incompatibility between the conditions of being held and special situation of the physically disabled person do not reach the state of "degrading treatment against human dignity." According to the Convention on the Rights of Persons with Disabilities Article 14 Paragraph 2, if persons with disabilities are deprived of their liberty through any process, they are, on an equal basis with others, entitled to guarantees in accordance with international human rights law and shall be treated in compliance with the objectives and principles of the present Convention, including by provision of reasonable accommodation and accessibility. Accordingly, the claims of the applicant are sent to the Ministry of Justice with the request of measures to be taken.

Evaluation and Decision

In the statement of Directorate General of Prisons and Detention Houses of the Ministry of Justice dated 21.09.2018; it is expressed that a procedure of getting the applicant a medical report has been started. In the records dated 30.12.2018 by the Directorate General, it is stated that referring to the applicant's medical board report, it is deemed suitable for the applicant to be transferred to Adana E-Type Closed Penitentiary Institution until a second instruction, that the applicant's punishment shall be executed in the special section that is opened according to the Article 18 of the Law on the Execution of Penalties and Security Measures, that all the required procedures related to the applicant's treatment shall be fulfilled completely, and reporting if it is necessary to continue the execution of punishment at

aforementioned section by checking up regularly, if not necessary, it is decided that the medical board report is expected to be sent to Directorate General for a final decision on the new institution that the applicant will be transferred to right after the temporary section change of the applicant. Therefore, it is concluded that request subject to application is fulfilled by the addressee party and it is reported to the Institution; and as a result, in accordance with the Article 18 of the Law on the Human Rights and Equality Institution of Turkey and in accordance with the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Turkey Article 71, the situation subject to the claim and request is removed; thus, the application is concluded with reconciliation.