

**NATIONS UNIES**  
**HAUT COMMISSARIAT DES NATIONS UNIES**  
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**PROCEDURES SPECIALES DU**  
**CONSEIL DES DROITS DE L'HOMME**

**UNITED NATIONS**  
**OFFICE OF THE UNITED NATIONS**  
**HIGH COMMISSIONER FOR HUMAN RIGHTS**

**SPECIAL PROCEDURES OF THE**  
**HUMAN RIGHTS COUNCIL**

**Mandates of the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.**

REFERENCE: UA Health (2002-7) G/SO 214 (53-24)  
TUR 6/2013

24 December 2013

Excellency,

We have the honour to address you in our capacity as Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment pursuant to Human Rights Council resolutions 24/6 and 16/23.

In this connection, we would like to draw the attention of your Excellency's Government to information we have received concerning the situation of juvenile offenders detained in Sakran Juvenile Prison, Aliaga district, Izmir, Turkey.

According to the information received:

Children detained in Sakran Juvenile prison have repeatedly been subjected to torture and ill-treatment by prison guards and the prison director, including by being severely beaten, placed in solitary confinement for up to six months and subjected to denial of medical care and transfer to hospital.

It is reported that children have repeatedly been placed in so called 'observation rooms' for extended periods of time for minor incidents and for alleged disciplinary and behavioural misconduct. Children who were reportedly placed in solitary confinement for up to six months were allegedly forced to sign a document declaring that they stayed in 'observation room' for five days. It is reported that children in isolation wards were not provided with mattresses and were rarely taken out for fresh air. It is alleged that children were forced to take sleeping tablets while held in solitary confinement. It is alleged that those who have filed complaints with the local human rights organization, were reportedly forced by the prison administration to withdraw their complaints. Children have

allegedly reported incidents of sexual exploitation in the prison. No criminal investigation is known to have been instigated into the allegations of torture and ill-treatment.

Serious concern is expressed about the mental and physical well-being of children detained in Sakran Juvenile prison.

Without in any way implying any conclusion as to the facts of the case, we should like to appeal to your Excellency's Government to seek clarification of the circumstances regarding the case of the persons named above. We would like to stress that each Government has the obligation to protect the right to physical and mental integrity of all persons. This right is set forth inter alia in the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this context, and with respect to the allegations of torture and ill-treatment, we would like to draw the attention of your Excellency's Government to paragraph 1 of Human Rights Council Resolution 16/23 which "Condemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified, and calls upon all States to implement fully the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment."

With respect to the allegations according to which children were subjected to solitary confinement, we would like to draw your Excellency's Government's attention to paragraph 6 of General Comment 20 of the Human Rights Committee. It states that prolonged solitary confinement of the detained or imprisoned person may amount to acts prohibited by article 7 [on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment] of the International Covenant on Civil and Political Rights. (adopted at the 44th session of the Human Rights Committee, 1992). In this regard, we would also like to draw your attention to article 7 of the Basic Principles for the Treatment of Prisoners, which provides that "efforts addressed to the abolition of solitary confinement as a punishment, or to the restriction of its use, should be undertaken and encouraged". (adopted by the General Assembly by resolution 45/111 of 14 December 1990).

We would further like to draw the attention of your Excellency's Government to the 2013 report of the Special Rapporteur to the General Assembly, which states that "Prison regimes of solitary confinement often cause mental and physical suffering or humiliation that amounts to cruel, inhuman or degrading treatment or punishment. If used intentionally for purposes such as punishment, intimidation, coercion or obtaining information or a confession, or for any reason based on discrimination, and if the resulting pain or suffering are severe, solitary confinement even amounts to torture

(A/66/268, paras. 76, 87 and 88). Solitary confinement should be imposed, if at all, in very exceptional circumstances, as a last resort, for as short a time as possible and with established safeguards in place after obtaining the authorization of the competent authority subject to independent review.” Furthermore, “[...] [t]he imposition of solitary confinement of any duration (should be prohibited) for juveniles, persons with psychosocial disabilities or other disabilities or health conditions, pregnant women, women with infants and breastfeeding mothers (see the United Nations Rules for the Treatment of Women Prisoners, rule 22, and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, rule 67). No prisoner, including those serving life sentence and prisoners on death row, shall be held in solitary confinement merely because of the gravity of the crime.” (paras. 0, 61, A/68/295).

We would further like to draw your Excellency’s Government’s attention to article 12 of the Convention against Torture (CAT), which requires the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and article 7 of the Convention against Torture, which requires State parties to prosecute suspected perpetrators of torture. We would also like to draw your Excellency’s Government’s attention to paragraph 6b of Human Rights Council Resolution 8/8, which urges States “To take persistent, determined and effective measures to have all allegations of torture or other cruel, inhuman or degrading treatment or punishment promptly and impartially examined by the competent national authority, to hold those who encourage, order, tolerate or perpetrate acts of torture responsible, to have them brought to justice and severely punished, including the officials in charge of the place of detention where the prohibited act is found to have been committed, and to take note in this respect of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Istanbul Principles) as a useful tool in efforts to combat torture”.

