



**HREIT**

HUMAN RIGHTS AND EQUALITY INSTITUTION OF TÜRKİYE

**2020 REPORT**

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**ON THE NATIONAL PREVENTIVE MECHANISM  
AGAINST TORTURE AND ILL-TREATMENT**



**2020 REPORT  
ON THE NATIONAL PREVENTIVE MECHANISM  
AGAINST TORTURE AND ILL-TREATMENT**

**25 NOVEMBER 2021  
ANKARA**



# **To the Honorary Offices of Presidency and Grand National Assembly of Türkiye,**

In accordance with the subparagraph (k) of the first paragraph of Article 9 of the Law No. 6701 on the Human Rights and Equality Institution of Türkiye which states *“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 Presidency and the Grand National Assembly of Türkiye”* the National Preventive Mechanism Report for 2020, prepared and accepted by HREIT, is hereby presented with due respect.

Ankara, November  
2021

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## Foreword

The Human Rights and Equality Institution of Türkiye (HREIT) was established with the Law No. 6701 to protect and promote human rights, to combat discrimination and to effectively fight against torture and ill-treatment and to act as a National Preventive Mechanism in this regard. The Institution carries out ex officio investigations within the scope of its duty to protect and promote human rights, publishes special reports if deemed necessary, and fulfills other duties provided for by Law. The institution also receives and finalizes applications related to the violation of the principle of non-discrimination in line with its anti-discrimination duty, conducts ex officio investigations, similarly, if deemed necessary, publishes special reports and performs other tasks provided for by the Law. Within the scope of the task of the National Preventive Mechanism which is the subject of this report, informed or unannounced monitoring visits are organized to detention places, reports prepared as a result of visits are shared with relevant institutions and organizations, implementation of recommendations is followed, special reports are published if necessary, applications of persons deprived of their liberty or protected are examined and concluded, awareness studies are carried out and other tasks assigned by Law are fulfilled.

Türkiye signed the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2005 and completed the approval process with the "Law on Approval of OPCAT" dated 2011 and numbered 6167 and the Council of Ministers Decision No. 1962 taken in 2011. With the Council of Ministers Decision No. 5711 taken in 2013 regarding the determination of the National Preventive Mechanism (NPM), this task was given to the abolished Human Rights Institution of Türkiye. With the adoption of the Law on the Human Rights and Equality Institution of Türkiye No. 6701 by the Grand National Assembly of Türkiye in 2016, the Law No. 6332 on the Human Rights Institution of Türkiye has been repealed and it has been determined that the references made to the Human Rights Institution of Türkiye in that legislation will be deemed to have been made to HREIT. In addition, with the adoption of HREIT Law No. 6701, the task of National Preventive Mechanism has gained a legal basis as provided by OPCAT.



2020 has been a year when the COVID-19 pandemic has left its mark on the whole world. The pandemic, which has created a serious public health crisis around the world and the measures taken to prevent it, have led to an increase in the vulnerability of people who have been deprived of their liberty and protected. In addition, the pandemic has led to the fact that the personnel working in such institutions face quite serious and new challenges. In this process, the National Preventive Mechanism has also encountered significant difficulties in performing their monitoring functions. While curfews imposed in many countries, including our country, make it difficult to access places of detention, concerns have been raised that monitoring visits will increase the risk of COVID-19 disease for both National Preventive Mechanism personnel, people who have been deprived of their liberty or protected, and staff working in such institutions. How to find a balance between visits to be carried out within the framework of the task of preventing torture and ill-treatment and the "principle of non-harm", which is one of the basic principles of the task of the National Preventive Mechanism, has become one of the most important issues that the National Preventive Mechanism needs to resolve. That is why, especially during the initial period of the pandemic, HREIT, like many National Preventive Mechanisms, has made efforts to effectively maintain monitoring activities in pandemic conditions and develop new methods such as "remote" monitoring. In this context, HREIT made efforts to obtain information about the health status of the detainees and employees in these institutions through official correspondence with the places of detention on the one hand, and on the other hand, in cooperation with the Ministry of Justice, it provided the installation of an Audio-Visual Information System (SEGBIS) in the Institution and conducted face-to-face interviews with prisoners, albeit remotely. In addition, our Institution has not completely stopped visiting, and in 2020 it has organized visits to 13 centers where people have been deprived of their liberty or protected by taking the necessary protective measures. Some of these visits were made for periodic monitoring purposes, while the others were made to follow up on the implementation of the recommendations given to the relevant centers during visits in previous years. Of course, factors such as measures taken in places where people who have been deprived of their liberty or protected due to the COVID-19 pandemic, curfews and travel restrictions have been effective in reducing the number of visits compared to previous years.

Our institution prepares a visit report for the relevant detention / protection center after each monitoring visit, tries to take a photo of the institutions with these reports, and also makes various recommendations to the relevant institutions and organizations to prevent torture and ill-treatment. In this context, there are 13 reports prepared as a result of monitoring visits carried out within the scope of the National Preventive Mechanism task in 2020 and accepted by the Human Rights and Equality Board and containing recommendations for relevant institutions and organizations.

While OPCAT does not give the National Preventive Mechanism the duty and authority to examine and finalize the applications of persons deprived of their liberty, the Law No. 6701 has given the Institution the duty and authority to examine, investigate, make decisions and follow up the results of the applications within the scope of the National Preventive Mechanism duty. Therefore, our Institution, as a National Preventive Mechanism, organises visits to places where people are deprived of their liberty or protected, on the one hand, and prepares reports on visits, and on the other hand, examines and investigates the applications of these people. Within this framework, under the National Preventive Mechanism mandate in 2020, 175 applications were made and 504 petitions were submitted by persons deprived of their liberty or protected National Preventive Mechanism while 685 applications/petitions with applications and petitions transferred from 2019 were finalized in the same year within the framework of Law No. 6701 and related legislation. It was seen that the applications were made mainly on the issues of access to the right to health, transfer to another penitentiary institution and increasing social, cultural and sports activities.

The establishment of cooperation at the international, regional and national levels to prevent torture and ill-treatment is essential for the effective performance of the duties of the National Preventive Mechanisms. In particular, cooperation at the national level is important for the implementation and follow-up of the recommendations of the National Preventive Mechanism, the prevention of retaliation and the effective maintenance of the functions of the National Preventive Mechanism in cases where urgent intervention is required. Additionally, activities with international organizations, stakeholder institutions and civil society working in the field are another issue that should be kept on the agenda in order to seeing good practice examples, examining deficiencies and various work and operations that need to be done, and sharing information and experience. Our institution has experienced new methods of cooperation with the whole world in the difficult conditions created by the year 2020, and under pandemic conditions, both international and national level collaborations have been maintained through online platforms.

In the coming years, HREIT aims to continue its activities as an effective National Preventive Mechanism for the prevention of torture and ill-treatment, both through violation investigations and visits and through cooperation conducted at the national and international levels.

**Prof. Dr. Muharrem KILIÇ**  
**Chairman**

# Abbreviations

AFAD	Disaster and Emergency Management Authority
APT	Association for the Prevention of Torture
Art.	Article
CPT	European Committee for the Prevention of Torture
HREIT	Human Rights and Equality Institution of Türkiye
m.a.	Mentioned Announcement
m.c.	Mentioned Code
m.con	Mentioned Convention
m.j.	Mentioned Journal
m.l	Mentioned Letter
m.leg.	Mentioned Legislation
MoNE	Ministry of National Education
m.r	Mentioned Report
NPM	National Preventive Mechanism
OPCAT	Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
SPT	Subcommittee on the Prevention of Torture
TGNA	Grand National Assembly of Türkiye
TCC	Turkish Civil Code
UN	United Nations

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# Introduction

The Human Rights and Equality Institution of Türkiye (HREIT), designated as the National Preventive Mechanism within the framework of the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment (OPCAT) to which Türkiye is a party; annually prepares the "Report on the National Preventive Mechanism against Torture and Ill-Treatment" pursuant to Article 23 of the Protocol on the National Preventive Mechanisms to publish and distribute annual reports, and subparagraph (k) of the first paragraph of Article 9 of the Law No. 6701 on the Human Rights and Equality Institution of Türkiye which states *"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 Presidency and the Grand National Assembly of Türkiye."*

This report, prepared in this regard, contains the findings, observations and evaluations that have emerged as a result of the activities carried out by HREIT as a National Preventive Mechanism in 2020, as well as recommendations for solving problems in the field, and consists of five parts. In the first part of the report, the prohibition of torture, which is considered an absolute ban in international law, and the prevention mechanisms created to effectively implement this ban were discussed, and the tasks and activities of HREIT, which has been designated as a National Preventive Mechanism in Türkiye, were included in this context. The second part focused on how the activities of the National Preventive Mechanism were carried out during the COVID-19 pandemic. In the light of the data obtained by HREIT while carrying out its duty to make regular visits to the places with persons deprived of their liberty and persons under protection, the general situation regarding places where persons are deprived of their liberty, including penitentiary institutions, detention centres, repatriation centers and psychiatric centres and general situation of nursing home elderly care and rehabilitation centers, children's homes and children's home sites, disabled care and rehabilitation

centers, temporary accommodation centers, which are among the places where people are taken under protection were included in the third part. In the fourth part, the numerical data on the visits carried out in 2020, the method followed in the process of visits and reporting, and the content of the reports created as a result of these visits were discussed. In the last section, numerical data on the applications of persons deprived of their liberty or protected under the National Preventive Mechanism were presented, and information was provided about the processes of reviewing and concluding applications.

The 2020 Report of the National Preventive Mechanism against Torture and Ill-Treatment especially aims to reveal the general situation of places in Türkiye where people are deprived of their liberty or protected, to provide solutions to address identified deficiencies and to share examples of good practice, thus providing guidance to ensure that a rights-based approach prevails in these places.





# First Section

## 1.1. Prohibition of Torture and Ill-Treatment

The Convention Against Torture, which was adopted by the United Nations (UN) General Assembly resolution 39/46, entered into force in 1987 and to which Türkiye became a party in 1988, defines the torture as *“any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity”*. The Convention states that the concept of torture shall not necessarily include pain and suffering arising solely from the application of legal sanctions and which are inherent or incidental to it.<sup>1</sup> The torture has been defined as an intentional, severe form of inhuman or degrading, cruel treatment and punishment in the Declaration on the Protection of Everyone from Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment even before the Convention Against Torture was adopted.<sup>2</sup> The concept of ill-treatment is used to describe other acts such as cruel, inhuman or degrading treatment or punishment that do not reach to the level of torture.<sup>3</sup>

On the other hand, according to the Convention, in order to qualify a situation as ill-treatment, it is not necessary that it was acted intentionally or for a specific purpose, such as punishing.

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1 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art.1.

2 UN General Assembly Resolution, 1975

3 UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art.16.

The prohibition of torture and ill-treatment is absolute in all situations, including war.<sup>4</sup> Accordingly, it is not possible to violate this prohibition for reasons such as the crime committed or thought to be committed by the victim, being committed against the security of the state or constituting a crime of terrorism. The prohibition of torture and ill-treatment under the Convention Against Torture protects all persons within the jurisdiction of the participating states.

## **1.2. Proactive Approach to Combating Torture and Ill-Treatment**

The fact that torture and ill-treatment happen in places where people are deprived of their liberty, such as prisons, is closely related to the fact that these places are closed to public scrutiny.<sup>5</sup> In addition, situations that can be characterized as ill-treatment in these places are often caused by shortcomings in the regulations or lack of resources, rather than arising intentionally.<sup>6</sup> Therefore, it is necessary to make the external observation of the places where people are deprived of their liberty as clear as possible and to monitor the general living conditions in these places in a continuous manner. The regular visitation system introduced by the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) arose from these requirements.

The National Preventive Mechanisms established within the framework of OPCAT have a proactive role in combating torture and ill-treatment, especially through the regular visit system. Making recommendations to the relevant authorities through the reports prepared as a result of visits, making recommendations on the relevant legislation, conducting training and awareness-raising activities also support the proactive approach. HREIT, which has been designated as a National Preventive Mechanism by the Republic of Türkiye within the scope of the Protocol, also conducts proactive studies mainly in the fight against torture and ill-treatment. Although the Institution has been given the task of examining, investigating, making decisions and following up the results of the applications of the persons deprived of their liberty or protected by the provision of Article 9/1-i of the Law No.6701 under the National Preventive Mechanism task, the Institution acts mainly with a preventive approach while performing the National Preventive Mechanism task and the applications are examined with this preventive approach in mind. In this context, in the case of a situation covered by Article 94 of the Turkish Penal Code<sup>7</sup> regulating the crime of torture, investigations and prosecutions should be carried

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<sup>4</sup> UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, art.2., the UN International Covenant on Civil and Political Rights art.7., ECHR art.3.

<sup>5</sup> Report of the UN Special Rapporteur on Torture, UN Doc. A/61/259 (14 August 2006), para. 67.

<sup>6</sup> CPT Standards, excerpt from the 2nd General Report [CPT/Inf (92) 3], para. 44.

<sup>7</sup> "Any public officer who causes severe bodily or mental pain, or loss of conscious or ability to act, or dishonors a person, is sentenced to imprisonment from three years to twelve years."

out by judicial authorities and the perpetrator/perpetrators should be punished if the crime is found to have occurred. Therefore, it is not possible for HREIT to conduct a review of an act or transaction that is the subject of a criminal investigation and prosecution that will replace the reasoning carried out by judicial authorities within the framework of the task of the National Preventive Mechanism.<sup>8</sup>

### **1.3. Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)**

The OPCAT was adopted by the UN General Assembly on 18 December 2002 and entered into force on 22 June 2006.<sup>9</sup>

The Optional Protocol was signed by our country on 14 September 2005. The Protocol seeks to establish a system of regular visits to places where persons are deprived of their liberty in order to prevent torture and other cruel, inhuman or degrading treatment or punishment.<sup>10</sup>

The OPCAT has been ratified by 91 of the 193 UN member states, and only signed by 13.<sup>11</sup>

The innovation brought by OPCAT in the fight against torture and ill-treatment is to establish a regular visit system that can prevent torture or ill treatment before it occurs, and to do this through both national and international mechanisms. The national leg of the protocol system is the National Preventive Mechanisms and the international leg is the Subcommittee for the Prevention of Torture (SPT). National Preventive Mechanisms are the main mechanisms to carry out regular visits. The SPT, on the other hand, not only organizes visits to places in the states parties where people are deprived of their liberty, but rather stands out with its task of supporting and strengthening National Preventive Mechanisms.

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<sup>8</sup> The fifth paragraph of Article 18 of Law No. 6701 also stipulates that if the Human Rights and Equality Board of Türkiye detects violations of human rights or prohibition of discrimination that constitute a crime, it will file a criminal complaint.







<sup>9</sup> UN General Assembly, resolution A/RES/57/199.

<sup>10</sup> OPCAT, Art. 1.

<sup>11</sup> <https://indicators.ohchr.org/>, E.T.: 18 June 2021.



**Table 1: Acceptance, Signature, Approval and Enforcement Process of the OPCAT**

	2002 - The OPCAT was adopted by the UN General Assembly on 18 December 2002.
	2005 - Türkiye has signed the OPCAT.
	2006 - With the twentieth state becoming a party, the OPCAT entered into force.
	2011 - Türkiye ratified the OPCAT and became a party to the Protocol.
	2014 - Abolished Human Rights Institution of Türkiye was determined as a National Preventive Mechanism by the decision of the Council of Ministers.
	2016 - The Human Rights and Equality Institution of Türkiye was determined as a National Preventive Mechanism by Law No. 6701.

### **1.3.1. National Preventive Mechanisms**

The National Preventive Mechanisms are independent structures that carry out regular visits to places where people are deprived of their liberties and carry out activities at the national level to prevent torture and ill-treatment within the framework of the OPCAT.

States Parties are required to establish or authorize one or more National Preventive Mechanisms that may conduct regular visits to places of detention in order to carry out preventive work on torture and ill-treatment within one year from the date of entry into force, approval or accession to the Protocol.<sup>12</sup> In this process, it may be possible to create a new institution, or existing institutions can be authorized as National Preventive Mechanisms.

OPCAT has not provided for a specific institutional model for the National Preventive Mechanism, making it possible for states parties to choose a model that meets the conditions of their countries, as long as it meets the basic requirements such as compliance with the Principles on the Status of National Institutions for the Protection and Development of Human Rights provided for in the Protocol (the Paris Principles). In this context, the task of the National Preventive Mechanism can be performed by human rights commissions/boards or institutions called

<sup>12</sup> OPCAT, Art 3 and 17.

ombudsmen. Due to differences in the geographical structures of countries, the National Preventive Mechanisms of some countries may have a large provincial organization, while there are also National Preventive Mechanisms that perform this task only with the central organization.

According to OPCAT, the National Preventive Mechanism's qualifications and duties and powers that it should have can be listed as follows:<sup>13</sup>

- Having functional independence,
- Ability of employees to act independently,
- Professional competence of employees,
- Ensuring the gender balance of its employees and ensuring pluralistic representation,
- Having sufficient financial resources to be able to fulfill its duties,
- Being in compliance with the Principles of Paris,
- Ability to make regular visits to places where people are deprived of their liberty,
- Being able to make recommendations to the relevant authorities as a result of visits,
- Being able to provide suggestions on legal regulations related to the field of duty,
- Accessing all kinds of information and documents about the number of persons deprived of their liberty, as well as the number of places where these people are held,
- Having access to all information about the attitude towards persons deprived of their liberty and the conditions of their detention,
- Accessing to buildings and facilities of places where people are deprived of their liberty,
- Ability to conduct private interviews with persons deprived of their liberty,
- Ability to directly select the institutions to be visited and the people to be interviewed,
- Being able to work together with the Subcommittee on the Prevention of Torture (SPT) (contacting the SPT, getting together, informing SPT).

Obtaining information about the places where people are deprived of their liberty and the conditions in these places is extremely important for the full fulfillment of the task of the National Preventive Mechanism. Therefore, in order to

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<sup>13</sup> OPCAT, Art. 18, 19, 20.

ensure that those who provide this information are not subjected to retaliations, OPCAT has provided that no person or organization may be sanctioned or approached unilaterally due to information that has been transmitted to the National Preventive Mechanism.<sup>14</sup> The principle of confidentiality also plays an important role in the context of access to information by the National Preventive Mechanism. The principle of confidentiality will help to effectively fulfill the task of the National Preventive Mechanism, since knowing that their privacy and personal data will be protected will make people feel safe in providing information to the National Preventive Mechanism.<sup>15</sup> In this context;

- The National Preventive Mechanism is required to maintain the information it has compiled while carrying out its work, and
- Must abstain from disclosing the information it has obtained without the consent of the relevant persons.<sup>16</sup>

### **1.3.2. Subcommittee on the Prevention of Torture (SPT)**

The SPT, which forms the international leg of the system established with OPCAT, is mainly responsible for making visits to places where people are deprived of their liberty, advising OPCAT states parties on the prevention of torture and ill-treatment, and working to strengthen the National Preventive Mechanisms. States parties are deemed to have accepted the SPT's authority to access all places of detention located within the country's borders and to meet with persons held in these places. It is forbidden to impose sanctions or retaliate against any person or organization that meets with the SPT. The SPT should conduct its work in accordance with the principles and objectives set out in the UN Charter and be guided by the principles of impartiality, confidentiality, equality, objectivity and universality.<sup>17</sup> In this regard, SPT has the following duties;

- Making recommendations to the authorities for the prevention of torture and ill-treatment in places of detention of persons deprived of their liberty,
- Helping OPCAT about advising states parties on the establishment of the National Preventive Mechanism and assisting them in increasing their capacity,
- Providing training and technical assistance to the National Preventive Mechanisms in order to establish direct and, if necessary, confidential contact with the National Preventive Mechanisms and strengthen its capacities, as well as advising and assisting the National Preventive Mechanism in assessing the necessary instruments and tools,

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<sup>14</sup> OPCAT, Art. 21/2.

<sup>15</sup> Association for the Prevention of Torture: Establishment and Designation of National Preventive Mechanisms, 2006, page. 59.

<sup>16</sup> OPCAT, Art. 21/1.

<sup>17</sup> OPCAT, Art. 2.

- Working together with international, regional and national institutions and organizations working in this field to prevent torture and ill-treatment.<sup>18</sup>

Although these tasks assigned to the SPT are of great importance for the prevention of torture and ill-treatment, they must be worked out in coordination with the states parties in order for the prevention mission to be performed properly. In order to fulfill this mission, the states parties are obliged to;

- Allow the entry of SPT into places of detention located within the borders of the country,
- Provide the SPT with the necessary information and documents related to the field of duty,
- Support cooperation between the National Preventive Mechanism and the SPT,
- Take into account the recommendations of the SPT and interact with the SPT for possible preventive measures.<sup>19</sup>

Further, the assurance provided against reprisals also applies in the case of the provision of information to the SPT.<sup>20</sup>

#### **1.4. HREIT as a National Preventive Mechanism**

Türkiye signed the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in 2005 and completed the approval process with the "Law on Approval of OPCAT" dated 2011 and numbered 6167 and the Council of Ministers Decision No. 1962 taken in 2011. With the Council of Ministers Decision No. 5711 taken in 2013 regarding the determination of the NPM, this task was given to the Human Rights Institution of Türkiye. With the adoption of the Law on the Human Rights and Equality Institution of Türkiye No. 6701 by the Grand National Assembly of Türkiye in 2016, the Law No. 6332 on the Human Rights Institution of Türkiye has been repealed and it has been determined that the references made to the Human Rights Institution of Türkiye in that legislation will be deemed to have been made to HREIT. With the Law No. 6701, the task of National Preventive Mechanism was given directly to HREIT by law.

Within the scope of the task of the National Preventive Mechanism which is one of the three main duties assigned to HREIT by Law No. 6701, informed or unannounced monitoring visits are organized to detention places, reports prepared as a result of visits are shared with relevant institutions and organizations, implementation of recommendations is followed, special reports are published if necessary, and other tasks assigned by Law are fulfilled.

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<sup>18</sup> OPCAT, Art. 11.

<sup>19</sup> OPCAT, Art. 12.

<sup>20</sup> OPCAT, Art. 15.

On the other hand, although OPCAT does not require the establishment of a system in the form of receiving and examining applications of persons deprived of their liberty, Law No. 6701 also assigned HREIT the task of examining, investigating and monitoring the results of applications of persons deprived of their liberty under the authority of the National Preventive Mechanism.

The following are included in the scope of HREIT's mandate to operate as a National Preventive Mechanism;

- Making informed or unannounced regular visits to places where persons deprived of their liberty or under protection are held,
- Conveying the reports of these visits to the relevant institutions, sharing them with the public, if deemed necessary by the Human Rights and Equality Institution of Türkiye,
- Evaluating the reports created by provincial and sub-provincial human rights councils and reports created by other persons, institutions and organizations as a result of visits to such places,
- Preparing annual reports on the fight against torture and ill-treatment to be submitted to the Presidency and the Parliament,
- Examining, investigating, making decisions and following up the results of applications of persons deprived of their liberty or protected under the mandate of the National Preventive Mechanism,
- Monitoring, researching, making decisions on legislative works related to the field of duty and informing the relevant authorities of their opinions and suggestions on them,
- Publishing special reports on the field of duty when necessary, except for regular annual reports, in order to inform the public,
- Cooperating with international organizations in the field within the framework of relevant legislation,
- Cooperating with public institutions and organizations, non-governmental organizations, professional organizations and universities,
- Monitoring the implementation of international agreements to which Türkiye is a party.<sup>21</sup>

OPCAT has guaranteed that National Preventive Mechanisms can access all kinds of information and documents related to the places where people who have been deprived of their liberty or protected are being held.<sup>22</sup> In this regard, the Law No. 6701 states that HREIT can obtain all kinds of information and documents from all

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<sup>21</sup> Law no 6701, Art. 9.

<sup>22</sup> OPCAT, Art. 20.

public institutions and organizations, as well as other individuals and legal entities, organize visits to the places of detention without any permission, meet with people who are allegedly subjected to ill-treatment, all institutions, organizations and persons obliged to facilitate visits of the Institution and to fulfill their requests without delay.<sup>23</sup>

#### **What are monitoring visits?**

Monitoring visits are the visits to centers where people are deprived of their liberty or protected in order to prevent torture and ill-treatment.

#### **Why monitoring visits are conducted?**

With our visits, we try to guarantee that people who have been deprived of their liberty or protected will be treated in a way that is worthy of human dignity.

#### **Where to conduct the monitoring visits?**

HREIT conducts monitoring visits to all centers where people are detained and protected in Türkiye.

#### **When are monitoring visits conducted?**

Visits continue throughout the year. Visits are usually made without prior notice.

#### **Who conducts the monitoring visits?**

Monitoring visits are conducted with all Institution personnel under the coordination of the National Preventive Mechanism Unit and, if necessary, with doctors, psychologists and other expert participants assigned from the relevant institutions.

#### **How monitoring visits are conducted?**

Each year, visits are conducted with participants from various professional groups to places where people deprived of their liberty or protected are held in accordance with the established visit schedule, and reports are created and shared with the relevant institutions and the public in accordance with the findings, observations and evaluations obtained during the visits.

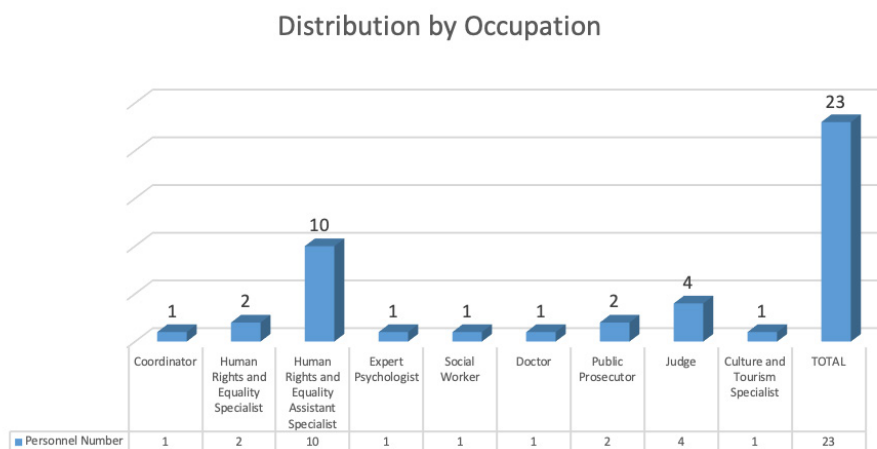
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<sup>23</sup> Law no 6701, Art. 19.

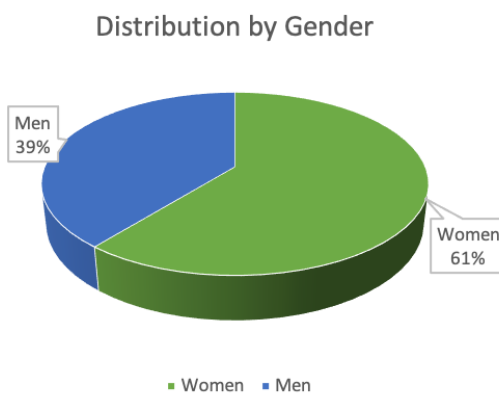
### 1.4.1. Human Resources

States parties to OPCAT should ensure that employees of the National Preventive Mechanism have the skills and professional equipment that are of great importance in performing their duties, and that employees represent a pluralistic structure.<sup>24</sup> There are employees from various professional groups who continue their duties within the National Preventive Mechanism Unit of the institution. Furthermore, if additional personnel support is needed during these visits, people with professional qualifications who can participate in visiting delegations from both other internal and external departments can be assigned.<sup>25</sup>

**Table 2: Distribution of National Preventive Mechanism Personnel by Occupation (Total 23 Persons)**



**Table 3: Distribution of National Preventive Mechanism Staff by Gender**



<sup>24</sup> OPCAT, Art. 18.

<sup>25</sup> "Delegations may be formed with the participation of representatives of the relevant institutions and organizations and other persons under the chairmanship of the staff of the Institution determined by the President to conduct on-site examinations and research on issues falling within the scope of the institution's duties and jurisdiction. Representatives of public institutions and organizations that will take part in the delegation are determined by their own institutions and organizations, and other persons are determined by the President.", Law no 6701, Art. 19.



The gender distribution of the employees of the National Preventive Mechanism is concentrated in female employees. The specialized staff has knowledge of foreign languages and is able to communicate with foreign prisoners. If an interpreter is needed in different languages, support is provided in this regard.

## **1.4.2. National and International Collaborations**

HREIT, has the opportunity to hold consultation meetings in the center and provinces with the participation of public institutions and organizations, non-governmental organizations, trade unions, social and professional organizations, higher education institutions, press and publishing organizations, researchers, academics and other interested persons, institutions and organizations in order to discuss human rights issues and exchange information and opinions on human rights issues and develop cooperation at the national level on issues within its field of work.<sup>26</sup> In addition, according to article 9/1-m of Law No. 6701, monitoring and evaluating international developments in the field of human rights and anti-discrimination, cooperating with international organizations in the field within the framework of the relevant legislation are among the duties of HREIT. In this context, HREIT pays attention to cooperation and communication with international institutions and organizations in order to increase the sharing of information and experience, improve its institutional capacity and operate more effectively in the fight against torture and ill-treatment as a National Preventive Mechanism. Although national and international collaborations cannot be carried out at the targeted level due to the COVID-19 pandemic that emerged in 2020, events such as meetings, workshops and seminars have started to be organized online in 2020. In this context, the activities carried out both at the national and international levels were monitored by the National Preventive Mechanism, participation in various activities was ensured by giving importance to cooperation between institutions and organizations, and cooperation was tried to be produced and carried out online by adapting to the pandemic conditions.

### **1.4.2.1. Cooperation at the National Level**

- **Visit of the Council of Europe Delegation within the Scope of the Project on the Protection of the Human Rights of Foreigners and Victims of Trafficking**

Within the scope of the “Project for the Protection of the Human Rights of Foreigners and Victims of Trafficking”, the South East Europe and Türkiye Unit Manager and official of the General Directorate of Human Rights of the Council of Europe and the accompanying delegation paid a visit to our Institution on 29 January 2020. During the visit, the Deputy Head of HREIT provided information about the duties and powers of the Institution, informed or unannounced visits made by HREIT as a National Preventive Mechanism to the locations of foreigners

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<sup>26</sup> Law no 6701, Art. 22.

and asylum seekers, as well as trainings given to the managers and employees of the detention center.

- **International Refugee Rights Association - Refugee School Seminars**

The “Refugee School 8 - E-School Programme” organized by the association for the eighth time was held on 25 April, 26 April, 2 May and 3 May 2020 on online platforms. In the trainings, the issue of refugees was discussed with the participation of experts in the field.

- **Meeting with Short-Term Advisors of the Council of Europe within the scope of the Council of Europe Project on the Protection of the Human Rights of Foreigners and Victims of Trafficking**

Representatives from different units of HREIT, including the National Preventive Mechanism, participated in the online meeting organized by the Project representatives of the Council of Europe within the scope of the Project for Strengthening the Human Rights of Migrants and Victims of Trafficking in Türkiye. Within the framework of the projected research activity on “Identification and Protection of Victims of Trafficking”, consultations were held on human trafficking in the context of migration, child trafficking; human trafficking for labor exploitation and human trafficking for the purpose of sexual exploitation and information was given about the activities of the Institution.

- **Online Workshop on Parliamentary Oversight of the Internal Security Forces**

The Project for Improving Civilian Oversight of the Internal Security Sector is financed by the European Commission and carried out by the Ministry of Interior, General Directorate of Provincial Administration with the technical support of the United Nations Development Programme. The institution participated in the PHASE 3 meetings of this project, of which PHASE 1 and PHASE 2 were completed in previous years, as the National Preventive Mechanism.

Within the scope of the 3rd Phase of Strengthening Civilian Oversight of the Internal Security Sector Project, the good examples implemented by the parliaments of the member states of the European Union under the supervision of the internal security forces were discussed in comparison with Türkiye and a draft report containing recommendations to improve the organizational structure and functioning of the GNAT commissions was prepared.

The workshop brought together MPs, legislative experts, academics and other relevant stakeholders, including NGOs, and aimed that the presentations and subsequent discussions at the workshop contribute to the development of comparative reports and recommendations.

On September 28, 2020, the first day of the workshop, reports on Belgium, Germany and Spain were presented online and they were opened for discussion. On September 29, 2020, the second day of the workshop, a comparative analysis report was presented, and then group discussions were held on recommendations to strengthen the organizational structure and functioning of parliamentary commissions.

- **Conference on “Access to Justice in Combating Impunity in Türkiye: Past and Present”**

At the conference titled “Access to Justice in Combating Impunity in Türkiye: Past and Present”, one of the conference series organized in cooperation with the International Commission of Jurists and the Joint Human Rights Platform on October 27, 2020; the struggle against impunity for serious human rights violations and the difficulties and achievements in this context were discussed.

- **Roundtable Meetings on the Coordination of Monitoring Visits to Penitentiary Institutions Organized as part of the “Project for Increasing the Efficiency of Civil Monitoring Boards in Line with European Standards”**

The first of the roundtable meetings was held on 22 October 2020 and the second on 12 November 2020, with the aim of coordinating the monitoring visits to penitentiary institutions within the scope of the “Project for Increasing the Efficiency of Civil Monitoring Boards in line with European Standards” carried out with the technical support of the Council of Europe in order to strengthen civilian control in penitentiary institutions. The second meeting, organized online, started with the opening speeches of Head of Department Serdar YILMAZ, Swedish Embassy Undersecretary Malin STAWÉ, Swiss Embassy Charge d’Affaires Tiziano BALMELLI, and Head of the Ankara Program Office of the Council of Europe Cristian URSE. The meeting was attended by the National Preventive Mechanism Coordinator, and opinions and evaluations were exchanged.

- **Coordination Meeting Held within the Scope of “Project for Increasing the Efficiency of Civil Monitoring Boards in Line with European Standards”**

Working group consisting of civil monitoring boardmembers from different regions of Türkiye, Ministry of Justice Inspection Board, National Preventive Mechanism, execution judges, public prosecutors and representatives of the Ministry of Justice General Directorate of Prisons and Detention Houses Controllers Board met in Ankara on 17-18 November 2020 to discuss the draft monitoring toolkit prepared for civil monitoring boards. The meeting in question was held in a hybrid format within the scope of the “Project for Increasing the Efficiency of Civil Monitoring Boards in Türkiye in Line with European Standards”.

- **Meeting Held with Non-Governmental Organizations Working in the Field of Migration and Refugees**

A meeting for future collaborations was held on 19 November 2020 with the World Academy of Local Government and Democracy (WALD), which carries out a social protection project for refugees in our country.

- **Second Online Meeting of the Southeastern Europe National Preventive Mechanism Network**

The meeting, hosted by the Croatian Ombudsman on 7 December 2020, was completed in two sessions. The meeting was attended by SPT (Marija Definis, Marina Langfeldt, Zdenka Perovic), CPT (Michael Neurauter, Deputy Executive Secretary), Association for the Prevention of Torture (Barbara Bernath) and Croatian Ombudsman Lora Vidovic while Slovenia, Serbia, Hungary, Albania and Montenegro contributed to the meeting and HREIT representatives also participated in the observer status. During the meeting, information was provided on the practices in places where people are deprived of their liberty, especially in police custody, immigration centers, psychiatric centers, nursing homes, and the conditions under which visits are made in this context during the COVID-19 global pandemic. Strategies of National Preventive Mechanisms operating in Southeast European countries during the COVID-19 pandemic period to increase their capacity in monitoring the implementation of security measures were discussed and in this context, the sharing of experiences was emphasized.

- **Anti-Trafficking Coordination Committee Meeting**

As a natural member of the Coordinating Commission for Combating Human Trafficking, HREIT participated in the commission meeting held on December 10, 2020 at the level of the Head of the Institution. As a result of this meeting, our institution was designated as a national rapporteur institution and was assigned to prepare the relevant reports.

- **Strengthening Civilian Oversight over the Internal Security Sector Project Stage 3 Workshop**

A workshop was held on 10-11 December 2020 for the "Legal and Institutional Framework" component of the Project, within the scope of the 3rd Phase of the Strengthening Civilian Oversight of the Internal Security Forces Project. The component aims to review the basic laws related to the police and gendarmerie, to develop the curriculum of the Gendarmerie and Coast Guard Academy in accordance with the principles of civil / democratic supervision and accountability

provided by the European Union and international standards and best practices, and also to strengthen the performance evaluation system of the Ministry of Interior and to carry out the necessary infrastructure studies for the establishment of a National Crime Prevention Office under this component.

- **Conference on “Effectiveness of European Court of Human Rights Decisions in Türkiye: Old and New Challenges”**

One of the conference series organized in cooperation with the International Commission of Jurists and the Joint Platform for Human Rights, the conference titled “Effectiveness of European Court of Human Rights judgments in Türkiye: Old and new challenges” was held on 15 December 2020. At the conference, issues such as the implementation of the decisions of the European Court of Human Rights, the difficulties encountered in implementation and solution strategies, and strategies to encourage the implementation of the decisions were discussed.

- **International Refugee Rights Association - Human Rights School**

An online human rights school series was organized by the association in order to raise awareness about rights violations in the world. HREIT also participated in the series, which was planned to last for four weeks with the contributions of the International Refugee Rights Association, Jurists Association, Young IHH, Humanitarian and Social Research Center (INSAMER) and MÜLDEF, and started on December 26, 2020.

#### **1.4.2.2. Cooperation at the International Level**

- **Webinar Series on Monitoring Deprivation of Liberty during COVID-19**

During the COVID-19 pandemic, the Association for the Prevention of Torture (APT) organized webinar series with the participation of National Preventive Mechanisms and representatives of national and international bodies on April 23, 2020, in order to better address this extraordinary process in the context of the fight against torture and ill-treatment. In this way, it is aimed to facilitate mutual sharing of the difficulties encountered in the context of the urgent public health hazard, application examples and solution proposals for the problems, and to enable the stakeholders to come together remotely. More than 110 participants from 40 countries around the world took part in the webinar.

- **Webinar on “Leaving No One Behind in the COVID-19 Process: Monitoring Psychiatric Centers”**

At the request of the National Preventive Mechanisms and other monitoring mechanisms, APT held a webinar on 18 June 2020 to discuss challenges and examples of good practice in monitoring psychiatric centers. The online meeting aimed to identify and discuss the main risks posed by the COVID-19 pandemic for the conditions and treatment of people housed in psychiatric institutions, and solutions to effectively reduce them.

- **Webinar on “International Day of Solidarity with Victims of Torture: Combating Torture in Times of the COVID-19 Pandemic”**

On the occasion of the International Day of Solidarity with Victims of Torture, a public webinar on “Combating torture and ill-treatment in times of COVID-19: testimonies from the ground” was held by the APT and the UN High Commissioner for Human Rights on 26 June 2020. The meeting was attended by representatives of non-governmental organizations from Brazil, Jordan, the Philippines and South Africa, as well as the Head of the SPT, the UN Special Rapporteur on Torture.

- **Inclusive Education Webinar during COVID-19**

A webinar on Inclusive Education During COVID-19 was organized on 30 June 2020 in cooperation with the European Commission Against Racism and Intolerance and the Greek Presidency of the Committee of Ministers of the Council of Europe. The event was held following the closure of schools and the transition to distance education in most European countries due to the pandemic, with particular emphasis on the negative impact on vulnerable children, including Romany and migrant children, whose conditions have worsened due to the crisis. The event aimed to discuss ways to counteract all kinds of discrimination faced by these student groups during anti-epidemic arrangements, as well as to evaluate remedies for situations of increased structural discrimination, including lack of access to devices, internet connection, or limitation of parents’ ability to guide and help their children.

- **First Online Meeting of the Southeast European National Preventive Mechanism Network: Monitoring Assurances in the Early Hours of Detention**

An online seminar was held on 07.12.2020 hosted by the Croatian Ombudsman Institute and by the Southeast European National Preventive Mechanism Network on the sharing of strategies to ensure that basic safeguards are fulfilled in the

first hours of the detention process in police stations to support independent monitoring bodies in Southeast Europe. More than forty representatives from thirteen different National Preventive Mechanisms participated in the seminar, in which the representatives of HREIT also participated in the status of observer. Experts from the CPT and SPT also provided information at the seminar.

- **International Symposium on Monitoring Places of Detention in the Context of COVID-19**

The Symposium hosted by the Tunisian National Preventive Mechanism was held on 18-19 December 2020. In the meeting, which was attended by the members of SPT, CPT, APT, CAT and CPTA, representatives from Denmark, Togo, Lebanon, Argentina, Georgia and Italy, Montenegro, the United Kingdom and Croatia shared the application examples, while Armenia and Indonesia also contributed to the meeting with their questions and opinions.

The meeting informed the participants about the practices at the places of detention in the participating countries and representatives of civil society in their countries, the conditions there, the health services provided, structural reforms, restrictions carried out within the scope of quarantine measures and the multifaceted negative effects on the people in the places where they are applied and the visits carried out in this context, innovative monitoring and follow-up visit methods in the process of the COVID-19 global pandemic. In the meeting, information was shared about the changing strategies with COVID-19 as national preventive mechanisms in the context of the protection of human rights, visiting methods and the restrictions on the rights of individuals and the legal regulations regarding the duration of imprisonment.

#### **1.4.2.3. Contributions made at the international level**

Contributions were provided to the European National Preventive Mechanism News Bulletin with the theme “Activities of National Preventive Mechanisms in the COVID-19 Process” for the period March-April 2020, prepared under the coordination of the General Directorate of Human Rights and Rule of Law of the Council of Europe, Unit for the Prevention of Torture and the European National Preventive Mechanism News Bulletin with the theme “Monitoring the Rights of Elderly Prisoners in Places of Detention”.

#### **1.4.3. Awareness Raising Activities**

In the clause (h) of paragraph 1 of Article 9 of the Law on the Human Rights and Equality Institution of Türkiye, the duties of the Institution include “*Combating torture and ill-treatment and conducting studies on this issue*”. clause (b) of the



first paragraph of Article 9 of the Law includes *“Developing public awareness on human rights and anti-discrimination issues through information and education, also using mass media.”*. On the other hand the clause (e) of the first paragraph of Article 94 in the section on the National Preventive Mechanism of the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye include *“Informing and raising awareness with the aim of combating torture and ill-treatment”*.

In the context of awareness raising activities carried out by our institution, a video conference meeting was held with the elderly living in nursing homes due to the 1 October International Day of Older Persons, with the participation of the Head of HREIT.

HREIT Head pointed out that special studies should be carried out for the elderly and stated that it would be beneficial to prepare an international convention in this area.

## **1.5. Provincial and Sub-Provincial Human Rights Boards**

Provincial and sub-provincial human rights boards operating within the framework of the By-law on the Establishment, Duties and Working Principles of Provincial and sub-provincial Human Rights Boards were established in order to develop human rights awareness in society and public officials, to protect human rights, to examine and investigate allegations of violations, to examine and research the social, political, legal and administrative reasons leading to the violations of human rights and freedoms and the obstacles to the use of human rights and freedoms and to make suggestions for their solution. The duties assigned to the provincial and sub-provincial boards by the By-law include various research and monitoring activities, and in this context, the boards make visits to places where people are deprived of their liberties and share their reports on these visits with our Institution.

Provincial and sub-provincial Human Rights Boards made a total of 512 visits, both informed and unannounced, in 18 different provinces in 2020.<sup>27</sup> Recommendations were made to the relevant administrations about the violations detected as a result of these visits and these were followed up. A total of 292 recommendations were made within the framework of the visits of the boards. Although the rate of implementation of the recommendations varies according to the provinces, the province with the highest rate is Gümüşhane with 76%.

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<sup>27</sup> Bartın, Bilecik, Bursa, Çanakkale, Edirne, Erzincan, Gümüşhane, Iğdır, Kars, Kilis, Malatya, Manisa, Mersin, Muğla, Osmaniye, Rize, Siirt, Tekirdağ.



## **1.6. Penitentiary Institutions and Detention Houses Monitoring Boards**

With the Law No. 4681 on Penitentiary Institutions and Detention Houses Monitoring Boards, which came into force in 2001; the monitoring boards of penitentiary institutions and detention houses have been established within the framework of the principles determined by the legislation and international conventions to which we are a party, in order to see and examine the management, operation and practices of penitentiary institutions and detention houses on site, to obtain information and to report their findings to the competent and relevant authorities. According to Article 2 of the Law, the monitoring boards, of which five principal and three substitute members, one of which is the head, are appointed for a period of 4 years are established by judicial commissions in case there is a penitentiary institution or detention house within the boundaries of their jurisdiction. The authorities of the monitoring boards are limited to the jurisdiction where the judicial commission is located, and if there are more than one penitentiary institution within the jurisdiction of these commissions, an appropriate number of monitoring boards can be established.

In Article 9 of the Law No. 6701, it has been stipulated that the reports of the Monitoring Boards regarding the visits to the persons deprived of their liberty or taken under protection to the places are to be examined and evaluated by our Institution, and within this scope, the activities of the Monitoring Boards are followed.

HREIT, one of the stakeholders of the “Project for Increasing the Effectiveness of Civil Monitoring Boards in line with European Standards”, which covers the period of June 2019-May 2022 and carried out by the Council of Europe, continues its cooperation and communication with the Monitoring Boards within the scope of the activities carried out within the framework of the Project.



## Second Section

### 2.1. Monitoring Places of Detention During the COVID-19 Pandemic

First appeared in December 2019 in Wuhan, China, the new corona virus (COVID-19) has spread worldwide, while on March 11, 2020, the World Health Organization (WHO) declared COVID-19 a pandemic due to its transmission rate and global scale. The world's public health authorities, especially the WHO, have taken measures to combat the pandemic and have developed combating strategies and recommendations for countries. Despite the fact that a long time has passed since the first detected case, methods of combating the largest pandemic of the 21st century, which still continues to be observed in the world, are being developed and diversified.

The pandemic process requires a rigorous process that includes an important preparatory stage involving the source of the disease, the detection of transmission routes, the discovery of intervention routes and the monitoring of the success of the intervention. Although significant improvements have been made in vaccine studies, as of the end of 2020, there are still no vaccines or drugs that have been proven to definitively treat the new corona virus disease. On the other hand, ensuring social distance between people still remains important as one of the most effective methods of preventing disease. However, it has become clear that the negative effects of the COVID-19 pandemic are more visible, especially from the point of view of various population groups, including the elderly, the disabled, and individuals with certain chronic diseases. The pandemic creates additional risks and consequences for some groups. The places of deprivation of liberty or protection have become places of special importance in the context of combating the pandemic, both because they are closed areas where it is difficult to pay attention to social distancing, and because sensitive groups such as the elderly, children, and people with chronic conditions are housed here.

Detention places appear as places where there is a continuous life from the point of view of those who are housed therein, as well as places that are in a constant circulation from the point of view of the personnel working here. Regular visits of these places by the National Preventive Mechanism in the context of OPCAT are also another aspect of the entrances and exits to institutions from outside. Due to the special nature of these closed spaces, the principle of “do no harm”, which is one of the basic principles in monitoring the places of detention during the pandemic process, has become much more important.

In order for National Preventive Mechanisms to carry out effective monitoring while performing their monitoring functions and to balance the potential risk of harm to those who may be in a vulnerable position; there are a number of fundamental principles that must be respected within the scope of their mandate. The principle of “do no harm”, which is among these principles, refers to the obligation not to endanger the life, physical and psychological safety, liberty and well-being of victims, witnesses and everyone who comes into contact with them within the scope of the monitoring activities of the National Preventive Mechanism and every effort in order to avoid harming them.<sup>28</sup> It is important to remember that the most important responsibility of National Preventive Mechanisms is to victims and potential victims of violations.<sup>29</sup> In this context, considering the current pandemic period conditions, when evaluating whether it is necessary to come into contact with a person who may be at risk as a result of contact during the visit, the National Preventive Mechanisms have the responsibility of keeping the delicate balance between the responsibility of monitoring and the “do no harm principle”. As a matter of fact, both the SPT and the CPT have emphasized the “do no harm principle” as the guiding principle that National Preventive Mechanisms should take into account when assessing their monitoring powers in the current situation.<sup>30</sup> In fact, the COVID-19 pandemic disproportionately increases the existing risk for vulnerable groups and advanced age groups who are already suffering from diseases such as respiratory diseases, cardiovascular diseases, and immunodeficiency.<sup>31</sup> In this sense, this principle means that National Preventive Mechanisms should adapt their working methods to the situation caused by the pandemic and develop alternative monitoring methods in order to protect the public, place of detention staff, detainees and themselves.<sup>32</sup>

National Preventive Mechanisms around the world have interpreted and implemented the principle of no harm in the pandemic process in different ways

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28 United Nations Human Rights Office of the High Commissioner, “Chapter 02: *Basic Principles of Human Rights Monitoring*”, Manual on Human Rights Monitoring, 2011, p. 4.

29 m.r.

30 OSCE/ODIHR and APT, GUIDANCE Monitoring Places of Detention through the COVID-19 Pandemic, 2020, p. 9

31 APT, “The Principle of “Do No Harm” & Detention Monitoring: From Theory to Practice”, <https://www.apr.ch/en/resources/publications/principle-do-no-harm-detention-monitoring-theory-practice>, E.T. :16.02.2021

32 SPT, Recommendations to States Parties and National Preventive Mechanisms Regarding the COVID-19 Pandemic, <https://www.tihk.gov.tr/covid-19-salginilyla-mucadelede-ulusal-onleme-mekanizmasi-ve-insan-haklari/>, E.T. : 16.02.2021.

within the scope of their monitoring activities. Because they do not have enough measures to guarantee the health and safety of both the people they will meet in places of detention and their own personnel some National Preventive Mechanisms have suspended their monitoring activities altogether, while others have re-evaluated their monitoring methodologies and carried out preventive visits (such as short-term visits with small delegations by performing PCR testing with adequate personal protective equipment).<sup>33</sup> It has also been observed that some National Preventive Mechanisms, whose actual visits have been suspended, have adopted remote monitoring activities as an alternative monitoring method.<sup>34</sup>

According to the second paragraph of Article 14 of the OPCAT a visit to a particular place of detention may be objected to only on the ground that urgent and compelling reasons arising from national defence, public safety, natural disaster or serious disorder in the place to be visited temporarily prevent such a visit and the existence of the declared state of emergency cannot be used by the state party as a reason to object to the visit. However, it is seen that the provision in question is included under Chapter III titled "Duties of the Subcommittee on Prevention". In other words, it is possible to say that the aforementioned provision is governed for the SPT, not for the National Preventive Mechanisms. As a matter of fact, the OPCAT does not contain any provision that restricts National Preventive Mechanisms' powers to make monitoring visits.

Since strategies to combat the COVID-19 pandemic are a newly encountered phenomenon all over the world, questions have been raised about how to monitor the places of detention in this process, what measures should be taken, and how the monitoring mechanisms will adapt to this process called the new normal in terms of monitoring the places of detention. In many countries, restrictions have been imposed on access to detention centers for the protection of public health. For this reason, difficulties have arisen in terms of the implementation of the monitoring functions of the National Preventive Mechanism. In the same way, both monitoring bodies and those who were housed in places of detention, as well as personnel on duty, were at risk of becoming infected. Thus, from the point of view of the National Preventive Mechanism, there was a need to adapt the methods of its work to this new process.

In the context of monitoring places of detention, international organizations at the regional and universal level have issued various recommendations in terms of monitoring of places of detention and the powers of monitoring mechanisms in the fight against the pandemic.

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33 OSCE/ODIHR and APT, GUIDANCE Monitoring Places of Detention through the COVID-19 Pandemic, 2020, s. 9.

34 In the United Kingdom, some aspects of detention centers have been monitored via videoconference by some National Preventive Mechanism members. In Kazakhstan, East Kazakhstan's National Preventive Mechanism branch and NGO partners held an online meeting with detainees early in the pandemic. For applications of other countries, see also: OSCE/ODIHR and APT, GUIDANCE Monitoring Places of Detention through the COVID-19 Pandemic.

The WHO emphasizes that people housed in prisons or other detention centers are more vulnerable to the COVID-19 pandemic, that people living in close proximity to each other in places of detention are the source of infection, that the virus is a trigger element in terms of spreading inside and outside places of detention, and that if the spread of the pandemic increases in closed areas, intervention requires a more challenging and inclusive approach. In this regard, WHO has published several guidelines, including those prepared jointly with some institutions and organizations on pandemic preparedness, prevention and control of its spread in detention centers. In the prepared materials, WHO provided information and recommendations on issues such as the disease-causing characteristic of corona virus, its symptoms, ways of transmission, methods of protecting against the disease, as well as evaluating suspected or infected cases at places of detention.<sup>35</sup>

On March 20, 2020, the CPT published a statement of principles on the treatment of persons deprived of their liberty in the context of the COVID-19 pandemic. While acknowledging that it is a necessity to take strict measures to combat the pandemic, the Committee stressed that protective measures should not result in inhuman or degrading treatment. In this context, it has recommended that the following principles be applied to all relevant authorities:<sup>36</sup>

1. The basic principle should be to take all possible measures to protect the health and safety of everyone deprived of their liberty. These measures also contribute to the protection of the health and safety of personnel.
2. Wherever people are deprived of their liberty, WHO guidelines on combating the pandemic and public health and clinical guidelines in accordance with international standards should be fully implemented.
3. Personnel structures should be strengthened, and health and safety protection should be provided by providing full professional support and necessary training to all personnel so that personnel in places where people are deprived of their liberty can continue to perform their duties.
4. Any restrictive measures taken against persons deprived of their liberty to prevent the spread of COVID-19 should have a legal basis, such measures should be necessary, proportionate, respectful of human dignity and limited to a certain period of time. Persons deprived of their liberty should be provided with comprehensive information about such measures in a language they understand.
5. Since close physical contact causes the spread of the virus, all relevant authorities should make collaborative efforts to use alternative methods rather than deprivation of liberty. The adoption of such an approach is mandatory, especially in overcrowded institutions. In addition, authorities should take alternative measures more often instead of pre-trial detention, commute sentences, make more use of early release and probation options; the need for involuntary detention of psychiatric patients should be re-evaluated; those staying in social care homes should, if deemed appropriate, be removed or released into social protection, and the detention of migrants should be avoided as much as possible.

<sup>35</sup> For materials prepared by WHO on the prevention and control of pandemics in detention centers, see: <https://www.euro.who.int/en/health-topics/health-emergencies/coronavirus-covid-19/publications-and-technical-guidance/vulnerable-populations/prevention-and-control-of-covid-19-in-prisons-and-other-places-of-detention>, E.T.: 21.01.2022.

<sup>36</sup> CPT, CPT/Inf (2020) Statement No. 13, 20 March 2020, For its unofficial Turkish translation, see: <https://rm.coe.int/16809e09ec>, E.T.: 21.01.2022.

6. It will be necessary to pay special attention to the specific needs of vulnerable and/or at-risk groups, in particular, people with a previous illness and the elderly, who are deprived of their liberty when providing medical services. This includes, inter alia, COVID-19 screening and ways to be taken to intensive care if necessary. In addition, persons deprived of their liberty should receive additional psychological support from the staff.
7. Although it is legitimate and reasonable to suspend non-essential activities, the fundamental rights of persons deprived of their liberty should be fully protected during the pandemic. This rule, in particular, covers adequate personal hygiene (including access to hot water and soap) and the right to daily access to the open air (at least one hour). In addition, all restrictions imposed on contact with the outside world, including visits, should be compensated by increasing access to alternative means of communication (such as voice conversation over the phone or the Internet).
8. In the event that a person infected with the SARS-CoV-2 virus or suspected of being infected is isolated or quarantined, reasonable contact must be maintained between this person and people every day.
9. The fundamental assurances provided for by law enforcement agencies against ill-treatment of persons detained by them (access to a lawyer, access to a doctor, notification of detention) must be provided in full in all circumstances and at all times. In some cases, precautionary measures (such as requiring people with symptoms to wear protective masks) may be appropriate.
10. Surveillance by independent bodies, including National Preventive Mechanisms and the European Committee for the Prevention of Torture, remains the main mechanism of protection against ill-treatment. States should continue to ensure that surveillance bodies have access to all places where people are held, including quarantine places. However, all supervisory bodies should take all measures to comply with the principle of 'do no harm', especially when dealing with the elderly and people who have already had an illness.

In accordance with the Committee's "principle of no-harm" contained in Article 10 of the CPT's Statement issued in March 2020, it is seen that the National Preventive Mechanisms continue their visits to places of detention by taking all necessary measures and encourage states to ensure the access of monitoring bodies to these places. Indeed, CPT has issued a new follow-up statement on July 9, 2020 regarding the situation of persons deprived of their liberty in the context of the ongoing COVID-19 pandemic and in this statement, the Committee emphasized that some National Preventive Mechanisms have resumed visits by taking the necessary measures and stated that it hopes this positive trend will continue in other countries.<sup>37</sup>

On April 7, 2020, the SPT issued a decision where it made recommendations to states parties and the National Preventive Mechanism regarding the COVID-19 pandemic.<sup>38</sup> In its Recommendation, which aims to provide general guidance for

<sup>37</sup> CPT, Statement No. 21 of CPT/Inf(2020), 9 July 2021. Available at: <https://rm.coe.int/16809ef566>, E.T.: 21.01.2022.

<sup>38</sup> To access the full recommendation: <https://undocs.org/CAT/OP/10>, E.T.: 21.01.2022.

all those responsible for places of detention within the framework of OPCAT and responsible for making preventive visits to them, the measures to be taken by the authorities regarding all different places of detention and official quarantine areas, as well as recommendations for the National Preventive Mechanism, were included. While acknowledging that the conduct of preventive visits will almost certainly be affected by necessary measures for the public health, the SPT stressed that this does not mean that preventive visits should be stopped. In this context, SPT recommended National Preventive Mechanisms to develop well-planned and creative methods against difficulties that minimize the need for social contact in relation to monitoring places of detention, but still provide an effective opportunity for preventive liability, and that measures that can be taken by these mechanisms may include:

- a) Meeting with the relevant national authorities regarding the implementation and operation of measures recommended by the competent authorities;
- b) Increasing the collection and review of individual and collective data on places of detention;
- c) Using electronic communication with those who are in places of detention;
- d) Establishment of a National Preventive Mechanism 'hotline', secure e-mail and postal facilities at places of detention;
- e) Monitoring the establishment of new/temporary places of detention;
- f) Increasing the dissemination of information on the work of the National Preventive Mechanism at the places of detention and ensuring the availability of channels that allow fast and private communication;
- g) Contacting third parties (for example, families and lawyers) who can provide additional information about the situation at the places of detention and
- h) Increasing cooperation with NGOs and aid organizations working with those deprived of their liberty.

Similarly, the control mechanisms of various universal and regional international human rights organizations, such as the High Commissioner for Human Rights have called on states to use alternative non-prison methods to minimize the effects of the pandemic in detention facilities, and to release migrants under administrative supervision.

## **2.2. Activities of HREIT during the COVID-19 Pandemic**

As of March 2020, after the first case was reported in our country, the process of combating the COVID-19 pandemic has intensified, as it has done all over the world. Various decision-making mechanisms have been established in our country to take effective measures to combat COVID-19. The first of these is the Coronavirus



Council of Science. The decisions of the Council of Science, which is composed of competent people in the field of medical science and convened under the chairmanship of the Minister of Health, are in the nature of recommendations, and the decisions taken are submitted to the President by the Minister of Health.

Although regular visits to places of detention are the most visible function of National Preventive Mechanisms, they have other important functions such as information gathering and awareness raising. As a matter of fact, in addition to the function of the National Preventive Mechanism in accordance with the provisions of OPCAT, HREIT also has the duties and powers to effectively combat torture and ill-treatment, conduct research in this area, and examine the applications of people deprived of their liberty or protected and follow their results. Developments in the international arena have been closely monitored during the pandemic, both through online meetings attended by HREIT and through the cooperation networks that have been established. Statements or recommendations published by international and regional human rights bodies such as WHO, SPT and CPT on the monitoring of places of detention were translated into Turkish by HREIT without delay and shared with relevant institutions and organizations. The said texts were also shared with the public by being published on the Institution's website.<sup>39</sup>

The measures taken to ensure public health safety at the beginning of the pandemic were also important for the places of detention. HREIT has requested that the Institution be informed about the measures taken at the places of detention / protection immediately after the outbreak of the pandemic, the current health status of those housed and the staff on duty.

It is known from both correspondence with the relevant authorities and other sources that a number of measures have been taken by the Ministry of Justice in penitentiary institutions in accordance with the recommendations of the Coronavirus Scientific Board. Firstly, on 12.03.2020, the "Coronavirus Monitoring Commission" was established within the Ministry of Justice to solve possible problems related to the new corona virus and to ensure the necessary coordination quickly. On 13.03.2020, certain measures were announced like evaluating the first acceptance reports received before entering the institution in terms of infectious disease, conducting a medical examination and treatment of those with symptoms, conducting hearings through the Audio-Visual Information System (SEGBIS) if possible, and postponing the hearing dates to a later date.<sup>40</sup> In order to reduce crowding in prisons and to pay attention to social distance, with the Provisional Article 9 added to the Law No. 5275 on the Execution of Criminal and Security Measures with Law No. 7242; the convicts who are in open penitentiary institutions or who are entitled to be transferred to open penitentiary institutions and convicts whose sentences are decided to be executed by means of

<sup>39</sup> For the related news text, see <https://www.tihk.gov.tr/covid-19-salginilyla-mucadelede-ulusal-onleme-mekanizmasi-ve-insan-haklari/>, E.T.:21.01.2022.

<sup>40</sup> Ministry of Health, Measures to be Taken in Penitentiary Institutions, <https://covid19bilgi.saglik.gov.tr/tr/alinan-karalar.html?view=article&id=4585:tc-adalet-bakanligi-ceza-infaz-kurumlarinda-alinacak-onlemler&catid=1032:bilim-kurulu-kararlari>, E.T.:21.08.2020.

probation have been sent to COVID-19 leave.<sup>41</sup> Based on the importance of continuing the measures and precautions during the COVID-19 pandemic, it has been decided to extend the permit for another two months as of July 31, 2021.

Within the scope of combating the pandemic in prisons, necessary instructions were given to ensure disinfection of vehicles, tools, wards, corridors, dining halls, dormitories, convict reception unit, visitor quarters, toilets and bathrooms, telephone booths, telephone handsets, door handles, turnstiles and X-Ray passes and all other common areas, frequent ventilation of indoor environments and follow-up of procedures were reported. Again, it was announced that instructions were given to keep bleach and personal cleaning supplies in all wards of institutions, to use gloves and masks strictly during general searches and use gloves and masks partially in the upper searches that they will perform in accordance with their duties, to raise awareness of COVID-19 among prison staff, convicts and detainees, and to conduct training in coordination with the relevant provincial / district health directorates on the necessary measures.<sup>42</sup> It was stated that the staff worked alternately within the scope of isolation and they are tested for PCR related to COVID-19 virus while they are being taken to isolation and after isolation, and the persons deprived of their liberty are tested for PCR before they are taken to the institution in the same way. In addition, in order to prevent the contagiousness of the new corona virus epidemic in penitentiary institutions, the food variety and amount are sufficient to strengthen the immune system; the daily subsistence fee has been increased from 8.50 TL to 10.00 TL for convicts and detainees and personnel on duty and from 12.00 TL to 18.00 TL for juvenile convicts and detainees housed in penitentiary institutions, children staying with their mothers, breastfeeding convicts and imprisoned mothers and pregnant women to be implemented as of 13.03.2020.<sup>43</sup> Again, considering the sensitivity and seriousness of the issue, it was stated that the brochures and posters prepared by the Ministry of Health and located on the General Directorate of Public Health's website were reproduced in sufficient numbers and posted to visitor entry points and visitor quarters, business dorm workshops, refectory, dormitory, classrooms, kitchen, canteen, etc. for informational purposes in common areas.<sup>44</sup>

With regard to the measures taken in the detention facilities of the General Directorate of Security in the context of combating the pandemic, it was stated that the detainees were first subjected to fever measurement by the personnel upon entering the center, in case of a risky situation such as fever or cough, the person was referred to the health facility and checked, even in cases where there is no risk and danger, the detainees were referred to the health facility without starting

41 Announcement Regarding the COVID-19 Leave Applied for Some Convicts within the Scope of Law No. 7242 <https://cte.adalet.gov.tr/Home/SayfaDetay/7242-sayili-kanun-kapsaminda-bazi-hukumluler-icin-uygulanan-covid-19-izni-ile-ilgili-duyuru25012021084052>, E.T.:21.01.2022.

42 m.a.

43 m.a.

44 Official letter dated 12.05.2020 and numbered E.4219/67715 received from the General Directorate of Prisons and Detention Rooms of the Ministry of Justice.

detention and supervision procedures and a doctor's report was obtained and during these procedures, the persons were provided to wear protective masks.<sup>45</sup> Moreover it was stated that food and beverages were distributed to detainees individually, it was ensured that the detainees were able to meet with their relatives and lawyers in accordance with the rule of observing the social distance rule; in the detention centers, soap and hot water were kept in order for the detainees to wash their hands constantly in terms of hygiene rules, masks were given daily, the detainees were placed according to the social distance rules, taking into account the width of the detention room, detention rooms were frequently ventilated, when the detention rooms were empty, they were disinfected every two days, and in cases where the detention room is in use, the detainees were immediately disinfected after they leave the custody, the items such as blankets, pillows, food and beverage materials used in the detention center were destroyed together with the exit of the detainees and that protective equipment was given to personnel performing transport operations.<sup>46</sup> As for the juvenile pushed to crime, it has been reported that the child has been referred to the Public Prosecutor's Office as soon as possible without ever being taken to the children's unit or handed over to their families until the day their statements are taken in accordance with the instructions of the prosecutor.<sup>47</sup> Regarding the measures taken in the detention centers of the Gendarmerie General Command; it was reported that all kinds of hygiene measures were taken, disinfection and cleaning processes were carried out regularly, attention was paid not to allow more than two persons to be taken into the custody, and those who do not have a mask were given a mask, no person was taken to the custody without a mask, it was ensured that the law enforcement personnel in charge of this process pay attention to their personal hygiene, attention was paid to the hygiene and cleanliness of the cabinets where the belongings of the persons taken into the detention center were kept, hygiene and cleaning of the tools and handcuffs used were done regularly and it was ensured that the people taken into the detention room are tested for COVID-19 at the entrance/exit of the detention centre.

With regard to the repatriation centers, it was stated that measures such as hygiene, infection protection and control measures were announced and implemented by the Ministry of Health to cover everyone in our country, migrants with any symptoms associated with COVID-19 were treated in both primary, secondary and third-level medical institutions, and if the person is in contact, they were isolated and followed up at their place of residence.<sup>48</sup>

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45 Official letter dated 15.05.2020 and numbered E.2139104 received from the Gendarmerie General Command.

46 Official letter dated 21.04.2020 and numbered E.2135/60095 received from TEM Department, Ministry of Interior General Directorate of Security.

47 Official letter dated 21.04.2020 and numbered E.2135/60095 received from the Department of Public Security, Ministry of Internal Affairs, General Directorate of Security.

48 Official letter undated and numbered 13588366/149 received from the General Directorate of Public Health of the Ministry of Health.

It is important to inform those held in the repatriation center about the COVID-19 pandemic and preventive health measures in a language that they can understand, taking into account age and gender differences, and to prepare posters. As a matter of fact, it has been reported that immigrants were given training on diseases, prevention and control measures in Immigrant Health Centers and in order to ensure that people have access to correct information, materials such as posters and brochures prepared on the subject were translated and distributed into Arabic, English and Persian languages and personal protective equipment provided by the Ministry of Health for protection from disease, tests used in diagnosis and drugs used in treatment were provided everyone who needed them, regardless of whether they have social security or not.<sup>49</sup>

Regarding temporary accommodation centers it was reported that all center managers were informed about taking precautions, isolation areas have been created within the scope of pandemic plans, disinfection studies were carried out regularly in the centers, information brochures were distributed, the use of masks and gloves was kept mandatory for the personnel in charge, fever was measured at the entrances of the center, risk groups, especially foreigners aged 65 and over, were not allowed to go out, but the needs of this group were met by the personnel, that common areas were closed for use during isolation periods and that more than a certain number of people were not allowed to be in the markets at the same time.<sup>50</sup>

As of the end of 2020, 58.953 people live in shelters in 5 provinces where foreigners under temporary protection in need are allowed to take shelter. Despite all the measures taken, it was reported that a total of 270 positive cases (20 deaths) were seen in the people sheltering in the centers within the scope of the COVID-19 pandemic, family members of the positive cases and possible contacts were quarantined in isolated areas created in the centers.<sup>51</sup>

Irregular migrants identified by the Anti-Immigrant Smuggling and Border Gates units are also temporarily accommodated in places deemed appropriate until the administrative procedures are completed and delivered to the relevant Migration Administration units within the scope of the Law No. 6458 on Foreigners and International Protection. In this context, it has been reported that irregular migrants were first referred to the relevant health institutions for the necessary health checks within the scope of the COVID-19 outbreak, then, after providing personal hygiene and disinfection conditions according to the rules determined by the Ministry of Health, they were kept in places deemed appropriate until the procedures were completed, immigrants without health checks were not brought

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49 m.l.

50 Official letter dated 26.01.2021 and numbered E392655630003239 received from the Ministry of Interior, General Directorate of Migration Management, Department of International Protection.

51 m.l.

to these places, hygiene measures were taken in these places and disinfection and cleaning processes were carried out regularly, immigrants were informed about personal hygiene and social distance rules and masks and gloves were provided.<sup>52</sup>

According to May 2020 data of the Ministry of Family and Social Services, care is provided to 27.575 elderly people in 428 nursing homes and elderly care and rehabilitation centers, 155 of which are owned by the Ministry, 273 by other institutions and private sector.<sup>53</sup> It has been reported that when COVID-19 cases started to be seen in Türkiye, visits were restricted to all of these centers, except for force majeure, and that everyone, including the disabled, elderly and personnel at risk of transmission, should be quarantined for 14 days, even if they do not show symptoms.<sup>54</sup> In the response letter received from the Ministry of Family and Social Services regarding the measures taken in social care institutions it has been reported that care institutions serving the disabled and the elderly are disinfected periodically, hand disinfectants were kept in common areas, common areas were regularly ventilated, inventory was determined and an inventory was sent for institutions to report their deficiencies, a module was created to track the needs and stocks of organizations such as personal protective equipment and disinfectants, through the Family Information System and a budget of approximately \$26 million (170 million TL) was transferred to disabled care centers and nursing homes and elderly care and rehabilitation centers for protective and preventive measures against COVID-19 and other organizational needs and at least 3 months of medical masks, cleaning materials and disinfectants were stocked.<sup>55</sup> Again, with regard to persons held in centers it has been reported that fever follow-up was performed at least 4 times a day, every 6 hours, including at night, foods to strengthen the immune system and plenty of vitamin C were provided, it was ensured that fluid (water) consumption was increased, personal care and nutrition were taken care of and the medicines of the disabled and the elderly were supplied from the pharmacy by the staff of the establishment and psycho-social support and various individual activities for those staying in the institutions continued.<sup>56</sup>

The visits to be carried out by HREIT within the scope of the National Preventive Mechanism are organized annually on a certain calendar. After the approval of the annual plan for the visits for 2020 by the Board, the visits started as of March. However, after the first cases of COVID-19 were seen in our country at the beginning of the visits, it is possible to say that there was a decrease in the frequency of visits, both within the scope of the measures taken and in accordance with the principle of doing no harm. Nevertheless, as will be discussed in detail in the next

52 Official letter dated 21.04.2020 and numbered E.2135/60095 received from the Department of Combating Immigrant Smuggling and Border Gates, Ministry of Interior General Directorate of Security.

53 For the mentioned statistics, see <https://www.ailevecalisma.gov.tr/media/51832/mayis-istatistik-bulteni.pdf>, E.T:25.08.2020.

54 Ministry of Family, Labor and Social Services, Information Guide 2, <https://ailevecalisma.gov.tr/media/42278/bilgilendirme-rehberi2.pdf>, E.T.06.09.2020.

55 Official letter dated 21.05.2020 and numbered E.1175806 received from the Ministry of Family, Labor and Social Services

56 m.l.

section, 13 centers were visited in 2020. During the pandemic process, there was a need to pay special attention to the planning of visits. In this context, the type of place to be visited and the dates of the visit were reviewed and the number of delegation members to pay the visit was kept between 2 and 3, PCR tests were performed on the delegation members before each visit and one-to-one and short-term interviews were conducted with the hosts.

In addition to the visits, which are the classical means of monitoring places of detention, HREIT has also carried out studies on the creation of alternative monitoring methods. The most important product of these efforts is the establishment of SEGBIS to the Institution as a result of the cooperation between the Ministry of Justice General Directorate of Prisons and Detention Houses and HREIT. SEGBIS refers to the information system in which the sound and image are transmitted, recorded and stored simultaneously in the UYAP Information System in order to carry out the justice services in electronic environment. Thus, the system was also installed in the HREIT service building, and audio and video calls were provided with those held in the penitentiary institutions.

On the other hand, arrangements have been made for applications received from persons deprived of their liberty or taken under protection, taking into account the pandemic conditions, and the e-application system has been put into practice more effectively, by means of e-mail and fax, in addition to the applications made by mail.







## Third Section

The OPCAT envisaged regular visits to places where persons were deprived of their liberty and defined deprivation of liberty as the detention of a person in a place of public or private detention without being allowed to leave at the behest of any judicial, administrative or other authority and of his own will.<sup>57</sup> However, the Protocol did not specify, by enumeration, what places of detention in question were. Therefore, places where people taken under protection due to their special needs are housed and which are relatively closed to the outside world are also considered among the places that can be visited in order to prevent torture and ill-treatment. In this context, HREIT, as the National Preventive Mechanism, makes visits to places where people deprived of their liberty and those who are placed under protection are located, and monitors the conditions in these places from a perspective of preventing torture and ill-treatment.<sup>58</sup>

This section will include information, obtained within the scope of the National Preventive Mechanism task of the Institution, about prisons, detention centers, repatriation centers and psychiatric centers that are places where people are deprived of their liberty as well as nursing homes, elderly care and rehabilitation centers, children's homes and children's home sites, child support centers, disability care and rehabilitation centers, temporary housing centers where people are protected National Preventive Mechanism.

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57 OPCAT, Art.4.

58 Law no 6701, Art.9.

### 3.1. Places Where People are Deprived of Their Liberty

Since detention centers are defined very broadly in the first paragraph of Article 4 of the OPCAT, the places where the National Preventive Mechanisms can make monitoring visits are not limited to penitentiary institutions and detention houses and also covers many different areas such as international border crossing areas and transit areas, places where immigrants and asylum seekers reside, psychiatry centers, places of detention under the service of security or intelligence services or military courts or prisoner transfer and transport vehicles or police vehicles used for detention procedures. Therefore, within the scope of Law No. 6701, National Preventive Mechanism visits can be organized to all these places.

**Table 4: Numerical Data on Places where Individuals are Deprived of their Liberty**

Detention Centers	Institutions to which the Centers are Affiliated, Related or Associated	Number of Serving Units	Capacity
Penitentiary Institutions	Ministry of Justice; Prisons and Detention Houses Directorate	370	245.200
Detention Room	Ministry of Internal Affairs, General Directorate of Security	3.946	15.898
Detention Room	Gendarmerie Commands	81 (Provincial Command)	2.095
Repatriation Centers	Ministry of Internal Affairs, Directorate of Migration Management	25 (2 Temporary)	15.908
Psychiatric Centers	Ministry of Health	291	10.944

In 2020, within the scope of its National Preventive Mechanism task, HREIT organized visits to penitentiary institutions, detention centers and repatriation centers, where individuals are deprived of their liberty.

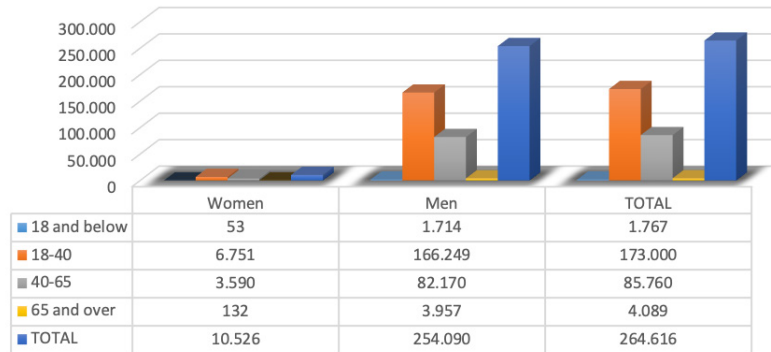
#### 3.1.1. Penitentiary Institutions

In the Law No. 5275 on the Execution of Criminal and Security Measures the penitentiary institutions were listed as closed prisons, high-security closed prisons, women's closed prisons, children's closed penitentiary institutions, closed youth prisons, observation and classification centers, open prisons, and children's education centers.<sup>59</sup> The total number of penitentiary institutions in Türkiye in 2020

<sup>59</sup> Law No. 5275 on the Execution of Criminal and Security Measures, Art.8-15.

is 370 and their total capacity is 245.200. The total number of institutions is 264.616 as of the end of 2020 <sup>60</sup> and, again, as of the end of the year, 71,193 convicts were on leave for COVID-19, and 193,423 convicts were actually sheltered in penitentiary institutions.<sup>61</sup> Of the prisoners in penitentiary institutions, 84.3% are convicted and 15.7% are under arrest.<sup>62</sup>

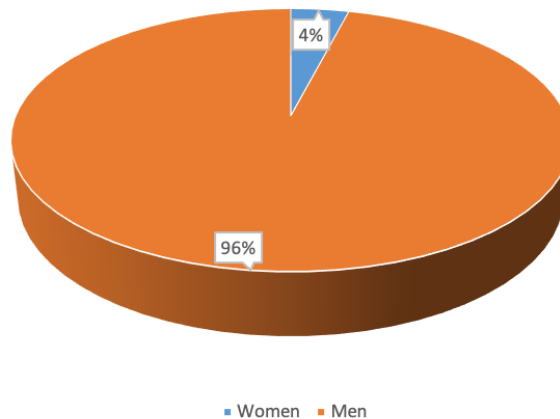
**Table 5: Distribution of Prisoners in Penitentiary Institutions by Age and Gender in 2020**



\* The numbers in this Table include the convicts who are on leave for COVID-19 pursuant to Law No. 7242.

**Table 6: Rates of Prisoners in Penitentiary Institutions by Gender in 2020**

**Rate of Prisoners by Gender**

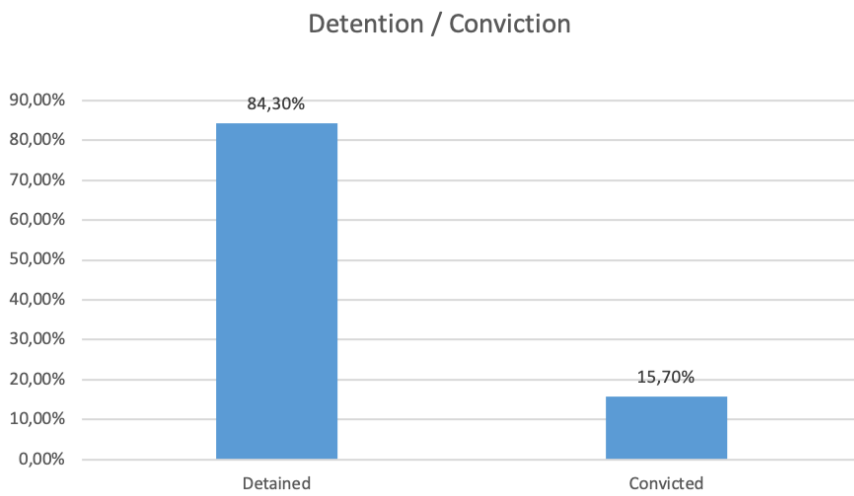


60 Letter of the Ministry of Justice, General Directorate of Prisons and Detention Rooms, dated 01.03.2021 and numbered E-81509476-209.03.02.00-2021-1245/18209.

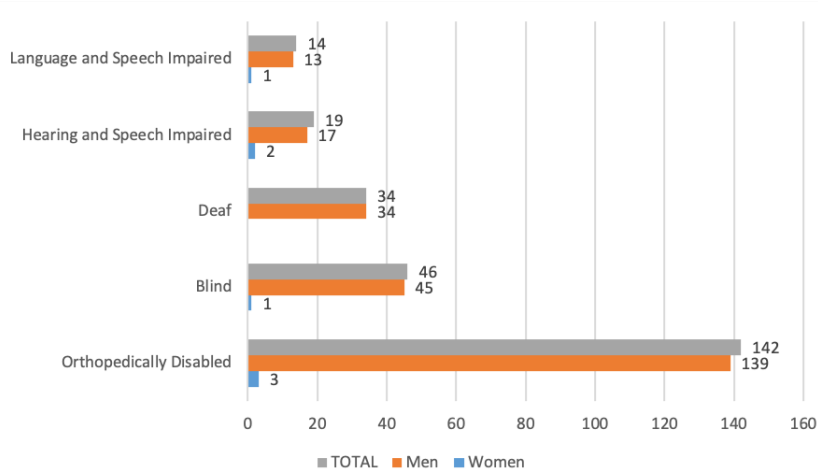
61 Ministry of Justice General Directorate of Prisons and Detention Rooms, Penitentiary Institutions During the Covid-19 Pandemic Process III, 8.11.2021 <https://cte.adalet.gov.tr/Home/SayfaDetay/kovid-19-pandemi-surecinde-ceza-infaz-kurumlari08112020080948>, E.T.:4.11.2021.

62 TURKSTAT, Penitentiary Institution Statistics, 2020 <https://data.tuik.gov.tr/Bulten/Index?p=Ceza-Infaz-Kurumu-Istatistikleri-2020-37202>, E.T.:5.11.2021.

**Table 7: Conviction/Detention of Prisoners in Penitentiary Institutions in 2020**



**Table 8: Distribution of Prisoners in Penitentiary Institutions by Disability and Gender Status in 2020**



In 2020, as the National Preventive Mechanism, the prominent issue in the monitoring of penitentiary institutions by HREIT was the effect of the measures taken due to the COVID-19 pandemic on the enjoyment of the rights of the prisoners. Although effective measures have been taken by the Ministry of Justice to protect the health of prisoners against the risk of pandemic in penitentiary institutions, it has been observed that these measures inevitably have some reflections on daily life in these institutions.<sup>63</sup> As of 14 March 2020, open and closed meetings, special leaves, use of spouse and family meeting rooms, events performed with other wards, and transfers to other institutions have been stopped, and closed meetings have been held only in cases of necessity, with the written permission of the Office

<sup>63</sup> See. above "2.2. HREIT's Activities during the COVID-19 Pandemic.

of the Chief Public Prosecutor.<sup>64</sup> However, in order to compensate for the lack of closed and open meetings, the prisoners were given the right to make additional telephone calls in order to maintain their relations with the outside world and their rehabilitation and in June, prisoners in closed and open penitentiary institutions started to have one closed meeting with a person they would designate.<sup>65</sup> The prisoners were also provided with closed interviews in August, September, October, November and December, and the telephone interview time, which was 10 minutes before the pandemic, was also increased to 20 minutes.<sup>66</sup>

However, educational, social, sporting and cultural activities have significantly decreased or stopped.<sup>67</sup> However, such activities are extremely important for the well-being of prisoners.<sup>68</sup> Being able to exercise in a reasonably sized area, especially outdoors, is a basic need for prisoners.<sup>69</sup> In this context, it was emphasized that sports activities can be continued by taking precautions against the pandemic in the recommendations contained in the visit reports.<sup>70</sup> Similarly, in order to reduce the negative effects experienced by prisoners during the pandemic process, it was recommended that the interviews conducted in groups by the psycho-social service be continued with the necessary precautions.<sup>71</sup>

In addition to the effects of the pandemic on daily life in prisons, another important problem observed in 2020 is related to the training of the personnel working in these institutions. In terms of establishing a positive communication between the personnel and prisoners in penitentiary institutions, the professional training that the staff has received is of great importance. In particular, in a prison system where a rights-based perspective is adopted, staff should receive human rights training and, in particular, training on the prohibition of torture and ill-treatment. According to the CPT, a properly trained police or prison official is the best guarantee of preventing ill-treatment of a person deprived of his liberty, since trained officers will be able to successfully perform their duties without resorting to ill-treatment and will be qualified to respect the basic measures related to detainees.<sup>72</sup> In this context, the necessity of including the trainings on the prohibition of torture and ill-treatment in the training programs in all penitentiary institutions, as stated in the 2019 Report of the National Preventive Mechanism against Torture and Ill-Treatment, and that these trainings should be continuous, is still a

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64 Ministry of Justice General Directorate of Prisons and Detention Rooms, Penitentiary Institutions in the Covid-19 Pandemic – I, 17.6.2020 <https://cte.adalet.gov.tr/Home/SayfaDetay/ceza-infaz-kurumlarinda-kovid-19-pandemi-surecine-dair-kamuoyu-aciklamasi17062020045113>, E.T.: 3.11.2021  
65 m.a.

66 Ministry of Justice General Directorate of Prisons and Detention Rooms, Penitentiary Institutions in the Covid-19 Pandemic – III, 18.2.2021 <https://cte.adalet.gov.tr/Home/SayfaDetay/kovid-19-pandemi-surecinde-ceza-infaz-kurumlari-iii18022021065928>, E.T.: 3.11.2021.

67 Eskişehir L Type Closed Prison Visit (Report No: 2021/03), para. 80-81, 83; Elmadağ Women's Open Penitentiary Institution Visit (Report No: 2021/01), para. 89; Bolu F Type High Security Closed Prison Visit (Report No: 2021/06), para. 39, 57.

68 Excerpt from the 2nd General Report [CPT/Inf (92) 3], para. 47.

69 m.r., para. 48.

70 Eskişehir L Type Closed Prison Visit (Report No: 2021/03), para. 97; Elmadağ Women's Open Penitentiary Institution Visit (Report No: 2021/01), para. 118; Bolu F Type High Security Closed Prison Visit (Report No: 2021/06), para. 83.

71 Elmadağ Women's Open Penitentiary Institution Visit (Report No: 2021/01), para. 115.

72 Excerpt from the 2nd General Report [CPT/Inf (92) 3], para. 59.

must.<sup>73</sup> Because during the visits conducted in 2020, as has been determined in various previous visits, it was found that there was no systematically conducted training program on human rights and the prohibition of torture and ill-treatment, and recommendations were made to the relevant institutions on this issue.<sup>74</sup> Similarly, it is important to train personnel capable of interpersonal communication in terms of preventing incidents that may turn into violence and decelerating tension in penitentiary institutions.<sup>75</sup> During the visits conducted, this issue is also taken into account, and in cases where it is determined that training is needed on these issues, it is also recommended to include special trainings such as anger management training, crisis intervention training, psycho-social training in the in-service training curriculum to improve interpersonal communication skills.<sup>76</sup>

Another important issue that draws attention during the visits is the search of prisoners during admission to the institution. According to the By-law on the Management of Penitentiary Institutions and the Execution of Penalties and Security Measures, if there are reasonable and serious indications that the prisoner has substances or items that are prohibited to be brought into or kept in the institution, and if the highest authority of the institution deems it necessary, it is possible to search by removing the clothes on the upper part of the body first, and then on the lower part of the body, respectively by taking measures so as not to violate the prisoner's sense of embarrassment and to ensure that no one sees them. In some visits, allegations were made that a search was made without giving a search suit at the entrance to the institution<sup>77</sup> and in the recommendations section of the visit reports, it was reminded that privacy should be observed by using search clothes or clothes provided by the institution during the searches made at the entrance to the institution and that the clothes on the upper part of the body should be removed first, and the clothes on the lower part of the body should be removed after the clothes on the upper part of the body were put on.<sup>78</sup>

On the other hand, during the visits, there were situations where the lawyer meeting rooms were not designed so that the staff of the institution could not hear the conversation, and it was recommended that these rooms be soundproofed in accordance with the legislation and international standards.<sup>79 80</sup>

### **3.1.2. Detention Rooms**

According to the By-law on Arrest, Detention and Testimony, detention room refers to places where suspects or defendants are kept waiting until the proceedings

73 National Preventive Mechanism Against Torture and Ill-Treatment 2019 Report, p.31.

74 Bandırma No. 1 TType Closed Prison Visit (Report No: 2020/17), para. 78; Eskişehir LType Closed Prison Visit (Report No: 2021/03), para. 100.

75 Excerpt from the 2nd General Report [CPT/Inf (92) 3], para. 60.

76 Bandırma No. 2 TType Closed Prison Visit (Report No: 2020/18), para. 83.

77 Bandırma No. 1 TType Closed Prison Visit (Report No: 2020/17), para. 5; Bandırma No. 2 TType Closed Prison Visit (Report No: 2020/18), para. 25.

78 Bandırma No. 1 TType Closed Prison Visit, para. 85; Bandırma No. 2 TType Closed Prison Visit, para. 84.

79 Law No. 5275, 59/2; Nelson Mandela Rules, 61/1.

80 Bandırma No. 2 TType Closed Prison Visit, para. 87; Elmadağ Women's Open Penitentiary Institution Visit (Report No: 2021/01), para. 120.

against them are completed and they are transferred to the judicial authorities. In Türkiye, there are 3,946 detention houses with a total capacity of 15,898 under the Ministry of Interior General Directorate of Security.<sup>81</sup> There are 2,095 detention houses within the Ministry of Interior Gendarmerie General Command, and the number of people held in these detention houses in 2020 is 43,209.<sup>82</sup>

While examining the conditions of detention in detention houses within the scope of the National Preventive Mechanism task by HREIT; it is also carefully examined whether the assurances envisaged by the Constitution, the Code of Criminal Procedure no. 5271 and the national standards such as the By-law on Arrest, Detention and Statement, and international standards such as the CPT standards are complied with as well as physical conditions. In this context, whether the basic assurances such as informing a relative of the person's detention, benefiting from the help of a lawyer and undergoing a health check are put into practice is tried to be determined both by interviews with detainees if they are encountered, and by examining the "Books of the Records of Detention Houses".<sup>83</sup> During the visits made to the detention houses of the Ministry of Interior General Directorate of Security in 2020, no problems were encountered regarding these issues during the examination of the record books.<sup>84</sup> On the other hand, there were cases where the meeting rooms used while benefiting from the help of a lawyer were designed to prevent physical contact and face-to-face meeting between the lawyer and the detainee,<sup>85</sup> there was no desk<sup>86</sup> or the sound insulation was insufficient,<sup>87</sup> and recommendations were made to overcome these problems.<sup>88</sup>

Regarding the physical conditions, although no general negative aspects were detected, it was observed that there were detention centers with insufficient natural light, and recommendations on these issues were included in the relevant reports.<sup>89</sup> The CPT also states that, since police custody is, in principle, of a relatively short duration, the physical conditions in law enforcement units cannot be expected to be as good as in other long-term detention centres, but some basic physical conditions must still be observed.<sup>90</sup>

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81 Letter of the Ministry of Interior General Directorate of Security dated 08.01.2021 and numbered 23346125.50154.(61226).-4-58/12207.

82 Letter of the Ministry of Interior Gendarmerie General Command dated 15.11.2021 and numbered E-83195421-730.08.01-6460034.

83 CPT 2nd General Report [CPT/Inf (92) 3], p. 36.

84 Ankara Police Department Anti-Terrorism Branch Directorate Visit to Detention Rooms (Report No: 2021/09), para. 10; Eskişehir Provincial Police Department Visit to the Detention Rooms (Report No: 2021/02), para. 38, 54, 70.

85 Ankara Police Department Anti-Terrorism Branch Visit to Detention Centers, para. 32.

86 Eskişehir Provincial Police Department Detention Rooms Visit, para. 45.

87 Eskişehir Provincial Police Department Detention Rooms Visit, para. 64.

88 Ankara Police Department Anti-Terrorism Branch Visit to Detention Centers, para.35; Eskişehir Provincial Police Department Detention Rooms Visit, para. 73-b, 73-c.

89 Ankara Police Department Anti-Terrorism Branch Visit to Detention Rooms, para.14, 34; Eskişehir Provincial Police Department Detention Rooms Visit, para. 29, 49, 73-a, 73-b.

90 CPT 2nd General Report [CPT/Inf (92) 3], p. 42.

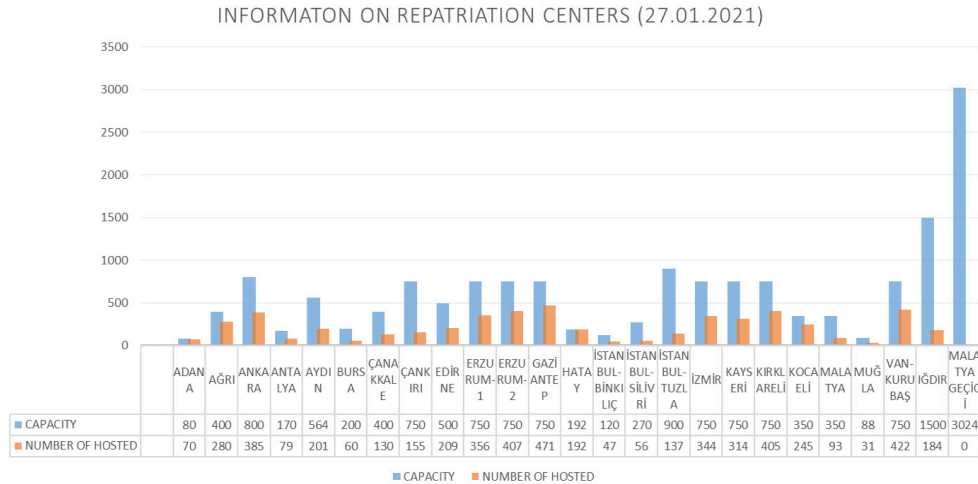
Finally, the need for personnel to receive human rights training has been expressed in reports prepared as a result of visits to the detention facilities just as it is in the penitentiary institutions.<sup>91</sup> The training of personnel working in detention rooms, as well as in other places of detention, is an important guarantee of the protection of persons deprived of their liberty from torture and ill-treatment here.<sup>92</sup>

### 3.1.3. Repatriation Centers

Repatriation centers are places where foreigners with administrative supervision decisions are temporarily held and during this period their basic humanitarian needs are met, which can also be operated by making a protocol with public institutions and organizations or with those who have expertise in the field of migration from the Turkish Red Crescent Society or associations working for the benefit of the public.<sup>93</sup>

As of the end of 2020, the capacity of repatriation centers is 15,908, and the number of people staying in the centers is 5273, of which 535 are women and 4738 are men. Other numerical data for 2020 regarding these centers and foreigners held in the center are as follows:

**Table 9: The Capacities of Repatriation Centers and the Number of Those Housed in These Institutions**



91 Ankara Police Department Anti-Terrorism Branch Visit to Detention Rooms, para.36; Eskişehir Provincial Police Department Detention Rooms Visit, para. 73-d.

92 See. for example, the heading "3.1.1. Penitentiary Institutions" above.

93 By-law on the Implementation of the Law on Foreigners and International Protection, Art.3; By-law on the Establishment, Management, Operation, Operation and Supervision of Reception and Accommodation Centers and Repatriation Centers, Art. 3.



**Table 10: Distribution of Persons Detained in Repatriation Centers by Age and Gender**

MEN		
0-17	18-64	65+
217	4514	7

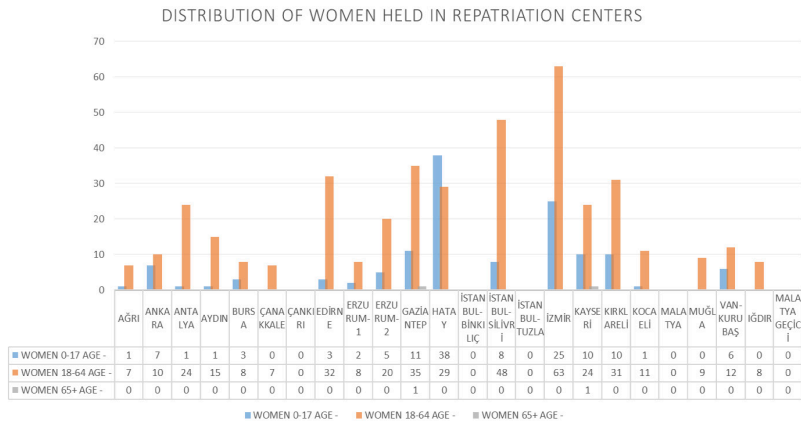
  

WOMEN		
0-17	18-64	65+
132	401	2

TOTAL		
0-17	18-64	65+
349	4915	9

**Table 11: Data on Women Held in Repatriation Centers**



**Table 12: Data on Men Held in Repatriation Centers**

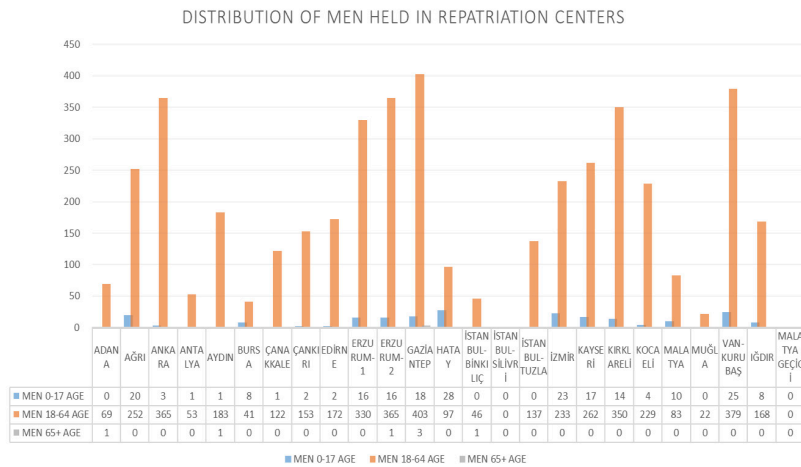


Table 13: Distribution of Women Held in Repatriation Centers by Age Groups

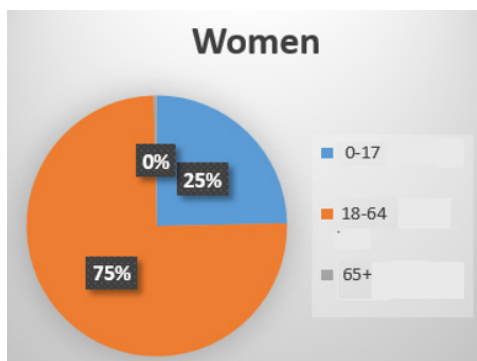
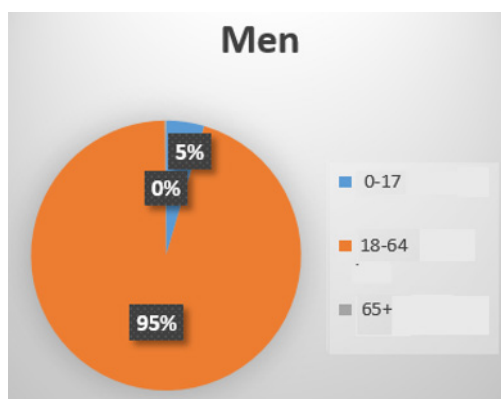


Table 14: Distribution of Men Held in Repatriation Centers by Age Groups



No allegations of torture or ill-treatment were encountered in the centers visited in 2020. In the context of the access of detainees to the complaint mechanisms, it has been determined that there were generally no problems with reporting complaints, requests and suggestions to the administration and responding to them, but there were still some problems.<sup>94</sup> For example, there have been cases where detainees do not have enough information about access to judicial mechanisms, cannot benefit from access to a lawyer for economic reasons,<sup>95</sup> and recommendations were made to solve the aforementioned problems.<sup>96</sup>

Regarding the physical conditions, it has been determined that there are seasonal water cuts due to the water requirement being met from the tank and in order to prevent grievances that may be experienced due to water shortages and water cuts, it was deemed necessary to take the necessary measures to provide regular water service from the city network<sup>97</sup> it has been observed that there is an ongoing fly problem despite the spraying in the common areas and in the private

94 Akyurt Repatriation Center Visit (Report No: 2020/20), para. 27-28.

95 M.r., para.78.

96 M.r., para. 95-96.

97 M.r., para. 42, 98, 100.

areas where the detainees are housed, and it has been requested to ensure that this issue is solved with the spraying works to be carried out within the framework of an effective plan.<sup>98</sup>

One of the issues that is taken into consideration when visiting repatriation centers is that the prisoners held in these centers benefit from health services. Because illegal immigrants have the potential to be in a delicate situation due to the impact of negative experiences in terms of mental and physical health.<sup>99</sup> In this context, it was observed that health checks were carried out on the entrance of the detainees to the centers, their referral to the hospital was carried out if necessary, and the necessary measures were taken within the scope of the COVID-19 pandemic.<sup>100</sup> On the other hand, it has been observed that psycho-social services, which are extremely important for the mental health of the detainees, are carried out smoothly.<sup>101</sup>

Although there is no common problem in social, sportive, cultural and educational activities, daily life and communication with the outside world; certain recommendations have been made for increasing the diversity of the books in the library in different genres and languages to appeal to children and adults and making them available, doing sports activities once a week, opening hobby and training courses, establishing a pay phone system and increasing the communication time of detainees with the outside world.<sup>102</sup>

### **3.1.4. Psychiatric Centers**

Psychiatric hospitals and psychiatry clinics, which are among the places visited within the scope of the National Preventive Mechanism task against torture and ill-treatment, are public or private facilities where people who receive inpatient treatment voluntarily, as well as those who receive involuntary inpatient treatment in accordance with the law, benefit from health services.<sup>103</sup> During the visits, these facilities are monitored from various aspects, from the quality of the health services offered to the people receiving treatment and the way they are carried out, the physical conditions of the facility, the numerical and qualitative adequacy of the personnel, their management and supervision, and the attitude of the management and staff towards the patients.<sup>104</sup> In addition, monitoring of compliance with the principles and standards that must be observed in order for persons held in psychiatric centers to be placed in the relevant facility involuntarily or subject to restrictions characterized as methods of restraint (seclusion, mechanical or

<sup>98</sup> M.r., para. 45, 89.

<sup>99</sup> CPT, Protective Measures for Illegal Immigrants Deprived of their Liberty, CPT/Inf (2009)27-part, para. 90.

<sup>100</sup> Ankara Akyurt Repatriation Center Visit, para. 49 etc.

<sup>101</sup> M.r., para. 54.

<sup>102</sup> M.r., para. 90-92.

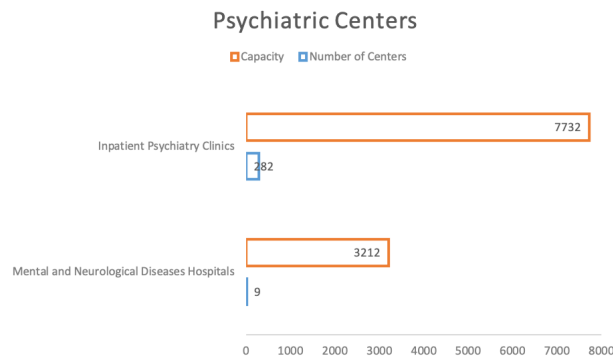
<sup>103</sup> Places where prisoners receive psychiatric treatment are also visited within the framework of the National Preventive Mechanism mandate to monitor compliance with the conditions and standards of treatment to which both those treated in psychiatric centers and prisoners will be subjected.

<sup>104</sup> CPT Standards, Excerpt from the 8th General Report [CPT/inf (98) 12], para. 25 etc.

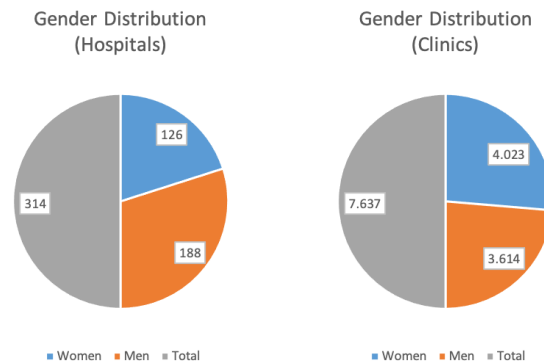
chemical restraint) is important in terms of preventing or revealing torture and ill-treatment.<sup>105</sup> In this context, material and procedural safeguards regarding the methods in question, which are among the forms of deprivation of liberty and applied to patients who pose a danger to themselves or others in psychiatric centers, should be followed and should be applied if it is decided that it is a last resort after evaluating whether such a method is necessary within the framework of pre-established rules.<sup>106</sup>

As of the end of 2020, there are 9 mental health and diseases hospitals in 8 provinces in Türkiye and the capacity of these hospitals is 3212 and the number of patients is 314.<sup>107</sup> A total of 282 inpatient psychiatry clinics in 70 provinces have a capacity of 7732 patients, and the current number of patients is 7,637.<sup>108</sup> Numerical data on psychiatric centers are shown in the charts below:<sup>109</sup>

**Table 15: Number and Capacity of Psychiatric Centers**



**Table 16: Distribution of Patients Staying in Psychiatric Centers by Gender**



105 m.r.

106 SPT, Approach of the Subcommittee on Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment on the rights of persons institutionalized and medically treated without informed consent (CAT/OP/27/2), para. 9.

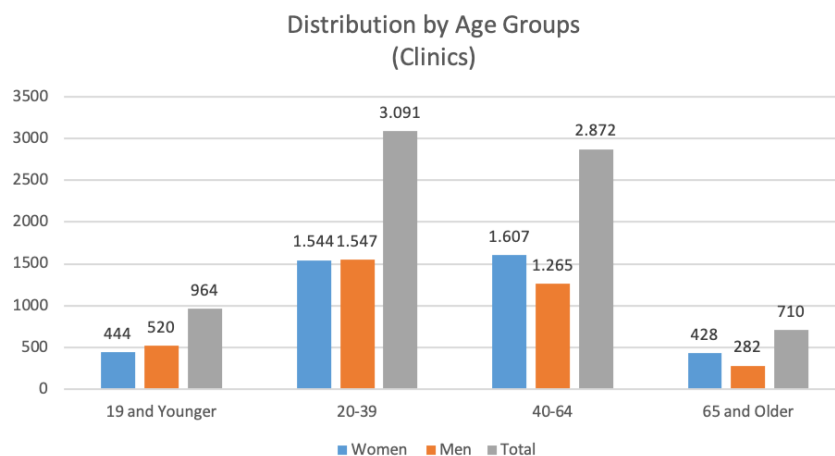
107 The letter of the Ministry of Health, General Directorate of Public Hospitals, dated 17.01.2022 and numbered E-95796091-279

108 m.l.

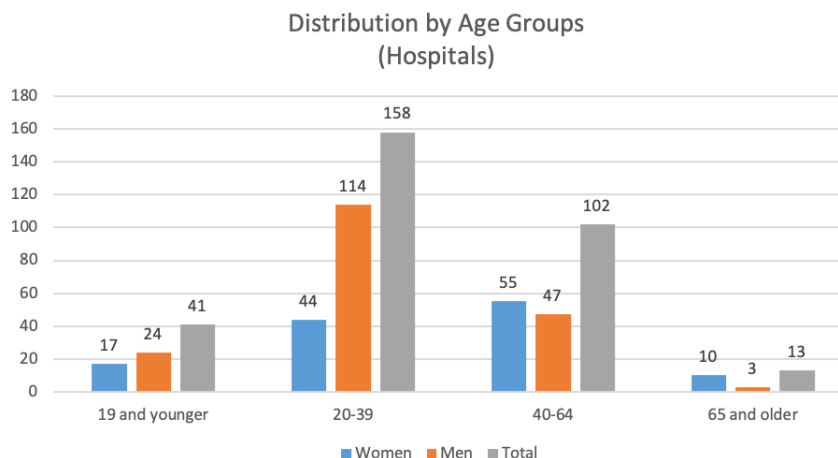
109 m.l

Of the 314 patients in the hospitals, 277 received psychiatric diagnoses. (The number of male patients with a psychiatric diagnosis is 161 and the number of female patients is 116.) 7,043 out of 7,637 patients in the clinics received a psychiatric diagnosis. (The number of male patients with a psychiatric diagnosis is 3,232, and the number of female patients is 3,811.)

**Table 17: Distribution of Patients Staying in Psychiatry Clinics by Age and Gender**



**Table 18: Distribution of Patients Staying in Psychiatry Hospitals by Age and Gender**



### 3.2. Places Where People Are Taken Under Protection

As mentioned earlier, in addition to places where people are deprived of their liberty, places where they are protected are also among the places where the National Preventive Mechanism operating within framework of OPCAT can conduct monitoring visits. As a matter of fact, carrying out regular visits to the places where

people are taken under protection and preparing reports on these visits are counted among the duties of HREIT, as the National Preventive Mechanism, by Law No. 6701. In this context, visits were conducted to the nursing homes, the elderly care and rehabilitation centers, the children’s home and home sites, the child support education centers and the disability care and rehabilitation centers in 2020.

**Table 19: Numerical Data on Places Where People are Taken Under Protection**

	<b>Institutions to which the Centers are Affiliated, Related or Associated</b>	<b>Number of Institutions Providing Service (2020)</b>	<b>Capacity</b>
Nursing Homes, Elderly Care and Rehabilitation Centers	Ministry of Family, Labor and Social Services	442	37.070
Children’s Home, Children’s Home Sites and Child Support Centers	Ministry of Family, Labor and Social Services	1.369	13.524*
Disabled Care and Rehabilitation Centers	Ministry of Family, Labor and Social Services	541	34.823
Temporary Accommodation Centers	Ministry of Internal Affairs, Directorate of Migration Management	7	58.956

\* Number of Children in Institutional Care

### **3.2.1. Nursing Home Elderly Care and Rehabilitation Centers**

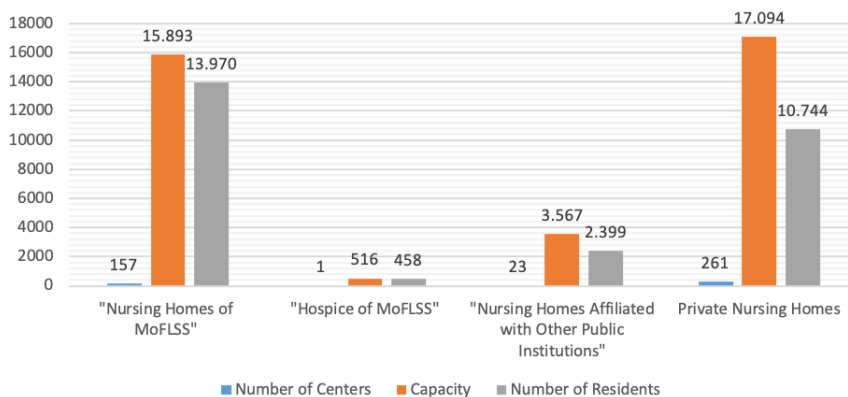
Elderly persons should be able to receive an appropriate level of institutional care that provides protection, rehabilitation and social and mental stimulation in a humane and safe environment and enjoy human rights and fundamental freedoms, including full respect for their dignity, beliefs, needs and privacy, and the right to make decisions about their care and quality of life, while living in any care or treatment centre.<sup>110</sup> In this framework, nursing homes, elderly care and rehabilitation centers operate in our country to protect and care for people aged 60 and over, to meet their social, psychological and physical needs, and to provide these services to those who need continuous care and rehabilitation<sup>111</sup> and these centers are visited by HREIT within the scope of the National Preventive Mechanism as places where people are taken under protection.

<sup>110</sup> UN, General Assembly, 46/91, 16 December 1991, art.14.

<sup>111</sup> By-law on Nursing Homes and Elderly Care and Rehabilitation Centers, Art.2.

The majority of nursing homes are nursing homes and private nursing homes affiliated to the Ministry of Family and Social Services and as of 2020, approximately 36% of nursing homes are affiliated to the Ministry of Family and Social Services, and approximately 59% are private nursing homes.<sup>112</sup> In this context, 157 nursing homes and 1 hospice provide service under the Ministry of Family and Social Services, and 23 nursing homes and 261 private nursing homes serve under other public institutions.<sup>113</sup> 105 elderly people stay in 25 living houses with a capacity of 117 people, which are included in the aforementioned nursing homes.<sup>114</sup>

**Table 20: Numerical Data on Residents of Nursing Homes and Elderly Care Centers**



The living spaces of such centers, which were created to meet both the individual and common needs of the residents, must meet basic human needs such as adequate heating, natural light and artificial lighting, as well as hygiene and ventilation, as well as be suitable for accessibility needs such as ramps and elevators.<sup>115</sup> In this context, it was seen that the aforementioned standards were met during the visit held in 2020.<sup>116</sup>

Effective complaints and audit procedures are the main assurance against ill-treatment in such institutions and, as in all social care institutions, there should be an effective internal grievance mechanism, as well as the possibility to lodge complaints directly with an independent external body competent to receive confidential complaints and provide appropriate advice.<sup>117</sup>

112 Ministry of Family, Labor and Social Services, Directorate of Services for the Disabled and Elderly, "Statistical Journal of the Disabled and Elderly", December, 2020 p. 97.

113 m.j.

114 m.j.

115 CPT, "Factsheet on Social Care Establishments", CPT/Inf(2020)41, para. 7 etc.

116 Ümitköy Nursing Home Elderly Care and Rehabilitation Center Visit Report, 2021/08.

117 CPT, "Factsheet on Social Care Establishments", CPT/Inf(2020)41, para. 33-34.

In this context, during the visit to the nursing homes in 2020, it was seen that there were wish and complaint boxes in order to convey the wishes and complaints of the elderly to the administration and in interviews with the elderly, it has been learned that they can easily meet face to face with the manager / assistant manager to convey their requests and complaints, and the requests and complaints are responded to by the management.<sup>118</sup>

Elderly people should have access to healthcare to help them maintain or regain optimal physical, mental and emotional well-being and to prevent or delay the onset of illness.<sup>119</sup> In this context, no complaints regarding health and care services were encountered during the visit made in 2020 however, it was considered that the number of health personnel on duty should be increased, since 2 temporary health personnel will leave the center, and this issue has been brought to the attention of the relevant Ministry.<sup>120</sup>

### **3.2.2. Children's Homes, Children's Home Sites and Child Support Centers**

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.<sup>121</sup>

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.<sup>122</sup>

Child support centers are residential social service institutions that provide temporary care and protection for children who are determined to need psycho-social 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

118 Ümitköy Nursing Home Elderly Care and Rehabilitation Center Visit (Report No: 2021/08), para. 48.

119 UN, General Assembly, 46/91, 16 December 1991, art.11.

120 Ümitköy Nursing Home Elderly Care and Rehabilitation Center Visit (Report No: 2021/08), 26, 81.

121 General Directorate of Social Services and Child Protection Agency By-law on Working Procedures and Principles of Children's Homes, Art. 2, 4.

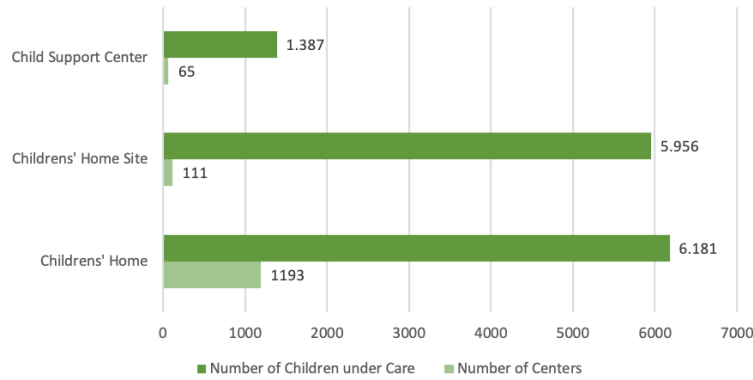
122 <https://www.aile.gov.tr/sss/cocuk-hizmetleri-genel-mudurlugu/cocuk-destek-merkezleri-evleri-haklari/>, E.T.:11.11.2021.



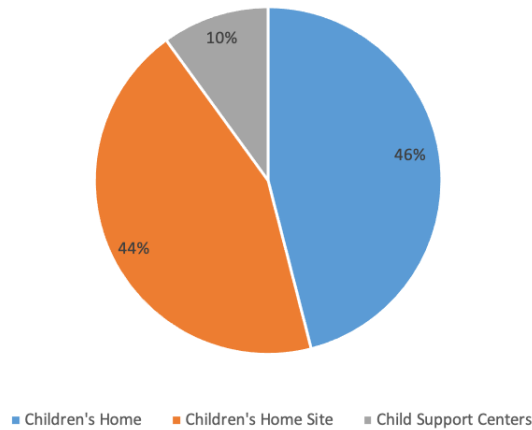
specialized according to the victimization, delinquency, age and gender status of children.<sup>123</sup>

There are a total of 1193 children’s homes and 111 children’s home sites in Türkiye.<sup>124</sup> 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.<sup>125</sup> The number of child support centers is 65 and the number of children cared for in these centers is 1,387.<sup>126</sup> As of the end of 2020, the total number of children under protection and care is 13,524.<sup>127</sup>

**Table 21: Numbers of Children’s Homes, Children’s Home Sites and Child Support Centers and Children under Care**



**Table 22: Distribution of Children Staying in Children’s Homes, Children’s Home Sites and Child Support Centers**



123 By-law on Child Support Centers, art.3.

124 Ministry of Family and Social Services, General Directorate of Child Services, Institutional Statistics, 2020 Year-End Data <https://www.aile.gov.tr/media/87499/kurumsal-istatistikler.pdf>, E.T.:11.11.2021.

125 m.con.

126 m.con.

127 m.con.

Interviews with children under protection and care during the visit to the children's home site, it has been observed that the children are generally satisfied with the staff and administration.<sup>128</sup>

The physical conditions of the center visited were found to be in good condition in general, the design and layout of the building is in accordance with the requirements of the service, they were clean and orderly, and it has been confirmed that the center was kept clean during the interviews with the children.<sup>129</sup>

In the interviews conducted during the visit, no allegations or findings of torture, ill-treatment, humiliating punishment were encountered, but it was observed that there were some complaints against the personnel.<sup>130</sup> On the other hand, no problem has been identified regarding the functioning of the complaints procedures, which is one of the main assurance mechanisms against ill-treatment.

Regarding health and psycho-social services it was determined that general health complaints were received by the health service upon the admission of the children and after the health checks, the necessary treatment plan was created and followed, if needed,<sup>131</sup> measures were taken against the COVID-19 pandemic,<sup>132</sup> and psycho-social support was provided from the first meeting after the admission procedures<sup>133</sup> however, it has been observed that health services and psycho-social services can be disrupted due to lack of personnel<sup>134</sup> and recommendation on the issue was made.<sup>135</sup>

The right to education, which is guaranteed by both international conventions and national legislation, is of great importance especially for children under institutional care and protection. During the visit, it has been observed that the necessary measures have been taken to a large extent so that the children taken under protection can benefit from their right to education. In this context, with regard to the education of children, it has been determined that some children were directed to vocational high schools for the continuation of their education but address records in the population and citizenship system caused problems in children's transportation to the school where they will receive education from where they actually live<sup>136</sup> and during the pandemic period, children continued their lessons online.<sup>137</sup>

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128 Saray Children's Homes Site Directorate Visit Report (2021/07), para. 32.

129 M.r., para. 35.

130 M.r., para. 42.

131 M.r., para. 53.

132 M.r., para. 56-57.

133 M.r., para. 59.

134 M.r., para. 61.

135 M.r., para. 76.

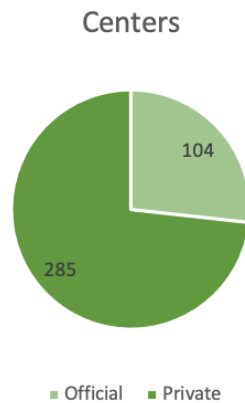
136 M.r., para. 66.

137 M.r., para. 67.

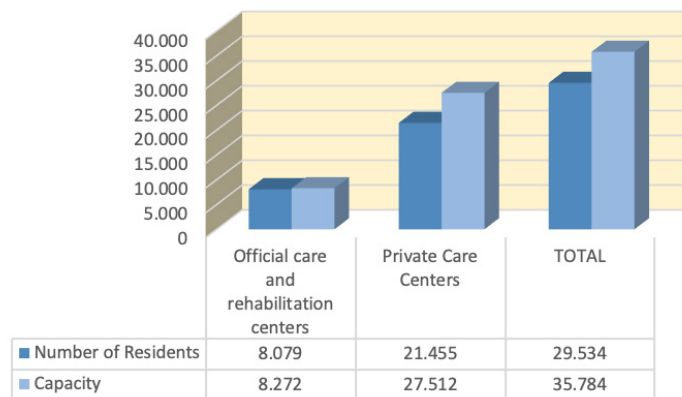
### 3.2.3. Disabled Care and Rehabilitation Centers

Disabled care and rehabilitation centers are official institutions or organizations that provide boarding and/or daytime services to disabled individuals who are identified as in need of care with a social examination report within the scope of Social Services Law No. 2828<sup>138</sup> or private care institutions with the status of social service institution opened by natural persons and legal entities and supervised by the Ministry of Family and Social Services.<sup>139</sup> As of the end of 2020, 8,079 disabled individuals receive services in 104 official permanent care institutions where various services are provided to individuals with severe disabilities who cannot sustain their lives on their own. On the other hand, 21,455 disabled individuals benefit from residential care services in 285 special care centers.

**Table 23: Official and Private Disabled Care and Rehabilitation Centers**



**Table 24: Capacity of Public and Private Disabled Care and Rehabilitation Centers and Number of Disabled Persons Receiving Care Services in the Centers**



138 By-law on Official Institutions and Organizations Care Centers for the Disabled Persons in Need of Care, Art. 4.

139 By-law on Special Care Centers for Persons with Disabilities.

## 2.2.4. Temporary Shelters

Temporary shelters are centers established for the purpose of collective accommodation and subsistence of persons under temporary protection provided to foreigners who were forced to leave their country, could not return to the country they left, came to our borders in order to find urgent and temporary protection or individually during this mass influx, and who could not be individually involved in international protection status.<sup>140</sup>

There are a total of 7 shelters in 5 provinces in Türkiye, 3 of which are in Hatay. The total capacity of these centers is 61,327. 58,803 of the people staying in the centers are Syrian and 153 are Iraqi nationals. A total of 12,618 families live in the centres.

The number of people with temporary protection status outside the shelters is 3,579,301.<sup>141</sup>

Table 25: Temporary Shelters

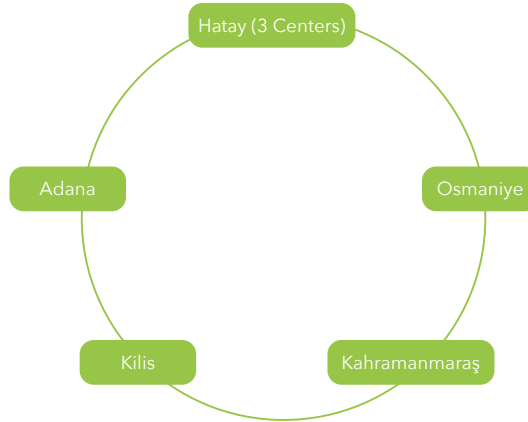
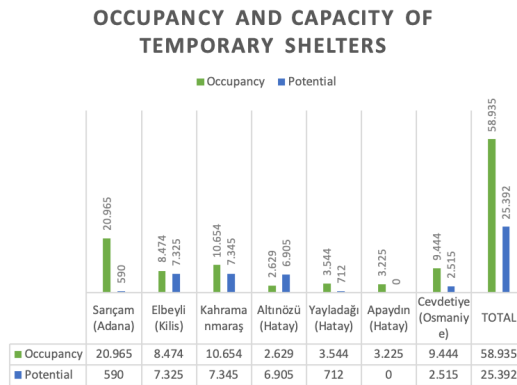


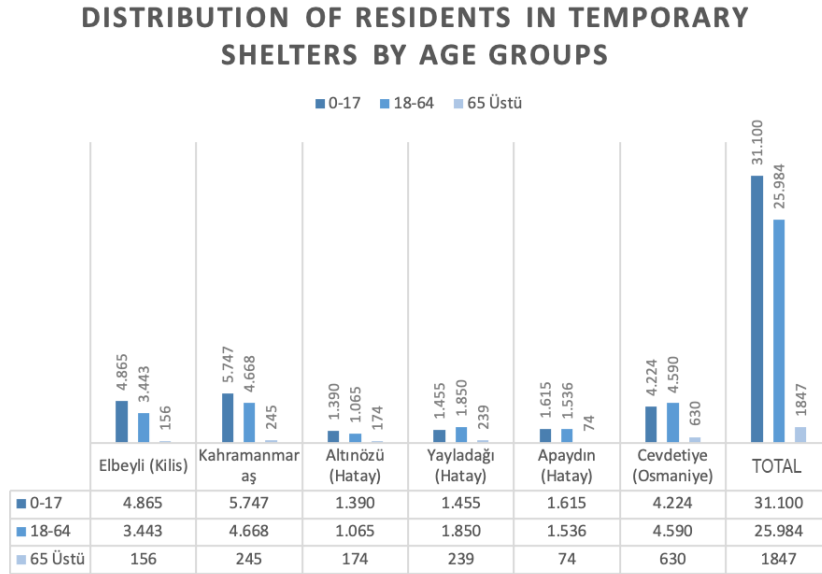
Table 26: Occupancy and Capacity of Temporary Shelters



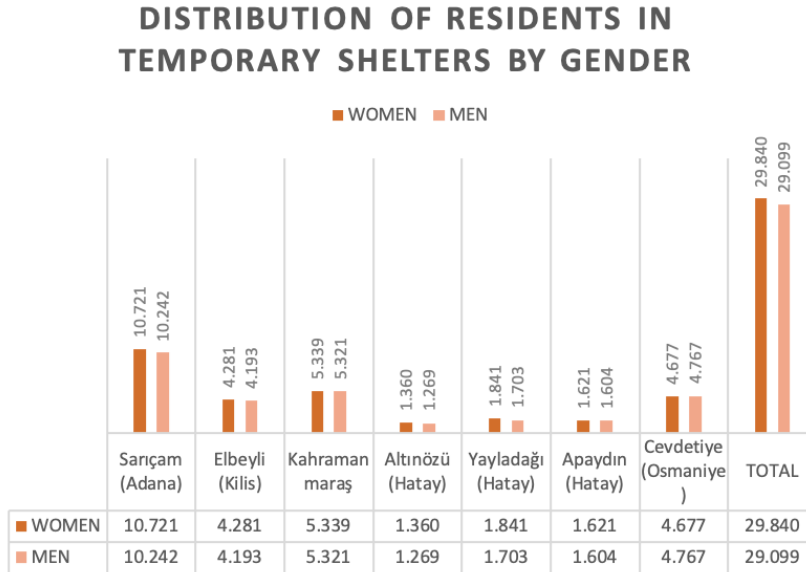
<sup>140</sup> Temporary Protection By-law, Article.3.

<sup>141</sup> The data in this title were obtained from the General Directorate of Migration Management.

**Table 27: Distribution of Residents in Temporary Shelters by Age Groups**



**Table 28: Distribution of Residents in Temporary Shelters by Gender**



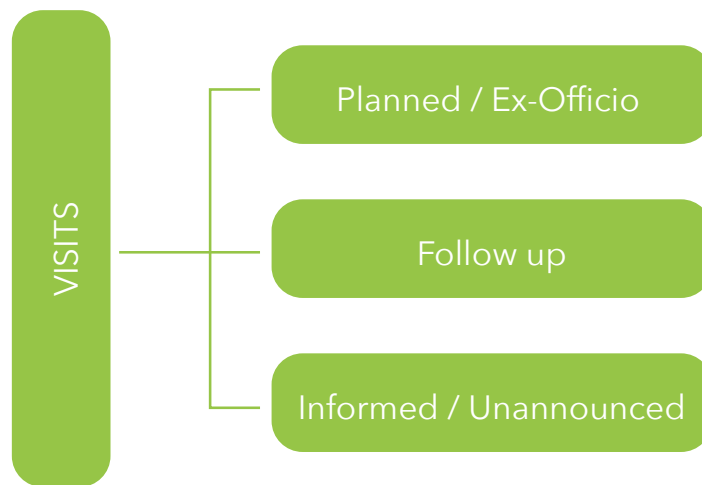


# Fourth Section

## 4.1. Visits

With the Law No. 6701, HREIT has been given three basic tasks. One of these tasks is to act as the National Preventive Mechanism. Duties of the institution were determined as “To act as a National Preventive Mechanism within the framework of the provisions of the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment” in Article 9/1-i of the Law No. 6701 and “To make regular, informed or unannounced visits to places where persons deprived of their liberty or under protection are present” in subparagraph (i) of the same article. Visits to be carried out within the scope of the National Preventive Mechanism are;<sup>142</sup>

- 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 without notice.



<sup>142</sup> By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye, Art. 96

Within the scope of its National Preventive Mechanism mandate, HREIT organizes informed or unannounced monitoring visits to places where people are deprived of their liberty or taken under protection as stipulated by OPCAT, and prepares reports after each visit and share these with the public by the decision of the board with the relevant institutions and organizations, monitor the implementation of the recommendations and If deemed necessary, it can issue a special report and fulfill other duties assigned by the Law.

The National Preventive Mechanism visits for 2020 started in March, after the approval of the annual plan for regular visits by the Board. However, COVID-19, which first appeared in China in December 2019 and affected the whole world throughout 2020, also affected our country, and after the first case was seen in March, the process of combating the pandemic intensified in our country. In connection with the task of the Institution as National Preventive Mechanism, places where people are deprived of their liberty or taken under protection have been places of special importance within the scope of combating the pandemic, both because they are closed areas and because they accommodate sensitive groups such as the elderly, children and people with chronic diseases. The visits carried out in the context of the National Preventive Mechanism could not be continued for a while, due to both the measures taken to combat the pandemic and the 'do no harm principle' and there has been a mandatory decrease in the frequency of visits planned for 2020. Although there has been a decrease in the frequency of visits due to the COVID-19 pandemic, visits have not been completely stopped and in 2020, visits were made to 13 centers where people were deprived of their liberty or taken under protection. In this context, 5 penitentiary institutions, 2 detention centers, 2 repatriation centers, 2 children's homes, 1 nursing home elderly care and rehabilitation center and 1 disabled care center were visited.<sup>143</sup> The centers visited are as follows:

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<sup>143</sup> In addition to the National Preventive Mechanism visits listed above, Kırıkkale Victims of Human Trafficking Shelter and Ankara Human Trafficking Victims' Shelter were also visited on the occasion of the World Day for the Fight Against Human Trafficking. In addition, the Law Enforcement Oversight Commission, of which HREIT the former Head Süleyman Arslan is a member, conducted investigations in Uşak.

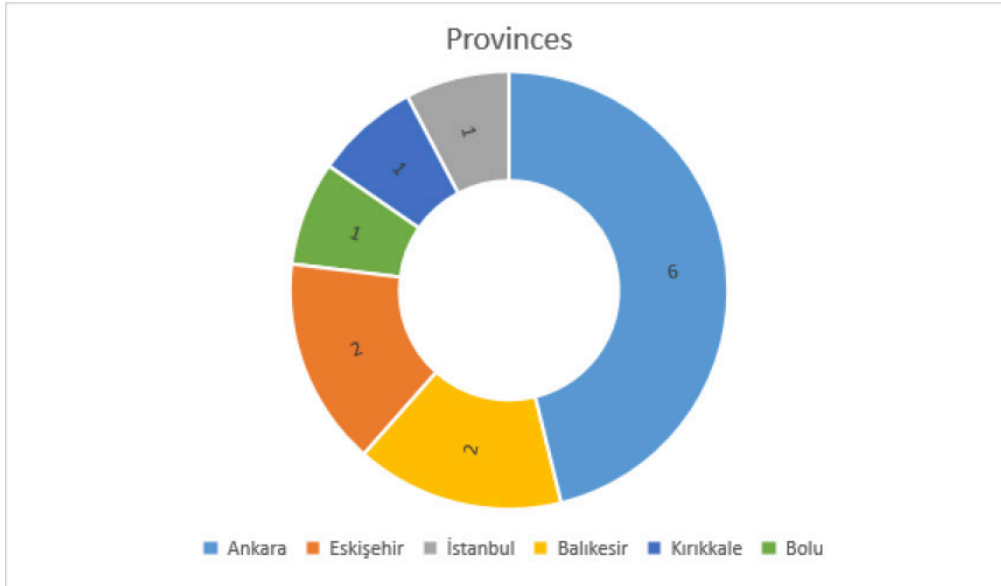


**Table 29: 2020 Visits**

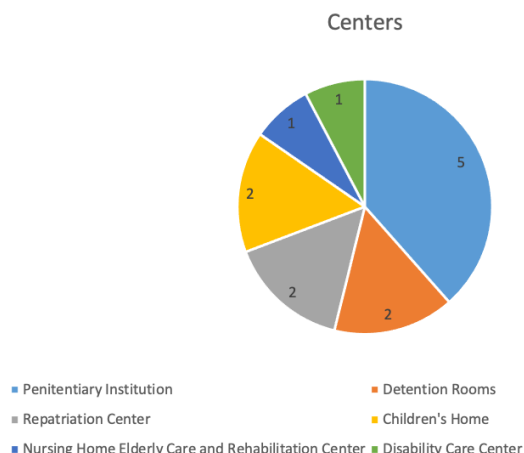
1. Ankara Akyurt Repatriation Center
2. Ankara Child Support Center
3. Ankara Elmadağ Women's Open Penitentiary Institution
4. Ankara Police Department Anti-Terrorism Branch Detention Rooms
5. Ankara Saray Children's Home Site
6. Ankara Ümitköy Nursing Home Elderly Care and Rehabilitation Center
7. Bandırma No. 1 T Type Closed Penitentiary Institution
8. Bandırma No. 1 2 Type Closed Penitentiary Institution
9. Bolu F Type High Security Closed Penitentiary Institution
10. Eskişehir Police Department Detention Rooms
11. Eskişehir L Type Closed Penitentiary Institution
12. Istanbul Disabled Life Care, Rehabilitation and Family Counseling Center
13. Kırıkkale Repatriation Center

The data regarding the visits are as follows:

**Table 30: Distribution of 2020 Visits by Province**



**Table 31: Distribution of 2020 Visits by Centers**



### 4.1.1. Preparation and Method of Visits and Reporting

The first stage of preparation for the visits to be made within the scope of the National Preventive Mechanism task is the preparation of the annual visit plan. In the selection of places of detention to be visited, criteria such as the intensity of the complaints of the persons held in these places, the events reflected in the media, the reports prepared by NGOs, institutions and organizations, the geographical balance, and the distribution among different detention centers are taken into consideration. Although the visits can be informed or unannounced, the unannounced visit method is mostly preferred.

After the visit calendar is established, the process of collecting information about the relevant places of detention begins. In this context, due to the fact that the vast majority of visits are made unannounced, reports previously published by different institutions regarding the place to be visited, news about the relevant center and applications made to our Institution are scanned.

Another stage is the determination of the members of the delegation who will participate in the visit. Although the National Preventive Mechanism task is only one of the three main tasks assigned to HREIT and while the number of personnel to be assigned within the scope of the National Preventive Mechanism task and their distribution according to occupations are limited, the composition of the visiting delegations is tried to be formed in such a way as to meet all the requirements. In case of need, especially psychologists, social workers and doctors from outside the Institution can be included in the committee.

A coordinating delegation member is appointed for each visiting delegation and a rapporteur for each place of detention.

During the visit, firstly, brief information is given to the management of the visited institution about our Institution and the National Preventive Mechanism, and the purpose and method of the visit is mentioned. During this interview, general information about the institution is obtained from the director of the institution visited.

After the meeting with the institution administration, if a penitentiary institution is visited, the daily counting chart is requested from the institution administration and the wards to be entered without discrimination of crime or criminal are determined by considering a balanced distribution without the involvement of the administration. A similar method is followed in other places of detention. In each institution, the sections where people with special needs such as the disabled, those with chronic diseases, women and children are kept are definitely visited and interviews are made with these people.

During the visit, people who are deprived of their liberty and taken under protection in the wards/rooms or in various parts of the institution are interviewed without the presence of the officials of the relevant institution and these persons are informed about the purpose of our delegation's visit, the confidentiality of the meetings and the scope of duty of the national preventive mechanism, individual or collective interviews are conducted with people who want to interview, then, the common areas are examined on-site and their compliance with the standards is determined.

In addition to the persons deprived of their liberty and taken under protection, interviews are conducted with the personnel working in the institutions without the institution's administrators, and the views of the employees on both the institution and their own working conditions are sought.

After the interviews are completed, the necessary information and documents are collected in line with the claims and/or demands of the persons deprived of their liberty and taken under protection, some documents are checked and the camera recordings are examined.

Finally, the members of the delegation hold an evaluation meeting in a room where the institution personnel are not present. Afterwards, the visiting delegation holds a final meeting with the participation of the relevant institution managers, and the necessary measures are taken against the possibility of retaliation, and the first opinions and observations and the issues that are deemed to be needed for an urgent solution are conveyed to the administration.

Visit notes containing the determination and evaluation of the members of the delegation and all kinds of information and documents received from the institution's administration are collected by the rapporteur and the visit report is prepared by this rapporteur. After the report is approved by the Human Rights and Equality Board of Türkiye, it is forwarded to the relevant institutions and is mostly shared with the public on the Institution's website.

Follow-up of the recommendations conveyed to the relevant institutions through reports is carried out in two ways: the implementation of the recommendations can be followed by correspondence with the relevant institutions or a second visit can be made. If the recommendations are followed through official correspondence, additional documents such as photographs, invoices, videos, and correspondence are requested to show whether the recommendations are fulfilled.

Details regarding the visits are published on the website of our Institution and are reported by various media organizations, and the public is informed about the visits.

#### 4.1.2. Reports on Visits in 2020

Within the scope of the 2020 Visit Calendar, there are 13 reports prepared as a result of the monitoring visits carried out by the National Preventive Mechanism and accepted by the Human Rights and Equality Board of Türkiye and containing recommendations for relevant institutions and organizations. Information on these reports is given in the Tables below.

<b>Visited Institution</b>	Bandırma No.1 T Type Closed Prison Visit
<b>Date of Visit</b>	11.03.2020
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit
<b>Information on Visited Institution</b>	Located in Bandırma Penal Institutions Campus, No. 1 T Type Closed Penal Institution Directorate provides services to convicts and detainees in many areas such as nutrition, health, social and cultural activities, education, psychological counseling, and vocational training. The institution works in line with the aim of reintegrating the convicts and detainees into the society by rehabilitating them and giving them a profession, within the framework of the Law on the Execution of Penalties and Security Measures. There are 92 wards in the institution. 52 of them are for 14 people, 8 of them are for 10 people, and 18 of them are for single people. There are 2 soft rooms and 2 temporary rooms for 14 people. The number of beds in the institution is 1423. Single rooms are 12 m <sup>2</sup> , 14-person wards are 67 m <sup>2</sup> , 10-person wards are 58 m <sup>2</sup> . <sup>144</sup> Institution capacity is 1000 people. As of the Date of Visit, there are 1411 prisoners in the institution. <sup>145</sup>

<sup>144</sup> Bandırma No. 1 T Type Closed Penitentiary Institution Visit Report, para. 5.

<sup>145</sup> M.r., para. 6.

<b>Determination Examples</b>	<ul style="list-style-type: none"> <li>- It was intensely stated by the prisoners that the meals were given less, for example, that two people ate an apple.<sup>146</sup></li> <li>- It has been stated that there is a smoking in the toilets and bathrooms due to the fact that the outdoor area is being closed in the evening, which makes non-smokers uncomfortable.<sup>147</sup></li> <li>- Due to the high occupancy of the institution, there may be some disruptions in the ability to meet with a psychologist.<sup>148</sup></li> </ul>
<b>Recommendation Examples</b>	<ul style="list-style-type: none"> <li>- Establishment of an effective petition tracking system to prevent claims that petitions are not taken into account or sent to the relevant places,<sup>149</sup></li> <li>- Making an attempt to increase the number of psychosocial service employees taking into account the occupancy of the institution,<sup>150</sup></li> <li>- Dissemination of courses in such a way as to ensure the participation of the general population of prisoners,<sup>151</sup></li> <li>- Ending the practice of accepting only children who are students of prisoners, not accepting children who are not students of prisoners, including children before school age, and allowing prisoners to meet openly with their children on the weekend without the requirement of being a student,<sup>152</sup></li> <li>- Increasing the diversity of television channels, adding channels broadcasting in different languages have been recommended,<sup>153</sup></li> </ul>

<b>Visited Institution</b>	Bandırma No. 2 T Type Closed Penitentiary Institution
<b>Date of Visit</b>	12.03.2020
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit

146 M.r., para. 31.

147 M.r., para. 46.

148 M.r., para. 63.

149 M.r., para. 79.

150 Bandırma No. 1 T Type Closed Penitentiary Institution Visit Report,, para. 86.

151 M.r., para. 88.

152 M.r., para. 91.

153 M.r., para. 92.

<p><b>Information on Visited Institution</b></p>	<p>Bandırma No. 2 T Type Closed Penitentiary Institution serves in Bandırma Penitentiary Institution Campus in Bandırma district of Balıkesir. There are 2 T Type, 1 M Type and 1 open penitentiary institutions in the said campus, which was put into service in 2013.<sup>154</sup> The increased capacity of Bandırma No. 2 T Type Closed Penitentiary Institution is 1000 people. As of the Date of Visit, there are a total of 1380 male prisoners, 1091 of whom are convicted and 289 are under arrest. It has been learned that 1098 prisoners were held after the Law No. 7242 on the Execution of Penalties and Security Measures and the Law on Amending Some Laws, which was published in the Official Gazette on 15.04.2020.<sup>155</sup></p>
<p><b>Determination Examples</b></p>	<ul style="list-style-type: none"> <li>- Some prisoners have claimed that because the execution and protection officers sometimes treat them in a rude and decadent way, tension may arise between them and there is a lack of communication between the officers.<sup>156</sup></li> <li>- There are nineteen judicial cases in the institution that have been reported to the relevant authorities, and there is a prisoner who has applied for alleged torture and ill-treatment in the last year. This application is related to an incident that the person concerned experienced while in custody and it has been stated that the prisoner's complaint petition has been sent to the necessary authorities by the Institution.<sup>157</sup></li> <li>- There is a ward for prisoners with disabilities in the institution, and the difference of this ward from other wards is that the WC and bathroom are in the same place, and there is a toilet bowl in the WC.<sup>158</sup></li> </ul>
<p><b>Recommendation Examples</b></p>	<ul style="list-style-type: none"> <li>- Inclusion of special trainings such as anger control training, crisis intervention training, psycho-social training in the in-service training curriculum to improve interpersonal communication , considering that the Administration of the Institution is trying to take measures to address the negative behavior of the staff,<sup>159</sup></li> <li>- Observing privacy by using search clothes provided by the Institution during searches made at the entrance to the Institution,<sup>160</sup></li> <li>- Making arrangements to give a "document number" to the petitions so that prisoners can learn the result of their petitions,<sup>161</sup></li> <li>- Replacing old and unusable beds in the institution and providing prisoners with clean blankets and bed linens,<sup>162</sup></li> <li>- Evaluation of the appropriateness of keeping the prisoners in the institution in penitentiary institutions close to their families' residences have been recommended <sup>163</sup>.</li> </ul>

154 Bandırma No. 2 T Type Closed Penitentiary Institution Visit Report, para. 12.

155 M.r., para. 18.

156 Bandırma No. 2 T Type Closed Penitentiary Institution Visit Report, para. 27.

157 M.r., para. 32.

158 M.r., para. 43.

159 M.r., para. 83.

160 M.r., para. 83.

161 M.r., para. 85.

162 M.r., para. 86.

163 M.r., para. 98.

<b>Visited Institution</b>	Ankara Akyurt Repatriation Center
<b>Date of Visit</b>	14.08.2020
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit
<b>Information on Visited Institution</b>	The Central block, with a perimeter of 15,000 square meters, was built on an area of 30,000 square meters. The Center, which was built in 2019, started to accept foreigners as of October 2019. As of Date of Visit, the Center is the newest repatriation center opened in our country. Although the center has a capacity of 800 beds, it serves with a capacity of 500 beds as of date of visit. There is infirmary, dining hall, ventilation areas, meeting rooms, children’s playroom, library, prayer rooms in the common areas of the center. The center has 5 service vehicles. The number of people deprived of their liberty staying in the center may vary according to irregular migration movements. As of the date of visit, there are 416 people deprived of their liberty in the Center.
<b>Determination Examples</b>	<ul style="list-style-type: none"> <li>- The rooms in which those deprived of their liberty are accommodated are generally composed of 6 and 10 persons. In addition, rooms for 20 people are also available. It has been determined that even half of the occupancy rate of the center’s capacity has not been reached, and during the COVID-19 pandemic, within the scope of the measures, 4 people usually stayed in the rooms.<sup>164</sup></li> <li>- Disturbing levels of fly density have been detected throughout the center.<sup>165</sup></li> <li>- It has been found that those who are deprived of their liberty are generally satisfied with food, however, the serving of fruit only once a week is quite insufficient, especially for children, and there is a high demand for its increase.<sup>166</sup></li> </ul>
<b>Recommendation Examples</b>	<ul style="list-style-type: none"> <li>- Informing of the persons deprived of their liberty about the reasons, rights and obligations of detention when they first arrive at the Center, should be done systematically in written and understandable languages, for this purpose, written and visual materials in different languages should be prepared and bar association contact numbers should be hung in visible places,<sup>167</sup>,</li> <li>- Increasing the diversity of books in the central library in different genres and languages to appeal to children and adults and opening them for use,<sup>168</sup></li> <li>- Making the necessary arrangements for the provision of regular water service from the city network to the Center in order to prevent the troubles that may be experienced due to the water outages in the center have been recommended <sup>169</sup></li> </ul>

164 Ankara Akyurt Repatriation Center Report, para. 36.

165 M.r., para. 45.

166 Ankara Akyurt Repatriation Center Report, para. 66

167 M.r., para. 87.

168 M.r., para. 90.

169 M.r., para. 100.

<b>Visited Institution</b>	Elmadağ Women's Open Penitentiary Institution
<b>Date of Visit</b>	04.12.2020
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit
<b>Information on Visited Institution</b>	<p>- Elmadağ Women's Open Penitentiary Institution, which started its operations in 2018, is located in Elmadağ district, 40 km from Ankara. The total area of the institution is 14,316 m<sup>2</sup> and the area where the building sits is 2100 m<sup>2</sup>. There are 9 wards with outdoor gardens in the Institution, which was converted from a closed penitentiary institution. The wards are planned to accommodate a total of 100 convicts. The area of two wards is 96 m<sup>2</sup>, one ward is 64 m<sup>2</sup>, four wards are 45 m<sup>2</sup>, and two wards are 20 m<sup>2</sup>. One of the 45 m<sup>2</sup> wards is designed as a playground for children staying with their mother. The layout and interior design of this playground has been evaluated by our committee as an example of good practice. Two wards of 20 m<sup>2</sup> are used as observation wards within the scope of COVID-19 measures. The newly arrived prisoners are kept under observation in these wards for 14 days by performing PCR tests. The institution also has a sports field that convicts and personnel can use, a kindergarten and playground for the convicts' children to use, library, health unit, convict and staff cafeteria, visiting field, hairdresser, cafeteria, canteen and gazebos that convicts and their relatives can benefit.<sup>170</sup></p>
<b>Determination Examples</b>	<p>- During the interviews with the prisoners, it was stated that the wards are cool because the Institution building is old.<sup>171</sup></p> <p>- It has been stated in previous interviews with prisoners staying in the quarantine ward that meals are given to quarantined prisoners by leaving a non-disposable table d'ard without contact from the ward door however, sometimes prisoners wait for the guards to pass through the corridor to announce their demands and they may have problems with that.<sup>172</sup></p> <p>- Interviews were made with the administration regarding the allegations of working prisoners working in the staff cafeteria between 07:00 and 23:00, there are no break times due to the irregular hours of the staff coming to the meal, they can't even eat their own lunch from time to time, their salaries have not been paid for 3 months. It was stated that the relevant official letters were written to make the payments and the issue would be resolved.<sup>173</sup></p>

170 Elmadağ Women's Open Penitentiary Institution Visit Report, para. 5.

171 M.r., para. 44

172 M.r., para. 74.

173 M.r., para. 103.



<b>Recommendation Examples</b>	<ul style="list-style-type: none"> <li>- Repairing washing machines and making them ready for use due to the difficulty of hand washing and drying of clothes in winter conditions,<sup>174</sup></li> <li>- In order to prevent physical contact and in order for the prisoners to communicate with their relatives under appropriate conditions during the visits, telephones should be placed in the field of view separated by a special glass partition, where people on both sides of the glass partition can make conversations,<sup>175</sup></li> <li>- Establishment of the technical infrastructure of the video family calls application, which was initiated in the Sincan Women's Closed Penitentiary Institution within the scope of ACEP, throughout the country, due to the risk of contact visit meetings during the pandemic period and the disruption of transportation due to curfew restrictions,<sup>176</sup> ensuring the integration of Elmadağ Women's Open Penitentiary Institution into this system have been recommended.<sup>177</sup></li> </ul>
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<b>Visited Institution</b>	Eskişehir L Type Closed Penitentiary Institution
<b>Date of Visit</b>	14.12.2020
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit
<b>Information on Visited Institution</b>	Eskişehir L Type Closed Penitentiary Institution, which became operational in July 2019, is located at the 14th kilometer of Eskişehir Seyitgazi highway and in Odunpazarı district. It is located in the same campus as Eskişehir H Type Penal Execution Institution and Eskişehir No. 2 Open Penal Execution Institution. The increased capacity of Eskişehir L Type Closed Penitentiary Institution is 1800 persons. There are a total of 1478 prisoners in the institution, of which 1040 are convicted and 438 are detained. As of the Date of Visit, it was learned from the administration that 1 prisoner was in Istanbul Bakırköy Psychiatric Hospital and 161 people were not in the institution due to COVID-19, and that 1316 prisoners are currently being held. <sup>178</sup>

174 M.r., para. 115.

175 M.r., para. 125.

176 The project, which aims to develop the applications already made in prisons by taking advantage of technological developments, integrate new technological applications that have never been made before into prisons and thus increase the reliability of the works done in institutions by making them done faster and with less labor force.

177 M.r., para. 129.

178 Eskişehir L Type Penitentiary Institution Visit Report, para. 14, 24.

<p><b>Determination Examples</b></p>	<ul style="list-style-type: none"> <li>- Personnel who are isolated and served in Eskişehir L Type Closed Prison during the COVID-19 period are subjected to a PCR test 48 hours before they start to work, and they start their duties after the results are negative. The personnel of the institution perform their duties alternately for 10 days in the form of 24 hours of work and 24 hours of rest, they spend the 10-day isolation period in Eskişehir Open Penitentiary Institution and the next 10 days at home.<sup>179</sup></li> <li>- Lawyer visits in the institution are carried out at the lawyer’s visit area or in closed visit areas using masks and without contacting.<sup>180</sup></li> <li>- When prisoners encounter a problem, want to convey their demands or in case of emergency, they communicate with the staff in charge by using the buttons in the wards. Some prisoners interviewed stated that the buttons in their wards were defective and that they had difficulties when they wanted to communicate with the staff. During the meeting with the administration, the demands of the prisoners were conveyed and the administration stated that the buttons were out of order.<sup>181</sup></li> </ul>
<p><b>Recommendation Examples</b></p>	<ul style="list-style-type: none"> <li>- Personal items such as clothes, bedding and sheets are washed by hand and do not provide sufficient hygiene compared to washing machines with high temperature washing feature. In addition, hand washing and drying are difficult in winter conditions. In this context, providing laundry and drying processes in Eskişehir No. 2 Open Penal Institution in the short term; and, in the long term, taking initiatives to establish a laundry, taking into account that the Institution has just started operating.<sup>182</sup>,</li> <li>- Repairing the out-of-order buttons in the wards<sup>183</sup>,</li> <li>- Adoption of similar existing conditions in other wards in quarantine wards where prisoners diagnosed with COVID-19, who are in contact or who come from outside the Institution are kept, provision of TV in quarantine wards so that prisoners can spend their time have been recommended<sup>184</sup>.</li> </ul>

<p><b>Institution</b></p>	<p>Eskişehir Provincial Police Department Detention Rooms</p>
<p><b>Date of Visit</b></p>	<p>14.12.2020</p>
<p><b>Type and Purpose of Visit</b></p>	<p>Unannounced/Planned Monitoring Visit</p>

179 Eskişehir L Type Penitentiary Institution Visit Report, para. 35.

180 M.r., para. 43.

181 M.r., para. 64.

182 M.r., para. 94.

183 M.r., para. 95.

184 M.r., para. 99.

<p><b>Information on Visited Institution</b></p>	<p>Within the main service building of the Provincial Security Directorate, there are three detention units, namely the Public Security Branch, the Juvenile Branch, and the Anti-Terrorism Branch. It is stated that there is no separate detention room for women deprived of their liberty in all branches in the main service building of the Security Directorate, but detainees are placed in detention rooms separately according to their gender.<sup>185</sup></p>
<p><b>Detention Examples</b></p>	<ul style="list-style-type: none"> <li>- Public Security Branch Detention Houses receive natural light through windows, and the amount of natural light is not sufficient.<sup>186</sup></li> <li>- Although there is a defense lawyer room on the floor of the Juvenile Branch Directorate, it has been seen that the room has double doors, it consists of two parts as it has been converted from the statement-taking room to the defense lawyer room, the reflector glass in between is broken, and there is no table in the room.<sup>187</sup></li> <li>- It is stated that the personnel of the Anti-Terrorism Branch Office of the Detention Room have not received any training in the field of human rights, in the treatment of those deprived of their liberty and particularly vulnerable groups, in the last year.<sup>188</sup></li> </ul>
<p><b>Recommendation Examples</b></p>	<ul style="list-style-type: none"> <li>- Providing personal care and hygiene opportunities to those deprived of their liberty in Public Security Branch Directorate's detention houses, regularly checking and supplying toilet paper and cleaning materials in the toilets,<sup>189</sup></li> <li>- Replacing the existing toilet doors, which are considered inappropriate for the privacy of the children deprived of their liberty, since it was determined that the toilet doors in the Juvenile Branch Directorate's detention rooms are 1.50 cm high and the upper part is quite low,<sup>190</sup></li> <li>- It has been determined that since the lawyer meeting room on the floor of the Anti-Terrorism Branch is not large enough and sound insulation is not provided, the sounds inside can be heard from outside the room. For these reasons, the preparation of another room on the floor for lawyer meetings have been recommended<sup>191</sup></li> </ul>

185 The Report of the Visit to the Detention Rooms of the Eskişehir Provincial Police Directorate, Art.9, 11.

186 M.r., para. 29.

187 M.r., para. 45.

188 M.r., para. 71.

189 M.r., para. 73/a.

190 M.r., para. 73/b.

191 M.r., para. 73/c.

<b>Visited Institution</b>	Ankara Saray Children's Homes Site Directorate
<b>Date of Visit</b>	18.12.2020
<b>Type and Purpose of Visit</b>	Unannounced/Follow-up Visit
<b>Information on Visited Institution</b>	Saray Children's Houses Site Directorate provides services under the Ministry of Family and Social Policies, affiliated to the Pursaklar District Governorship. Saray Children's Homes Site Directorate consists of 27 two-storey houses and 1 administrative building. 23 of the houses are used for sheltering children, 1 of them is used for infirmary, 3 of them are used for educational, social, cultural, artistic and sports activities. As of December 12, 2020, there are a total of 260 children, including 259 children and 1 child guest, who were taken under protection and care by the Law No. 5395 in the establishment with a capacity of 260 people, where girls between the ages of 13 and 18 stay. <sup>192</sup>
<b>Determination Examples</b>	<ul style="list-style-type: none"> <li>- It was stated that after the COVID-19 pandemic, social activities other than handicraft activities were suspended due to some measures taken at the center in order to prevent the spread of the disease. It has been stated that there are 75 individual volunteers and 5 volunteer University Groups who reached the center by their own means and carried out various activities, but individual studies were also suspended due to the pandemic.<sup>193</sup></li> <li>- It has been observed that the general illumination of the center is at a sufficient level and it receives sunlight quite well. The children interviewed stated that the lighting in their homes was sufficient, they had access to hot water whenever they wanted, but they had to take a bath every other day, and they were satisfied with the warmth of their home.<sup>194</sup></li> <li>- It has been determined that a wireless internet network has been established in the center for students who continue their education online due to the pandemic.<sup>195</sup></li> </ul>
<b>Recommendation Examples</b>	<ul style="list-style-type: none"> <li>- Evaluation of the children staying in the center according to their knowledge, abilities and interests of vocational high school as well as other educational institutions in the registration process of high school,<sup>196</sup></li> <li>- Making attempts to increase the number of professional staff to be assigned to the central social service unit due to the fact that the center provides above-capacity service and the intensity of professional work performed have been recommended. <sup>197</sup></li> </ul>

\* Due to pandemic measures, houses could not be visited.

192 Saray Children's Homes Site Directorate Visit Report, para. 8, 12-13.

193 Saray Children's Homes Site Directorate Visit Report, para. 20.

194 M.r., para. 36.

195 M.r., para. 40.

196 Ankara Police Department Anti-Terror Branch Visit Report, para. 75.

197 M.r., para. 76.

<b>Visited Institution</b>	Ankara Police Department Anti-Terrorism Branch Detention Rooms
<b>Date of Visit</b>	Various Dates
<b>Type and Purpose of Visit</b>	Unannounced/Planned Monitoring Visit
<b>Information on Visited Institution</b>	The detention rooms belonging to the Anti-Terrorism Branch Directorate are located in the Additional Service Building of the Security Directorate, in the Şehit Altuğ Verdi campus and are only used by the Anti-Terrorism Branch. In case of excessive number of detainees, there is no other place to be held or made available. However, considering that there may be a large number of detainees, the construction of an additional building for 16 detention rooms was completed and put into service on 15 May 2019. It has been stated that 2 people remain in detention rooms, except for essential situations. <sup>198</sup>
<b>Detention Examples</b>	<p>- During the physical examination conducted in the registry books, it was understood that the books contain the identity information of the person to be detained, the main information on detention, information on entry procedures, information on transactions related to the suspect and information on exit procedures, registration procedures were carried out in detail under these headings.<sup>199</sup></p> <p>- It has been seen that the floor of the questioning room is covered with materials that can be easily cleaned and are suitable for human health, and the room is soundproofed so that the sound recording can be made clearly by preventing the echo of the sound and the sounds from outside do not adversely affect the process of taking the statement. It was observed that the room door was in the form of an independent entrance with sound insulation in a position that would not distract the testator. It has been determined that there is a heating and cooling system in the room and there are sufficient tables and chairs.<sup>200</sup></p>
<b>Recommendation Examples</b>	<p>- There is a glass in the defense lawyer meeting room that prevents physical contact and face-to-face meeting between the lawyer and the detainee and the interviews were made with the help of computer via video and according to Article 21 of the By-law on Arrest, Detention and Statement Taking, correspondence can be made between the detained and the lawyer, for this purpose, a pen and paper will be given to the arrested person during the meeting upon his/her request, accordingly, it is necessary to allow physical contact between the arrested person and the defense counsel and again, according to article 120 of the UN Standard Minimum Rules for Imprisoned (Nelson Mandela Rules), the meeting between the detainee and his defense counsel must be uncensored and in complete secrecy, including giving confidential instructions, as a result, the negotiations between the defense counsel and the detainee should be carried out in a way that allows correspondence.<sup>201</sup></p> <p>- Considering that there are heaters or suspended plumbing pipes in some detention rooms, and the duties of law enforcement officers towards the people under surveillance include the responsibility of ensuring the safety and physical health of these people, the rearrangement of the said heater and suspended plumbing pipes in a way that does not harm the arrested or detained person<sup>202</sup> have been recommended.</p>

198 M.r., para. 9, 11.

199 M.r., para. 30.

200 M.r., para. 31.

201 M.r., para. 35.

202 M.r., para. 37.

<b>Visited Institution</b>	Ümitköy Nursing Home Elderly Care and Rehabilitation Center
<b>Date of Visit</b>	25.12.2020
<b>Type and Purpose of Visit</b>	Unannounced/Follow-up Visit
<b>Information on Visited Institution</b>	- The capacity of the center is 122 people, 66 people in care units and 46 people in nursing homes. It has been stated by the administration that 100 elderly people are currently in the center and 6 elderly people are in the hospital due to chronic health problems. The main service building consists of 2 floors and 5 blocks, the ground floor and the administrative unit. It has been informed that it is in a prefabricated building consisting of 43 nursing home unit rooms, 24 rehabilitation rooms, and an additional service building with 2 floors and 14 rooms (rehabilitation room). In the center, the elderly rooms of the nursing home unit mostly consist of single rooms, and the residents who are admitted to a single room are allowed to arrange their rooms in accordance with their previous life, with items they would bring from their homes. <sup>203</sup>
<b>Determination Examples</b>	- It has been stated that there are 7 health personnel working in the center, 2 of them come with a 6-month temporary assignment, and they will leave the center soon due to the expiry of their term of office, and the workload of the permanent health personnel will increase. It has been observed that the number of health personnel working in the center should be increased in order to alleviate the workload of the health personnel working in the center. <sup>204</sup> - The residents of the center stated that the staff and the Administration made every effort regarding their basic care and needs in daily life, both before and during the pandemic, and that they were very satisfied with the Administration and staff, and even felt more comfortable in the center than in their own homes. <sup>205</sup> - It has been observed that meetings are held in the open air space created in the garden of the center for the person who is wanted to be visited by the relatives of the center residents. <sup>206</sup>
<b>Recommendation Examples</b>	- It has been observed that the center is designed in accordance with its purpose, the physical conditions are good, the building and garden are well-maintained, the center manages the pandemic process well and prevents the residents from catching the disease, and the residents are generally satisfied with the services and the attitudes of the staff. In terms of determining the minimum standards for such centers, it has been evaluated that the Center, which is the subject of the visit, can be an example of good practice in many aspects. <sup>207</sup> - It has been recommended to increase the number of personnel working in the health service, which is one of the service branches whose workload has increased with the pandemic. <sup>208</sup>

203 Ümitköy Nursing Home Elderly Care and Rehabilitation Center Visit Report, para.15, 17.

204 M.r., para. 26.

205 M.r., para. 57.

206 M.r., para. 76.

207 M.r., para. 80.

208 M.r., para. 81.

<b>Visited Institution</b>	Bolu F Type Closed Prison Visit
<b>Date of Visit</b>	28.12.2020
<b>Type and Purpose of Visit</b>	Unannounced/Follow-up Visit
<b>Information on Visited Institution</b>	<p>- Bolu F Type Closed Penitentiary Institution was established on an open area of 50.000 m<sup>2</sup> and a closed area of 30.000 m<sup>2</sup>. On the outside of the containment wall, there are the Prison Gendarmerie Company Command Building, the Visitor Reception Building, and 2 lodging buildings with 10 flats each, with a total area of 80,000 m<sup>2</sup>. The four sides of the Penitentiary Institution are covered with a containment wall, and the top of the enclosing wall is surrounded by barbed wire. There are 5 Gendarmerie watchtowers with a height of 8-12 meters, along with 2 guardhouses, and 6 sentry boxes, 2 of which are outside of the encirclement wall. Outside the containment wall, there is the visitor registration and waiting room, the boiler room, the utility water tank and the 1st security gate. The institution consists of 103 triple rooms and 61 single rooms. The total capacity of the institution is 368 and the number of beds is 368. Triple rooms are 50 m<sup>2</sup> in total, with 25 m<sup>2</sup> on the ground floor and 25 m<sup>2</sup> on the upper floor. The yard of the triple rooms is 50 m<sup>2</sup>. Single rooms consist of 10 m<sup>2</sup> and 2 or 3 rooms next to each other use the same ventilation garden. The ventilation of single rooms varies between 42 and 50 m<sup>2</sup>. There is a canteen/market in the institution.<sup>209</sup></p>
<b>Determination Examples</b>	<p>- There are detainees and convicts demanding a change in open visit hours. Prisoners and convicts whose families came from out of town stated that they wanted to change their visiting hours to the afternoon.<sup>210</sup></p> <p>- In the interviews made with the detainees and convicts, it was stated that they should be more flexible in the duration of the weekly phone calls, and that they wanted to get information from their families more frequently during the pandemic.<sup>211</sup></p> <p>- In the interviews with the detainees and convicts, there were those who claimed that there were problems because the applications made with petitions were responded to with a delay of about one month.<sup>212</sup></p>
<b>Recommendation Examples</b>	<p>- There are blind spots of the cameras in the institution and the removal of these blind spots.<sup>213</sup></p> <p>- It has been stated that in cases where emergency intervention is required, creating a fast passageway from the first floor where the detainees and convicts are located to the infirmary or moving the infirmary to the first floor, in cases where emergency intervention is required such as a heart attack, the danger of not being able to bring the patient to the infirmary for emergency response should be considered and that the situation in question is a fundamental problem arising from the architectural structures of F-type Penitentiary Institutions, and bringing the necessary architectural solutions to solve this problem<sup>214</sup></p> <p>- It has been stated that the number of personnel of the institution is 149 and this number is insufficient by the Administration, as a result of this, it has been reported that some personnel cannot be employed alternately during the COVID-19 and the prison guards fall apart from their families during the pandemic so reducing the workload by providing adequate staff support have been recommended<sup>215</sup>.</p>

209 Bolu F Type High Security Closed Penitentiary Institution Visit Report, para. 8-9.

210 M.r., para. 41.

211 M.r., para. 47.

212 Bolu F Type High Security Closed Penitentiary Institution Visit Report, para. 65.

213 M.r., para. 79.

214 M.r., para. 86.

215 M.r., para. 87.

### 4.1.3. Monitoring the Implementation of Recommendations

Follow-up activities are also being carried out to determine whether or to what extent the recommendations given to the relevant institutions have been implemented as a result of the visits carried out within the scope of the National Preventive Mechanism task. Within this framework, the follow-up of the recommendations is carried out by organizing a follow-up visit to the relevant institutions or by official correspondence. In the reports accepted after 13 monitoring visits in 2020; 11 recommendations were given to the Ministry of Justice, 9 to the Ministry of Family and Social Services, 6 to the Ministry of Health, 4 to the Directorate of Migration Management, 3 to other Ministries/Institutions and 89 to the central administrations visited.

Table 32: Numerical Distribution of Recommendations Delivered to Institutions as a result of 2020 Visits

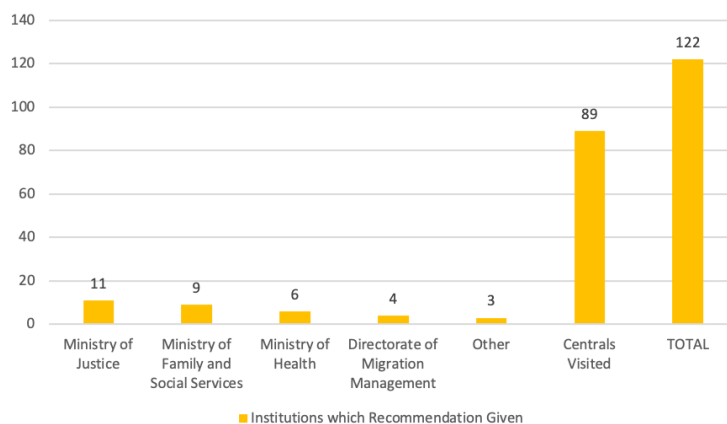
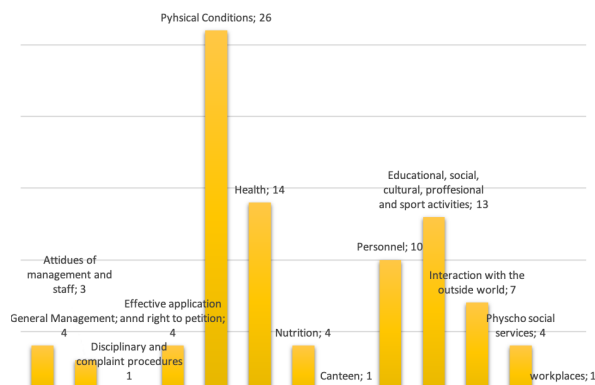


Table 33: Numerical Distribution of the Recommendations Delivered to the Institutions as a result of the 2020 Visits by Subject





Examples of the follow-up of the recommendations conveyed to the relevant institutions in the 2020 reports are as follows:

<b>Recommendation</b>	Although it is observed that the crowding in Bandırma No. 2 T Type Closed Prison has decreased with the Law No. 7242, prisoners can access the doctor every three weeks and referrals to hospitals may be delayed. In this context; with regard to the recommendation that prisoners should be provided with access to health services one day per week:
<b>Follow-Up</b>	It was stated that the prisoners in the institution were released to the infirmary by petitioning, and this time was kept to a minimum, the transfer of those who were decided to be transferred to the hospital was carried out under the coordination of the prison management and the Gendarmerie Command. and that the number of patients awaiting referral was less than 10 (ten) people. In this context, this recommendation has been partially implemented.
<b>Recommendation</b>	Considering that WHO has noted the importance of cleanliness to prevent COVID-19; regarding the recommendation to Bandırma No. 2 T Type Closed Prison that hygiene products should be increased in the canteen and provided free of charge to prisoners who can not afford:
<b>Follow-Up</b>	It was stated that necessary precautions were taken regarding the COVID-19 epidemic and disinfection processes were carried out at regular intervals and that the necessary disinfection materials can be obtained in the prison canteen, and that the wards are constantly disinfected and it was understood that no deficiencies were detected within the scope of health measures, and the recommendation was fulfilled accordingly.
<b>Recommendation</b>	Regarding the recommendation that a full-time physician should be appointed in order for prisoners in Bandırma No. 2 T Type Closed Prison to access health services more quickly:
<b>Follow-Up</b>	Family Medicine Unit No. 37 serving at Bandırma Prison No. 4 Family Health Center was left to serve in M Type Closed Prison and No. 2 T Type Closed Prison. Family Medicine Unit No. 38 was opened within Bandırma Prison No. 14 Family Health Center to serve in the T-Type Closed Prison No. 1 and the Open Prison. In this context, service is still provided by 2 family physicians. The recommendation remains valid, as a full-time physician is not assigned.



# Fifth Section

## 5.1.Applications

The Human Rights and Equality Institution of Türkiye is responsible for examining, investigating, adjudicating and following the results of the applications of persons deprived of their liberty or taken under protection pursuant to Article 9/1-i of Law No. 6701, within the scope of the National Preventive Mechanism duty and these applications are examined and finalized within the scope of the provisions of the Law No. 6701 and the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye, which was published in the Official Gazette dated 24 November 2017 and numbered 30250.

Applications can be made through the electronic system created by the Institution (online application), by hand or by mail, or via fax and e-mail, provided that the original is delivered to our Institution within 15 days. In addition, it is possible to apply to our Institution through governorships in provinces and district governorships in districts.

Pursuant to Articles 17/1 and 17/8 of Law No. 6701, within the scope of the National Preventive Mechanism, before applying to our institution, the correction of the application alleged to be against the Law No. 6701 must be requested from the relevant party. Individuals will be able to apply to the Institution if their requests are rejected or if they are not answered within thirty days. A decision for submission is made for the relevant party to examine the applications made without requesting the correction of the application claimed to be against the law. The decision for submission is also notified to the applicant.<sup>216</sup> In addition, in accordance with Article 17/4 of Law No. 6701, transactions related to the exercise of legislative and judicial powers, decisions of the High Council of Judges and Prosecutors and transactions that the Constitution excludes from judicial review cannot be the subject of application. Accordingly, a decision of non-examination is rendered for applications that are determined to be within the scope of this provision during the preliminary examination phase.<sup>217</sup> On the other hand, according to the first evaluation, the applications that do not meet the application requirement according to the Law No. 6701 are forwarded to

<sup>216</sup> By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye No. 6701, Art. 68.

<sup>217</sup> m.l., Art. 66.

the relevant authorities, especially the Ministry of Justice General Directorate of Prisons and Detention Houses, in order not to cause loss of rights.

Applications that do not fall under the jurisdiction of the Institution, applications that constitute abuse of right and applications and that have been the subject of lawsuits are not taken into consideration.

Among the applications made to our institution, those who fulfill the application conditions are examined in terms of merits. In this context, first of all, application petitions are sent to the party/parties subject to the alleged violation in accordance with the relevant provisions of the Law No. 6701 and the addressee(s) are requested to submit a written opinion on the allegations. Written opinion must be delivered to our Institution within fifteen days from the notification of the request. The reply received is communicated to the applicant and the applicant is requested to submit his/her own opinion on the reply to our Institution within fifteen days at the latest after the notification. Upon request, the Head may extend these periods for fifteen days for once, and the parties may also be given the right to make separate oral statements before the Board upon their request.

While the applications are examined in terms of merits, our Constitution and other relevant national legislation are taken into account, as well as the provisions of the Law No. 6701 as well as International human rights conventions to which our country is a party, including the Convention Against Torture, OPCAT and the European Convention on the Prevention of Torture, Decisions of the Constitutional Court, texts of recommendation of the European Committee for the Prevention of Torture, and texts of recommendations and resolutions of the UN on the subject of application.

The conclusion is reached by evaluating the correspondence and the data obtained within the scope of the applications within the scope of the conflict principle. (Article 18 of the Law No. 6701 titled violation investigations and the 7th part of the aforementioned By-law titled violation investigations). In this context, if the application is found to be appropriate as a result of the examination and research, the decision of violation is given, and if the application is deemed to be inappropriate as a result of the examination and research, the decision of no violation is given. In addition, if it is understood that the applications that are found to be examined during the preliminary examination phase or that are decided to be examined and investigated on the basis of their scrutiny, do not meet the necessary conditions; a reasoned decision of inadmissibility is rendered regarding these applications.

It is also possible for the applications to be concluded with reconciliation within the scope of Law No. 6701. Reconciliation may include ending the practice that is alleged to be a violation of human rights or the prohibition of discrimination, or solutions that will provide this result for the victim, or it may be in the form of

paying a certain compensation to the victim.

The decisions of HREIT regarding the applications examined within the scope of the National Preventive Mechanism are advisory. However, the evaluations and principles contained in the resolutions are guiding in the prevention of torture and ill-treatment, and the protection and strengthening of the rights of persons deprived of their liberty or under protection.

## **5.2. Numerical Data on Applications**

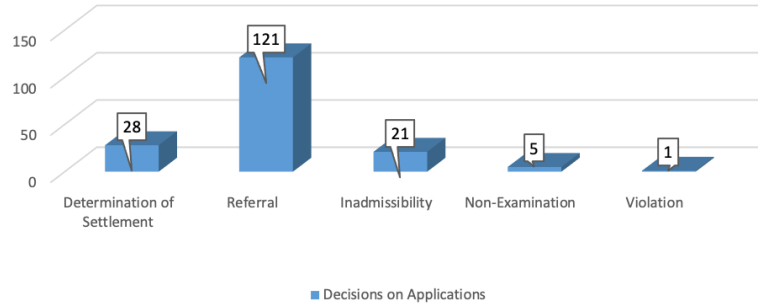
Between 1 January 2020 and 31 December 2020, 175 applications were made to our institution within the scope of the National Preventive Mechanism and 504 petitions were submitted. 29 applications transferred from 2019 were finalized in 2020. In addition, remote interviews were conducted with 15 applicants via SEGBIS. Approximately 16% of the petitions and applications that were resolved this year came from penitentiary institutions located in three major cities.

Between 1 January 2020 and 31 December 2020, 121 submission decisions, 21 justified inadmissibility decisions, 5 non-examination decisions and 1 violation decision were issued. In addition, 28 applications were concluded with reconciliation. The number of applications that could not be finalized in 2020 and whose examination continued in 2021 was 26.

While 504 petitions or notices sent to our institution within the scope of the National Preventive Mechanism task in 2020 were not processed as applications, legal guidance was provided to the person in 47 of them, 245 of them were forwarded to the relevant authority and the request of the person to obtain information was met in the others. The total number of files concluded between the said dates is 685.

**Table 34: Numerical Data on Concluding Types of 2020 Applications**

Table 4: Decisions Given on Applications



The increase in the applications made to the Institution is important in that it shows that the recognition and awareness of HREIT in the society has increased and that the Institution is also working on human rights violations. In addition, the fact that the Institution does the necessary work on incoming applications ensures that its reputation and recognition in the society increase.

According to Article 6/1-f of Law No. 6701, the duties of the Institution include “ex officio examining, investigating, adjudicating and following the consequences of human rights violations”. Within the framework of the said provision; the Board decided to examine 3 claims ex officio.

### **5.3. Distribution of Violation Claims by Subject**

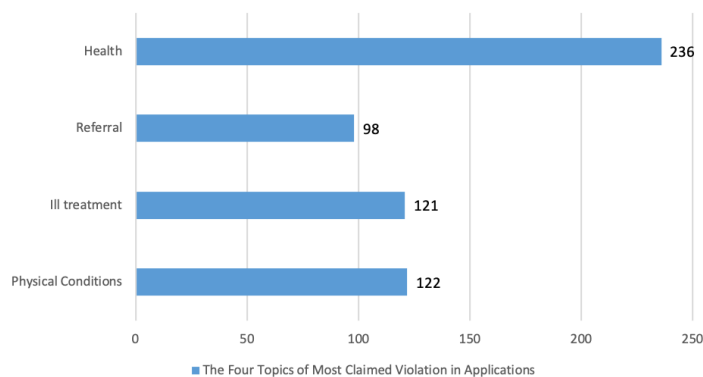
When all applications received to the Institution in 2020 are examined in terms of the rights alleged to have been violated, it is understood that the highest number of applications are made to the Institution with the claim that the right to health has been violated. The applicants claim that they have been subjected to ill-treatment on the grounds that they have not been able to fully enjoy their right to access to health. In these applications made regarding health-related demands, the main subject of complaint is the loss of time and delays in referrals to health institutions outside the penitentiary institutions. In the examinations and evaluations made by our Institution in penitentiary institutions, it was observed that similar complaints were brought forward, and this situation was conveyed to both the authorities of the prison and the Ministry of Justice. There has been a decrease in the complaints that the security guards were not taken out of the examination room during the examination alleged in previous years, and that the examination was carried out while the hands were cuffed. Complaints continue to be made, albeit few, about the fact that the drugs are not given on time, the appropriate drugs are not given, and the meals that comply with the diet list are not given.

Physical conditions and transfer requests attract attention as the other areas where the most applications are made. Prisoners request to be transferred to the execution institutions located in the cities where their families live or close to these cities. Applications are being made by the relatives of the prisoner requesting the transfer of the prisoner. All transfer requests are forwarded to the Ministry of Justice and it is monitored whether their requests are met. Requests from applicants for social, cultural and sports activities are also at a remarkable level. In this context, the applicants mostly complain that the number of books is limited. In addition, some applicants stated that they wanted to take advantage of the right to chat with people they wanted. There are also requests for the right to education, albeit in a small number. In the applications made claiming that the right to education was blocked, it was seen that they complained about the difficulties in providing access to educational materials.

**Table 35: Subjects of 2020 Applications**



**Table 36: The Four Topics of Most Claimed Violation in Applications**



## 5.4. Examples of Decisions

### 5.4.1. Violation Decisions

#### Decision dated 21.05.2020 and numbered 2020/133

The applicant alleged that her husband, who was convicted, was kept in handcuffs for 50 days in the hospital despite his serious illness, which violated the prohibition of ill-treatment. The applicant's allegations were considered within the scope of the prohibition of ill-treatment. In this respect, the petition of the applicant was sent to the addressee institution, S. Provincial Health Directorate, Provincial Gendarmerie Command and the Ministry of Justice, and asked to answer whether the situation in question still exists, and if it does, the issues that justify the situation. The answers from the institutions were conveyed to the applicant and the written opinion of the applicant was taken. In the written opinion received from the Provincial Health Directorate; It has been reported that the prisoner received the necessary care and treatment during his stay, and that there was no violation of the patient's right. In the written opinion received from the Provincial Gendarmerie Command, it was stated that in order to determine the health status of the prisoner, inpatient treatment was decided and he was admitted to the prisoner ward, that the convict was taken to the neurology intensive care unit on the grounds that he was old, could not meet his own needs, and was treated under intensive care conditions and in accordance with the provision of the Directive on the External Protection of Prisons and the Transfer and Transfer Services of Convicts and Detainees, "When necessary, handcuffs can be worn to prevent escaping without harming the health of convicts and detainees," handcuffs were worn only to prevent fleeing during the visit and the cuffs were removed after the visit. In the written opinion received from the General Directorate of Prisons and Detention Houses of the Ministry of Justice, It has been reported that the prisoner was registered in the S.. Closed Prison, but was transferred to the hospital without being admitted to the institution due to health problems and in line with Article 16 of Law No. 5275, the process of "postponing the execution of the prison sentence due to illness" has been started and it was reported by the Office of the Chief Public Prosecutor that the prison sentence of the convict was postponed due to the fact that "the convict cannot lead his life alone and the execution of his sentence is life-threatening".

As a result of its examination and research, HREIT determined that the prisoner was handcuffed to the bed in one hand during the entire time he was kept in the intensive care unit and emphasized that it was not appropriate for the ordinary flow of life for an elderly patient, who was diagnosed with Alzheimer's disease with a medical report, whose disease was evident to be continuous and progressive, who could not walk without the support of others, to escape from the intensive care unit, which was under the supervision of the gendarmerie personnel. In addition,



it was stated that in case the prisoner harms himself or someone else, this problem can be solved by fixing him to the bed with fixing bands by the health personnel. Although there is no evidence that there was an absolute intention to humiliate or contempt the prisoner, HREIT considered it disproportionate and incompatible with human dignity for the prisoner who was seriously neurologically and physically ill and for whom it was decided to postpone the execution of his sentence due to his severe illness, to be handcuffed to bed for security purposes based on grounds such as fleeing. Considering all these issues, HREIT decided that the prohibition of ill-treatment had been violated.

## **5.4.2. Justified Inadmissibility Decisions**

### **Decision dated 21.05.2020 and numbered 2020/132**

The applicant claimed that he had neck and lumbar hernia problems, that the medications he wanted were not prescribed by the doctor in the neurology outpatient clinic, where he was last referred, that he was in pain because he could not prescribe the medication he wanted, and that his grievances were not resolved. The applicant's allegations were sent to the addressee institution, B. High Security Closed Penitentiary Institution, and asked to be answered. With the letter dated 31.12.2019 and numbered 2019/11169 by the Addressee Institution, the applicant's allegations were responded to and the relevant information documents and examination records were sent to our Institution. When the allegations of the applicant's attorney and the replies of the penitentiary institution are examined and evaluated together with the provisions of the current legislation; even though the applicant claimed that the necessary treatment was not given in the penitentiary institution where he was located, and that the drugs he requested were not prescribed in the hospitals to which he was transferred last, causing him pain and suffering; examinations and tests were performed more than once in the infirmary of the institution he stayed in and the hospital to which he was transferred, and the doctors applied the necessary treatments, that the applicant's right to access health care was not hindered, as it was understood from all the hospital referral and examination records of the relevant person and the prescriptions sent by the addressee institution, examinations and treatments were carried out at different times both in the institution's infirmary and in the hospitals, the relevant physician had discretion regarding the drugs to be prescribed by the specialist physician, and no intervention can be made in this regard, the physical therapy deemed necessary due to the applicant's illnesses was applied and the drugs were prescribed to him, as a result, the applicant's allegations that he was not treated and that he was victimized were manifestly ill-founded and according to Article 67 of the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye, the application is inadmissible.

#### **Decision dated 10.03.2020 and numbered 2020 / 64**

The applicant requested that legal proceedings be initiated due to the fact that he had injured his ankle during sports activities in the prison where he was held, the transfer to the hospital was delayed as part of his treatment and the crutches approved by the doctor after the examination were not given to him. Regarding the allegations and demands of the applicant, correspondence was made with the A.. Closed Penitentiary Institution Directorate and the A.. Chief Public Prosecutor's Office, and it was requested to send the information, documents and evaluations of the allegations in the application petition to our Institution. The said institutions submitted their opinions, including the relevant information, documents and evaluations, to our Institution.

In the examination made on the file, it was understood that the first intervention of the applicant was made immediately by the health personnel, the necessary treatment was applied, and as a result of the examination made at the A.. State Hospital Orthopedic Polyclinic, the crutches were delivered to the applicant, in addition, the Office of the Chief Public Prosecutor launched an investigation for the crime of "Preventing the Use of Rights of the Convict or Prisoner" within the scope of Article 268 of the Turkish Penal Code and as a result of the investigation, it was understood that the convict's treatment process was completely fulfilled and it was understood that the crutches were handed over to him, it was decided that there was no need for prosecution on the grounds that the officials of the institution did not negligently result in the prevention of the use of rights and the application was related to a dispute decided by the judicial organs, so it did not fall within the scope of the National Preventive Mechanism task stated in subparagraph (i) of the first paragraph of Article 9 of the Law, and that it also did not meet the conditions in Article 17 of the Law, therefore, the application was declared inadmissible.

### **5.4.3. Conciliation Decisions**

#### **Decision dated 07.01.2020 and numbered 2020 / 6**

The applicant, who was held in the K... Closed Penitentiary Institution, said that he has been detained for 29 months, that his child resides in the city of D., and that his wife is being held in the D... and claimed that he had not been able to meet with his wife and child for a long time, and requested that necessary actions be taken regarding his request to be transferred to the D... Closed Penitentiary Institution. The application was forwarded to the Ministry of Justice General Directorate of Prisons and Detention Houses for a written opinion. In the written opinion of the General Directorate of Prisons and Detention Houses of the Ministry of Justice, it was reported that the request for transfer to the D... Closed Penitentiary Institution, where the applicant's spouse is located, was approved by the General Directorate's letter dated 24.05.2019 and the reply letter was sent to the Kayseri Chief Public Prosecutor's Office to be notified.

As a result of the examinations and evaluations made, it has been understood that the transfer request, which is the subject of the application, has been fulfilled by the addressee and for this reason, the issue of claim and demand has disappeared in accordance with Article 18 of the Law on the Human Rights and Equality Institution of Türkiye and Article 71 of the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye and since the application has been concluded with conciliation, it was decided to conclude the application with a conciliation decision.

**Decision dated 14.01.2020 and numbered 2020 / 9**

The applicant stated that he had lodged a complaint with the 1st Execution Judge regarding the visitor lists in the penitentiary where he was held, and his complaint was dismissed thereupon, stated that he objected to the 1st High Criminal Court and that his objection was also rejected and that these decisions given by the relevant Execution Judge and the Heavy Penal Court were unlawful, and he was examined by the General Surgery Polyclinic of A Penal Institutions Campus State Hospital on 19.02.2019 due to the fat glands (lipoma) that continued to increase in his body and as a result of the examination, he stated that he was prescribed "cherry stalk, corn silk, goldengrass, nettle and rosemary teas" by the doctor however, his request was not met even though he repeatedly requested it from the relevant unit of the penitentiary institution therefore, he claimed that his right to access to health was violated. In the application petition, no information was found about whether a request was made from the relevant party to correct the alleged application before the application was made to our Institution. In this context, in accordance with the second paragraph of Article 49 of the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye published in the Official Gazette dated 24.11.2017 and numbered 30250, the submission decision dated 11.04.2019 was notified to the applicant and the addressee institution, Sincan No. 2 F Type High Security Closed Penitentiary Institution Directorate. A second petition containing the same allegations was sent to our Institution by the applicant on 22.08.2019. As a result of the examinations and evaluations, it was understood that the applicant's request regarding herbal teas was fulfilled by the respondent party. For this reason, in accordance with Article 18 of the Law on the Human Rights and Equality Institution of Türkiye and Article 71 of the By-law on the Procedures and Principles Regarding the Implementation of the Law on the Human Rights and Equality Institution of Türkiye, since it was understood that the subject matter of the claim and demand disappeared and the application was concluded with conciliation in terms of the right to health, it was decided to conclude with a conciliation decision. It was also decided that the applicant's allegations regarding his right to respect for his private and family life could not be examined as they had been submitted to the judiciary.

#### **5.4.4. Decisions for Submission**

##### **A. C. Application was sent to the Ministry of Justice and the relevant institution directorate with the letter dated 05.02.2020 and numbered 166.**

The applicant claimed that he had not received the dental treatment he needed and that the books required for his preparation for the open education faculty exams had not been provided to him. As a result of the examination conducted by our institution, it was understood that the correction of the alleged violation of Law No. 6701 was not requested from the relevant party. For this reason, it was decided to send the application to the General Directorate of Prisons and Detention Houses of the Ministry of Justice for examination. An investigation was carried out by the Ministry of Justice General Directorate of Prisons and Detention Houses regarding the subject and in the response letter dated 16.12.2020 it was reported that the prisoner demanded "implant dental implants for aesthetic purposes", he was referred to the G. Oral and Dental Health Center Dental Polyclinic, as a result of the examination, the response was written as he is appropriate to come for screening and was informed about the treatment costs, he was referred to the Oral and Dental Health Center Dental Polyclinic on 24.02.2020, as a result of the examination, an appointment was made for re-examination on 03.03.2020, he was referred to the Oral and Dental Health Center Dental Polyclinic on 03.03.2020, the necessary inspection was carried out and the procedures continued, on 29.09.2020, the prisoner was taken to the institution infirmary upon a petition, the applicant was examined and the tooth extraction was performed, the prisoner requested open education textbooks with his petition dated 27.11.2019, the said books were provided by the institution on 09.12.2019 and delivered to him after the physical control.

With this response of the Institution, our decision was notified to the applicant on 30.11.2020 and the applicant did not submit a new application or petition to our Institution on the same issue.

##### **M. E. Application was sent to the Ministry of Justice and the relevant institution directorate with the letter dated 15.04.2020 and numbered 581.**

The applicant stated that he had a psychological disorder, had repeatedly requested an interview with a psychiatrist for treatment, but his request was not met, the administration of the institution would be responsible for this if he harmed himself or someone else, his treatment was requested to be done as soon as possible. As a result of the examination carried out by our institution, it was decided to send the application to the General Directorate of Prisons and Detention Houses of the Ministry of Justice for examination, since the application was made without requesting the correction of the application claimed to be contrary to the Law No. 6701 from the relevant party.

An investigation was carried out by the Ministry of Justice General Directorate of Prisons and Detention Houses regarding the subject and in the reply letter dated 21.08.2020, it has been reported that the prisoner was taken to the said Institution on 26.04.2018 and the first entrance examination was made, during his stay in the institution, the necessary examinations, medical workups and treatments were carried out 14 times in the institution's infirmary, 7 times in the relevant polyclinics of the State Hospital, the drugs prescribed by the physicians were supplied by the Institution Administration and given to him in full, and that the prisoner was transferred to the Psychiatry Polyclinic on 16.06.2020. however, with the petition he sent to the institution administration, he requested the postponement of the mentioned referral procedures to a later date due to the COVID-19 pandemic and his chronic illness and the referral process has been postponed, considering that hospital referrals are not made except for emergency and mandatory cases within the scope of the petition of the aforementioned person and the measures taken due to the COVID-19 pandemic. Our decision was notified to the applicant on 29.04.2020 with the reply letter from the General Directorate of Prisons and Detention Houses of the Ministry of Justice, and the applicant did not submit a new application or petition to our Institution on the same issue.



**HREIT**

HUMAN RIGHTS AND EQUALITY INSTITUTION OF TÜRKİYE

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