We would further like to draw your Excellency’s Government’s attention to article 13 of CAT, which requires that “Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given,” and to paragraph 3 (b) of the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also known as the Istanbul Protocol, which states that, “alleged victims of torture, witnesses, those conducting the investigation and their families shall be protected from violence, threats of violence or any form of intimidation that may arise pursuant to the investigation.” (General Assembly resolution 55/89 of 4 December 2000, Doc. A/55/89, Annex).

With regard to the allegations of the denial of medical care and transfer to hospital, we would like to recall that this right is reflected, inter alia, in article 12 of the International Covenant on Economic, Social and Cultural Rights (ratified on 23 December 2003), which provides for the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. Article 24 of the Convention on the Rights of the Child, ratified on 4 April 1995, also recognizes the right of the child to health to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. This includes an obligation on the part of all State parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

In this connection, we wish to refer your Excellency's Government to General Comment No. 14 of the Committee on Economic, Social and Cultural Rights, which provides that States are under the obligation to respect the right to health by, inter alia, refraining from interfering directly or indirectly with the enjoyment of the right to health, from denying or limiting equal access for all persons, including prisoners or detainees, minorities, asylum seekers and illegal migrants, to preventative, curative and palliative health services, and from enforcing discriminatory practices as a State policy (para.34). Furthermore, we would like to draw the attention of your Excellency's Government to the General Comment No. 15 of the Committee on the Rights of the Child, which observes that children's right to health contains a set of freedoms and entitlements. The entitlements include access to a range of facilities, goods, services and conditions that provide equality of opportunity for every child to enjoy the highest attainable standard of health (para.24).

We would also like to draw the attention of your Excellency's Government to the Standard Minimum Rules for the Treatment of Prisoners. Rule 22(2) provides that, "Sick prisoners who require specialist treatment shall be transferred to specialized institutions or to civil hospitals. Where hospital facilities are provided in an institution, their equipment, furnishings and pharmaceutical supplies shall be proper for the medical care and treatment of sick prisoners, and there shall be a staff of suitable trained officers. Rule 25(1) provides that, "The medical officer shall have the care of the physical and mental health of the prisoners and should daily see all sick prisoners, all who complain of illness, and any prisoner to whom his attention is specially directed." (Approved by the Economic and Social Council by resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.) We further refer your Excellency's Government to the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), according to which the Standard Minimum Rules for the Treatment of Prisoners and related recommendations "shall be applicable as far as relevant to the treatment of juvenile offenders in institutions, including those in detention pending adjudication" (Rule 27).

We also wish to refer your Excellency's Government to the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, adopted by General Assembly resolution 43/173, which states that: "A proper medical examination shall be offered to a detained or imprisoned person as promptly as possible after his admission to the place of detention or imprisonment, and thereafter medical care and treatment shall be provided whenever necessary. This care and treatment shall be provided free of charge" (Principle 24). Furthermore, we wish to refer to the Basic Principles for the Treatment of Prisoners, adopted and proclaimed by General Assembly resolution 45/111, according to which "Prisoners shall have access to the health services available in the country without discrimination on the grounds of their legal situation" (Principle 9).

Finally, we would like to draw the attention of your Excellency's Government to the United Nations Rules for the Protection of Juveniles Deprived of their Liberty, which hold that "Every juvenile shall receive adequate medical care, both preventive and remedial, including dental, ophthalmological and mental health care, as well as pharmaceutical products and special diets as medically indicated" (Rule 49). The Rules also provide that "Every detention facility for juveniles should have immediate access to adequate medical facilities and equipment appropriate to the number and requirements of its residents and staff trained in preventive health care and the handling of medical emergencies. Every juvenile who is ill, who complains of illness or who demonstrates symptoms of physical or mental difficulties should be examined promptly by a medical officer" (Rule 51).

In view of the urgency of the matter, we would appreciate a response on the initial steps taken by your Excellency's Government to safeguard the rights of the above-mentioned persons in compliance with the above international instruments.

Moreover, it is our responsibility under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Human Rights Council, we would be grateful for your cooperation and your observations on the following matters, when relevant to the case under consideration:

1. Are the facts alleged in the summary of the case accurate?
2. Has a complaint been lodged by or on behalf of the alleged victims?
3. Please provide the details, and where available the results, of any investigation, medical examinations, and judicial or other inquiries carried out in relation to this case. If no inquiries have taken place, or if they have been inconclusive, please explain why.

4. Please provide the full details of any prosecutions which have been undertaken. Have penal, disciplinary or administrative sanctions been imposed on the alleged perpetrators?

5. Please provide information on the measures taken to ensure the safety of children detained in Sakran Juvenile Prison. Please provide information on the steps taken to abolish solitary confinement as a punishment, or to restrict its use.

6. Please provide information on the steps taken to ensure the right of juvenile offenders at the Sakran Juvenile Prison to enjoy the highest attainable standard of health, including access to medical care and medication.

We undertake to ensure that your Excellency's Government's response will be available in the report we will submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any person responsible of the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

Anand Grover

Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health

Juan E. Méndez

Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment