



SUBMISSION TO THE UN HUMAN RIGHTS COMMITTEE
WRITTEN CONTRIBUTION FOR TÜRKİYE UNDER REVIEW (2ND) CCPR
INTERNATIONAL COVENANT ON CIVIL AND POLITICAL RIGHTS
142ND SESSION (16 - 17 OCTOBER)

PREPARED BY DİYARBAKIR BAR ASSOCIATION CHILDREN'S RIGHTS CENTRE.

05.09.2024

Contact person for this report: Adv. Huriye Hamidi
E-mail: diyarbakirbarococukhaklari@gmail.com
Tel: 0533 082 60 19

About Diyarbakır Centre for Children's Rights;

Established on 12.11.2012 within the Diyarbakır Bar Association, the Centre for Children's Rights implements theoretical and practical work to recognize, protect, implement, and develop children's rights. The Centre provides counseling to children and their families within the judicial system, initiates strategic lawsuits, and conducts regular training and awareness activities. The Penitentiary and Correctional Facilities Working Group within the Centre conducts rights monitoring activities for detained and convicted juveniles. As part of this effort, advocacy work is carried out based on reports prepared from regular meetings with juveniles held in closed penitentiary institutions in Diyarbakır.

About the Report:

Through this report, the Diyarbakır Bar Association Children's Rights Centre (the Centre) shares with the UN Human Rights Committee (the Committee) the findings and recommendations from its research on juvenile females detained in the Diyarbakır Women's Closed Penitentiary¹. The purpose of the report is to inform the Committee, prior to the review of its 2nd Periodic Report, on Turkey's fulfilment of its obligations under the International Covenant on Civil and Political Rights (the Covenant) with respect to juvenile female in detention and imprisonment.

In preparing the report, the Centre took into account the Committee's previous concluding observations on Turkey and the list of issues to be addressed before the submission of Turkey's 2nd Periodic Report (LOIPR)². In addition, the Centre also took into account the concluding observations on Turkey published by the United Nations Committee on the Rights of the Child (UNCRC) on 2 June 2023 , which are relevant to the Covenant. The report adopts a "thematic" review approach for a comprehensive analysis of compliance with the provisions of the Covenant. The requests and recommendations in this context are included in the relevant sections.

In the light of this structuring, the following table of contents has been prepared to facilitate understanding for the reader:

¹ **Diyarbakır Bar Association Children's Rights Centre**, Report on Rights Violations and Conditions of Detention of Juvenile Females Detained in Diyarbakır Women's Closed Penitentiary Institution , 24.01.2024

<https://www.diyarbakirbarosu.org.tr/public/uploads/document/cocukraporson-1707240705.pdf>

² CRC/C/TUR/CO/4-5

Contents

About the Report:	1
Contents	2
1. General Framework	3
2. Methodology	4
3. Prohibition of torture and cruel, inhuman or degrading treatment or punishment (Article 7)	4
Strip searches and effective investigation	4
National preventive mechanisms in the fight against torture	6
Training of staff.....	7
4. The right to liberty and security of person (Article 9)	8
5. Conditions of detention (Article 10)	9
Classification and Lack of Detention Facilities Specifically to Juvenile Females	10
Children's Educational and Recreational Activities	11
Children's Relations with the Outside World	12
Conditions of the Institutions	13
Health	13
6. Right to access to justice and fair trial (Article 14)	14

1. General Framework

1. Although detained and convicted juvenile females in Turkey are deeply affected by the problems related to the justice system, the amount of work and studies carried out on these children is extremely limited. According to the statements of the Ministry of Justice, as of 1 August 2024, there are 146 juvenile females in execution institutions, 93 of whom are detained and 53 of whom are convicted. For juvenile males, the number of detainees is 2,056 and the number of convicts is 1,050³. Age and gender disaggregated statistical data on detained and convicted children is limited to these.
2. The most important information about detained and convicted juvenile females is related to the institutions where they are held. Since there is currently no institution specialised for juvenile females in detention, it is observed that the physical and psycho-social needs of juvenile females cannot be met and they are subjected to many violations of rights, especially gender-based discrimination, in the execution institutions where they are held, which has been presented more comprehensively in the subsequent sections of this report. During the interviews conducted by the Centre with detained juvenile females, situations that constitute torture and ill-treatment in connection with the conditions of detention were encountered; it was understood that detailed (strip) searches are routinely applied, complaints against this violation of rights are not investigated effectively, children have difficulties in accessing education, entertainment and health-related rights in a way that negatively affects their development, their relations with the outside world are restricted and their right to a fair trial is violated.
3. In addition to these, the two major earthquake disasters that hit the eastern and south-eastern provinces of Turkey on 6 February 2023, killing 53,207 people according to official data, also had negative effects on juvenile females in detention and imprisonment. Diyarbakır was among the 11 provinces affected by the earthquakes. When the members of the Centre interviewed children in Diyarbakır Juvenile and Youth Closed Penitentiary Institution immediately after the earthquakes, they found that the officials were late in communicating with the children, that the children were not sufficiently informed, that they were kept in closed areas even though they were very afraid, and that they did not hear from their families for a while. In addition, children in the Juvenile and Youth Closed Penal Execution Institution in Hatay, one of the provinces most affected by the earthquake, were transferred to Samsun, a distant city, and this happened without the juveniles receiving any psycho-social care, without being informed, and being kept in the cold for hours⁴. All these show that juvenile penal execution institutions do not have a plan for crisis periods and this lack of a plan leads to various violations of rights. Turkey urgently needs to develop policies to protect the rights of detained and convicted children in times of crisis.
4. In the following sections of the report, the findings and recommendations arising from the interviews and the desk research carried out by the Centre will be shared under the relevant headings.

³ Related statistics: <https://cte.adalet.gov.tr/Resimler/Dokuman/2082024164650istatistik-5.pdf>

⁴ Children's Freedom Foundation of Turkey, Earthquake and Child Prisoners Preliminary Research Report, August 2023. Online: https://www.tcyov.org/wp-content/uploads/2023/08/Deprem-ve-%C3%87ocuk-Mahpuslar-%C3%96n-Ara%C5%9Ft%C4%B1rma-Raporu_TCYOV.pdf

2. Methodology

5. This report, submitted for the information of the Committee, contains the findings of 15 interviews carried out with 9 juvenile females detained in Diyarbakır Women's Closed Penitentiary Institution between September 2023 and January 2024, as well as the results of desk research⁵. The interviews were conducted by 2 competent lawyers, at least 1 of whom was a woman. The outputs of the interviews were anonymised and their contents were analysed and turned into a report.

3. Prohibition of torture and cruel, inhuman or degrading treatment or punishment (Article 7)

6. Article 7 of the Covenant on the prohibition of torture also imposes the obligations for the investigation of acts of torture, the establishment of effective oversight mechanisms, the training of law enforcement officials and the provision of effective legal remedies to victims. In its previous concluding observations on Turkey dated 13 November 2012, the Committee criticised the high number of allegations of torture and ill-treatment, the low number of prosecutions and the lack of an independent complaints mechanism (Paragraph 14)⁶. This issue was again included in the list of issues to be addressed before the submission of the 2nd Periodic Report (paragraph 10)⁷. In the light of this information, this section will present the Centre's findings and recommendations on the prohibition of torture.

Strip searches and effective investigation

7. During the interviews conducted by the Centre with detained juvenile females, it was learned that 4 out of 9 juvenile females were subjected to strip searches in the institution. In their statements, the juvenile females stated that the search was carried out during the entrance to the penitentiary institution, that they were not given an explanation as to the reason for the search, that they had to take off all their clothes, that they were not given a single gown, that the search was carried out by the correctional officers, that they were asked to sit down and stand up, and that the same was demanded from their other friends in the institution. The children's testimonies show that strip searches in Diyarbakır Women's Closed Penitentiary Institution are unjustified, unlawful, systematic and routine.
8. On 12.11.2021, Article 34 of the relevant Regulation⁸ which deals with strip searches has been amended; the phrase "*in the presence of serious indications and in the event that it is impossible to determine this in any other way,*" was added and the phrase "*strip*" was replaced with "*detailed*"⁹. However, as can be seen from the interviews conducted by the

⁵ Diyarbakır Bar Association Child Rights Centre, Report on Rights Violations and Conditions of Detention of Juvenile Females Detained in Diyarbakır Women's Closed Penitentiary Institution, 24.01.2024 Online: <https://www.diyarbakirbarosu.org.tr/public/uploads/document/cocukraporson-1707240705.pdf>

⁶ CCPR/C/TUR/CO/1

⁷ CCPR /C/TUR/QPR/2

⁸ Regulation on the Administration of Penitentiary Institutions and Execution of Criminal and Security Measures, Official Gazette dated 29.03.2020 and numbered 31083.

⁹ Article 34 of the Regulation on the Administration of Penitentiary Institutions and Execution of Criminal and Security Measures was amended by Article 14 of the Presidential Decree No. 4773 published in the Official Gazette dated 12/11/2021 and numbered 31657.

Centre, this amendment was not sufficient to prevent violations of rights in practice. The regulation on strip searches is applied to all convicts and detainees and there is no special regulation for children.

9. During the interviews conducted by the Centre in the execution institution, upon the request of the juvenile females for legal support, the Diyarbakır Bar Association filed a criminal complaint regarding the strip searches, demanded that the suspects be suspended from duty during the investigation and that the investigation be carried out by taking special precautions in consideration of the safety of the children¹⁰. Subsequently, Diyarbakır Chief Public Prosecutor's Office requested an explanation from the Institution. In its response, the Penitentiary Institution stated that searches are carried out with reference to the relevant article of the law, and that searches are carried out not only during admission to the institution but also in cases where detainees or convicts need to leave the institution (hospital, hearing, infirmary, ward change, etc.), and that the searches do not violate human dignity and the law. The Diyarbakır Chief Public Prosecutor's Office, without further action, relied on the institution's report, concluded that no criminal elements were found and issued a decision of non-investigation. According to the relevant regulation, this type of decision is given when it is clear that the act subject to the denunciation or complaint does not constitute an offence, without the need for any further investigation, or when the denunciation or complaint is abstract and general in nature¹¹. The described situation means that investigations are carried out together with the suspects, but it also results in a clear impunity as the denunciations are not taken seriously, and carries the risk of routinising and standardizing the practices that violate rights. As a result, it is seen that the state of vulnerability created by the deprivation of liberty of juvenile females is further deepened by unlawful strip searches. Contrary to the recommendations in the concluding observations, the allegations of the Bar Association were not investigated, the information provided by the suspects was sufficient, the persons concerned were not prosecuted and punished, they were not temporarily suspended from their duties despite working in the same execution institution with the juvenile females, they were kept on duty and the children were exposed to the risk of reprisals.

Recommendation:

10. In order to prevent, effectively investigate and punish torture and ill-treatment in institutions where detained and convicted children are held, child-friendly application mechanisms should be established and independent monitoring institutions should be vested with legal guarantees. During investigations, precautionary mechanisms should be put in place to ensure that suspects are temporarily suspended from duty and to protect and empower children from reprisals. Strip searches of children should be separately regulated in the law and be especially prevented.

¹⁰ Notice No: 2024/267, Decision No: 2024/444 on Non-Investigation

¹¹ Article 158 of the Code of Criminal Procedure No. 5271

National preventive mechanisms in the fight against torture

11. In addition to the Committee's emphasis on independent oversight in its previous concluding observations and list of questions, the UNCRC has also recommended that practices of monitoring of places where children are deprived of their liberty should be strengthened and that visits by the national preventive mechanism should be periodic¹².
12. In its 2nd Periodic Report, the Government of Turkey mentioned the Ombudsman's Office (KDK) and the Human Rights and Equality Institution of Turkey (TIHEK), which were established to serve the purpose of an independent and effective complaint mechanism. Although the Periodic Report gives extensive coverage to the work of TIHEK and KDK, the juvenile females interviewed at Diyarbakır Women's Penitentiary Institution for Execution of Sentences stated that they were not informed about these institutions to which they could apply regarding the injustices they were subjected to. Moreover, when the reports and decisions of both institutions are analysed, it is understood that sufficient attention is not paid to the execution institutions where women and juvenile females under arrest and conviction are held.
13. It is also necessary to evaluate the accessibility as well as the effectiveness of these institutions. The Centre made an application to the Human Rights and Equality Institution of Turkey and the Ombudsman's Office with the report on violations of rights of children in Diyarbakır Children and Youth Closed Penitentiary Institution, which was prepared and shared with the public on 10.09.2021. In the application, it was stated that children were subjected to physical and psychological violence, ill-treatment, degrading behaviours and threats in the institution; and their right to nutrition, right to health and treatment, right to communication and communication, right to education and social rights were violated. As a result of the application, TIHEK did not notify the Diyarbakır Bar Association and did not even provide information about the outcome of the application. The KDK, on the other hand, posed questions to the Ministry of Justice after the application, and then issued a "Friendly Settlement Decision", contenting itself with the answers of the Ministry of Justice that consists of printed and legislative provisions. In addition, as far as it is learnt from the website of the CSAC, the Diyarbakır Juvenile and Youth Closed Penitentiary Institution was visited after the application¹³. However, no contact was established with the Bar Association. As a result, the applications were not effective and no remedial and concrete action was taken to prevent violations of rights.
14. Looking at the decisions of the KDK, it is possible to say that although it is an institution to which children can directly apply, few children apply to the KDK, the mechanism is not widely known, it is limited in terms of accessibility, there are many applications from penitentiary institutions, but there are very few recommendation and friendly settlement decisions¹⁴. Again, when we look at the reports published so far by the KDK, which has the

¹² CRC/C/TUR/CO/4-5, paragraph 50/h

¹³ <https://www.kdkcocuk.gov.tr/karar-cocuk-adalet-sisteminde-infaz-kosullarinin-incelenmesi>

¹⁴ When the Annual Report of the Ombudsman Institution for the year 2023 is analysed; 19.317 applications were made, 6.570 Referral Decisions were made, 5.407 Decisions of Inexaminability were made, 1.386 Friendly Settlement Decisions were made, 1.384 Recommendation Decisions were made, 1.066 Rejection Decisions were

authority to issue special reports, it is noteworthy that no special report has been prepared on matters of widespread human rights violations in Turkey¹⁵.

15. Another issue that should be brought to the Committee's attention is the language inclusiveness of these two institutions. Neither organisation provides services in Kurdish, the mother tongue of the vast majority of children in Diyarbakır.

Recommendations:

16. Legal guarantees should be put in place to ensure that bar associations and non-governmental organisations can make regular and unannounced visits to institutions where detained and convicted children are held.
17. It should be ensured that the awareness regarding KDK and TIHEK is widespread among detained and convicted children, that children are informed about these institutions in a language they can understand, and that application forms and decision texts are prepared in languages other than the official language.
18. Both institutions should more frequently use their powers to conduct on-site inspections and prepare reports, taking into account the institutions where juvenile females in detention and conviction are held.

Training of staff

19. One of the main obligations of the state in relation to the prohibition of torture is the training of the relevant officials. However, as a result of the interviews with the detained juvenile females, it was understood that the correctional officers treated the children as adults and did not take into account their needs arising from their gender.
20. Again during the interviews, according to the statements of 5 out of 9 children, it was understood that the correctional officers did not intervene in the incidents between the children for a long time, and when they did intervene, they insulted the children, separated the children by twisting them by their arms or pulling them tightly in a way to cause bruises on their bodies, and sometimes used handcuffs in these situations.
21. Considering all the violations of rights mentioned in the report and caused by the employees of the institution, it is concluded that there is a deficiency in the training of the correction officers on the prohibition of torture and ill-treatment, children's rights, communication with children and gender equality.
22. Although it was reported in the Report No. 2023/41 of the Human Rights and Equality Board of Turkey on the Visit to Diyarbakır Children and Youth Closed Penitentiary Institution No. 2023/41 that the staff of the institution received various trainings, it was determined that *"the staff working in the institution did not receive human rights training, interpersonal communication and special training on the prohibition of torture and ill-treatment"*¹⁶.

made, 588 Partially Recommendation Partially Rejection Decisions were made, 152 people from the 0-18 age group (children) made applications, 223 applications were made on children's rights, 1.629 applications were made on the activities of penal execution institutions. Online: <https://www.ombudsman.gov.tr/Yayinlarimiz/YillikRapor>

¹⁵ For special reports of the Ombudsman's Office, see: <https://www.kdk.gov.tr/Yayinlarimiz/OzelRaporlar>

¹⁶ <https://www.tihek.gov.tr/public/images/kararlar/cyw2ad.pdf>

Recommendations:

23. All administrators and staff working in the execution system should participate in training programmes on children's rights, gender equality and human rights with impact assessment, those who have not successfully completed these trainings should not work in institutions where children are held, the continuity of trainings should be ensured and supervision mechanisms should be developed for staff. In addition, officials in the juvenile justice system should also undergo comprehensive training.
24. The use of handcuffs and coercive devices, which are subject to arbitrary practices in execution institutions, should also be legally prohibited¹⁷.

4. The right to liberty and security of person (Article 9)

25. In its previous concluding observations, the Committee has expressed concern at the widespread use of prolonged pre-trial detention, which has led to the problem of the overcrowding of penitentiary institutions, and has recommended that the legal duration of pre-trial detention be shortened and used only as an exceptional measure. The list of questions also referred to the capacity of the penitentiary institution system, the number of inmates and the use of prolonged solitary confinement. In this section, the overall picture yielded by the desk research in accordance with the relevant article of the Covenant will be explained.
26. First of all, it should be noted that information on the number of children against whom arrest warrants have been issued in Turkey is not disclosed. However, as stated in the concluding observations of the UNCRC, disaggregated data should be disclosed and the existing data system should be improved in order to facilitate the analysis of the situation of children in vulnerable situations¹⁸.
27. The prohibition of arrest for children in Turkey has a very limited structure. Although the starting age of criminal responsibility is 12 years old, it is regulated that no arrest warrant can be issued for children under the age of 15 for acts that require imprisonment with an upper limit of imprisonment not exceeding five years¹⁹. This article may lead to arbitrary practices since the type of offence and the amount of punishment have not yet been determined and the upper limit of 5 years is very limited, and children as young as 12 years of age may be arrested.
28. In the Human Rights Action Plan, which was announced in 2021 and widely covered in the 2nd Periodic Report, it was announced that child-specific protection mechanisms would be developed in order to prevent the first-time offences committed by children under the age of 15, except for some serious offences, from being subject to investigation, and that these arrangements would be implemented within 2 years²⁰. In the intervening period, the specified changes have not been made and the risk of arrest of children under the age of 15 has continued.

¹⁷ Article 50, paragraph 2 of Law No. 5275 on the Execution of Sentences and Security Measures should be amended to read "This article does not apply to juvenile detainees and convicts".

¹⁸ CRC/C/TUR/CO/4-5, Paragraph 12

¹⁹ Child Protection Law No. 5395 Article 21

²⁰ <https://insanhaklarieylemplani.adalet.gov.tr/resimler/insanhaklarieylemplani-ENG.pdf>, Activities 8.1.h.

29. In addition to Article 9 of the Covenant, Article 37, paragraph 2 of the United Nations Convention on the Rights of the Child (UNCRC) stipulates that "*The arrest, detention or imprisonment of a child shall be in accordance with the law and shall only be considered as a measure of last resort and shall be limited to the shortest appropriate period of time.*" The Child Protection Law in Turkey only includes the principle of "last resort"; the Law does not include the statement that the deprivation of liberty of children shall be limited to the shortest period of time²¹.
30. As we have mentioned in the section on conditions of detention, the institutions in Turkey where children in pre-trial detention and convicted children are held differ greatly. While children under precautionary detention, whose sentences have not yet been finalised, are held in closed institutions, convicted children, whose sentences have been finalised, are held in open educational institutions and can benefit from formal education rights. This situation creates a serious injustice for children whose sentences have not yet been finalised. Considering the length of the trial periods, it is also understood that many children turn 18 before their sentences are finalised and therefore cannot benefit from education centres at all.
31. Although Article 67 of the United Nations Rules for the Protection of Children (Havana Rules) states that confinement of children in a single room is strictly prohibited, in Turkey, confinement to a room is legally available for children, this regulation is contrary to children's rights and has extremely negative effects on the development of children who are already confined²².

Recommendations:

32. Disaggregated data on detained and convicted children, including age, gender, disability, geographical location and socio-economic background, should be kept and updated. The age of criminal responsibility should be raised to 14²³ and the prohibition of detention should be extended to children. Regulations should be introduced to ensure that measures depriving children of their liberty are applied for the shortest period of time. Detained children should be kept in special education centres which facilitate as open penitentiary institutions like convicted children. By amending the relevant law, the punishment of confinement to a room for children should be abolished.

5. Conditions of detention (Article 10)

33. The Covenant guarantees that children should be kept as separate from adults and treated in a manner appropriate to their age and legal status. In its previous concluding observations on Turkey, the Committee expressed concern about overcrowding in penitentiary institutions, conditions of detention and problems with prisoners' access to health care, and recommended concrete steps to improve conditions in penitentiary institutions and detention facilities and the wider application of alternative sentences other than imprisonment²⁴. In its concluding observations on Turkey, the UNCRC also recommended

²¹ Child Protection Law No. 5395 Article 4/1-i

²² Article 46, paragraph 9 of the Law No. 5275 on the Execution of Criminal and Security Measures

²³ CRC/C/TUR/CO/4-5, paragraph 50/b

²⁴ CCPR/C/TUR/CO/1, paragraph 18

that children deprived of their liberty should not be detained with adults and that conditions of detention should be in line with international standards, including access to education and health care²⁵. In this section of the report, violations of the rights of juvenile females in detention under institutional conditions will be analysed.

Classification and Lack of Detention Facilities Specifically to Juvenile Females

34. In Turkey, there are 9 closed penitentiary institutions for detained children and 4 open institutions for convicted children²⁶. There is no institution specialised for detained juvenile females, while there is only 1 institution for convicted children across the country.
35. The relevant Law stipulates that detained children shall be placed firstly in Children and Youth Closed Penitentiary Execution Institutions specialised for them, and in the absence of such institutions, in the sections of closed penal execution institutions reserved for children. Accordingly, in the absence of separate sections in institutions, juvenile females shall be accommodated in a section of women's closed penal execution institutions or in the sections allocated to them in other closed penal execution institutions²⁷. Juvenile females who experience the difficulties of being both women and children intersectionally within the execution system are held either in the sections allocated for children in women's penitentiary institutions or in the sections allocated for children in the sections allocated for women in men's penitentiary institutions since there are no closed institutions specialised for them. This situation leads to disregarding the physical and psycho-social needs of juvenile females in execution institutions, which will be explained in more detail in the following sections, and exposing them to practices that constitute gender-based discrimination.
36. As a result of the interviews conducted by the Centre between September 2023 and January 2024, it was understood that the number of wards allocated for children in Diyarbakır Women's Closed Penitentiary Institution was 2 and the number of children in the wards varied between 2 and 6. It is known that juvenile females kept in wards are kept alone for a long time until a child comes to them or that the institution administration changes the wards of the children when there is violence between peers in the same ward. If this method is applied, keeping the child alone in a ward creates the risk of isolation conditions.
37. In addition to all these, as a result of the monitoring work carried out by the Centre in Diyarbakır, it was determined that a significant number of children in the Penitentiary Institution returned to the Institution with the measure of arrest after their release, and 2 out of a total of 9 juvenile females interviewed between September 2023 and January 2024 were arrested after their release and returned to the institution. The arrest of children is not applied as a last resort, and when they are arrested, it is not possible for them to benefit from a support that will ensure their reintegration into society, and the lack of alternative measures leads to the recurrence of juvenile criminality.

²⁵ CRC/C/TUR/CO/4-5, paragraph 50/g

²⁶ <https://cte.adalet.gov.tr/Home/SayfaDetay/cik-genel-bilgi>

²⁷ Articles 10 and 11 of the Law No. 5275 on the Execution of Criminal and Security Measures.

Recommendation:

38. It should be ensured that detained and convicted children are kept in institutions that are unique to them and staffed by administrators and officers with expertise in working with children. In order to prevent incidents of peer-on-peer violence, support mechanisms that can solve the problem with pedagogical methods other than physical force and isolation should be established. In addition, restorative justice measures should be developed for children. Alternative measures to detention should be preferred for children, arrested children should benefit from educational centres like convicted children, gender-sensitive policies should be developed to ensure the safe return of children to society after their release.

Children's Educational and Recreational Activities

39. In line with the information obtained after the interviews with juvenile females, it has been determined that juvenile females are not allowed to benefit from the activities carried out in the institution, that the activities carried out are not organised in a way specific to juvenile females, and that they experience much greater limitations in accessing their rights compared to boys held in the Juvenile and Youth Closed Penitentiary Institution.
40. During these interviews, it was understood that juvenile females could not benefit from educational, social and sports activities sufficiently due to their stay in an adult institution. There is no playroom in the Women's Closed Penitentiary Institution, and when juvenile females request to go to the playroom, they are told by the correctional officers, *"Are you a child? You are not a child, you are a woman."* It was reported that there are painting, saz, folklore, hairdresser courses in the institution, although the juvenile females wrote a petition to attend the courses, they were not taken to the courses, they could not get a response from the education unit, the officers said that these activities were for adults, upon their insistent demands, they were taken to 1 activity a week, there are sports activities in the institution for 1 hour 1 day a week, but the officers limit the sports time due to workload, and the sports equipment is insufficient.
41. Another issue that emerged during the interview was about juvenile females' access to books. The children stated that they were not taken to the library, that they could get the books they wanted to read by indicating the code and name of the books they wanted to read, that the books they could choose could be at most 2 books, that the variety of books was insufficient, that there were no children's books, and that they wanted fairy tales and picture novels to be included in the list.
42. In summary, it is understood that the juvenile females detained in Diyarbakır Women's Closed Penitentiary Institution were not allowed to benefit from activities, courses and events for approximately 4 months and 2 weeks on the pretext that they were not adults. It was assessed that the limited number of activities they participated in were not directly specific to children and that the relevant trainers did not have any expertise in children's rights.
43. Another dimension of the aforementioned situation is the content of the activities organised in women's penitentiary institutions. In the report prepared by TIHEK after its monitoring

visits to women's penitentiary institutions, it was stated that *"hairdressing, felt accessories, traditional hand embroidery, sewing of men's underwear, sewing of children's outer garments, painting, traditional folk dances and first level literacy courses"* were offered in Tarsus Women's Closed Penitentiary Institution where 378 women detainees and convicts reside, 6 of whom were juvenile females²⁸. It is observed that these courses offered at the institution are limited to skills that reproduce and reinforce gender roles and that women are not supported in areas such as science and technology.

44. Although it is stated in the Human Rights Action Plan quoted in the 2nd Periodic Report of Turkey that convicted and detained children in penitentiary institutions will be ensured to benefit more from physical activities such as games, sports and youth camps, it is understood that this plan is still not reflected in practice.

Recommendation:

45. It should be ensured that juvenile females in women's institutions regularly benefit from education, recreational activities, sports activities and the library, and content suitable for children's development should be disseminated within the institution by trainers and administrators with expertise in working with children. The training and activities to be provided to juvenile females should not be limited to training that will reproduce and reinforce gender roles, and a variety of courses such as computer usage, accounting, financial literacy, agriculture should be provided in addition to the existing activities.

Children's Relations with the Outside World

46. Another dimension that emerged during the interviews with detained juvenile females is related to children's relations with the outside world.
47. The children stated that their right to communicate by telephone is 60 minutes per week if they have open visits, and 120 minutes if they do not have open visit visitors. They stated that this period could be used for a maximum of 10 minutes in 12 and 6 rights, that their telephone time was not sufficient, that they frequently experienced technical malfunctions and connection problems, that many of them waited for a long time for letters to be sent and brought, that there were problems in the delivery of letters, and that the institution prevented the photographs given to them by the visitors during open visits from being taken inside. Restriction of children's communication via telephone and letters by the institution, negligence in this regard, restriction of legal regulations in a way that is not suitable for children, violate children's right to respect for private and family life.
48. In addition to the problems in meeting with the family, some of the children interviewed stated that there is no television in the ward, and in the wards where there is a television, the number of channels on the television is very few, and there are no channels that will attract children's interest; many children could not access the radio, and the reason was that the price of the radio sold in the canteen was high. Children's right to communicate with the outside world is harmed by these practices.

Recommendation:

²⁸ <https://www.tihk.gov.tr/public/images/kararlar/s7c9ec.pdf>

49. It should be ensured that the time allocations specified for children's telephone calls are extended, the technical problems they experience during calls are solved, communication by letter is carried out in a way that respects their private lives, and all children are provided with television and radio broadcasts appropriate to their age and development.

Conditions of the Institutions

50. During the interviews with the detained juvenile females, the problems of hygiene and access to adequate food came to the fore. According to the interviews, the institution is not sufficiently heated, the ventilation is not clean, there is not enough dishwashing detergent, liquid soap, shampoo, detergent and hygienic pads in the institution, meals are not prepared according to hygiene conditions; seasonal fruit and similar supplementary foods are not provided; menus specific to children in need of special diets are not created, special conditions of children are not taken into consideration in the distribution of meals, meals suitable for the taste of children are not prepared, breakfast is not included, canteen prices are high, there are no desired products in the canteen, families with low socio-economic status cannot meet their needs from the canteen because they cannot provide financial support to their children. It has been determined that the administration does not provide sufficient products for ward cleaning and personal hygiene and that the canteen prices are very high, and that the children who are locked up experience hygiene problems and menstrual poverty.
51. Regarding TIHEK's reports on women's execution institutions, it was stated that in Ordu²⁹, where 4 juvenile females were kept, and in Tarsus³⁰, where 6 children were kept, there were heating problems and women with lack of clothes.

Recommendation:

52. Food, heating, ventilation and clothing facilities should be structured according to the needs of children and women, taking into account seasonal and geographical conditions; hygiene kits containing adequate and high quality products should be distributed regularly and free of charge to each detainee in the institution; and the cleaning of the wards should be ensured regularly by the administration. In addition, access to safe, clean and private toilets, hygienic products, waste systems, clean and hot water and trained staff should be provided in order to overcome menstrual hygiene problems in women's institutions. Legal arrangements should be made on these issues and staff trainings should be planned.

Health

53. During the interviews with the detained juvenile females, it was determined that the juvenile females had difficulties in accessing treatment, that they were allowed to go to the infirmary once a month, that they were not taken to the infirmary when they wanted to go for the second time, that the correctional officers were with them or in front of the door during the examination, that the doctor of the institution did not examine the children and gave them medication, that the medication of the children who needed medication was delivered too late, and that a child who needed glasses could not buy eye glasses due to their high prices.

²⁹ <https://www.tihek.gov.tr/public/images/kararlar/6063D5.pdf>

³⁰ <https://www.tihek.gov.tr/public/images/kararlar/s7c9ec.pdf>

54. These problems of access to health services identified by the Centre are also reflected in TIHEK reports on women's penitentiary institutions³¹.

Recommendation:

55. A sufficient number of doctors should be employed in the institution to meet the needs of the current population, routine health checks of children should be carried out with due regard for their privacy, prescribed medicines should be delivered to children in a timely manner, and the treatment of children with chronic diseases should be monitored.

6. Right to access to justice and fair trial (Article 14)

56. Article 14 of the Covenant is based on the judicial procedure to promote the age and rehabilitation of children. In its concluding observations, the UNCAC recommended the strengthening of the juvenile justice system, the expansion of the geographical scope of specialised juvenile courts, the systematic provision of comprehensive training for all professionals involved in cases involving children³². It also criticised Turkey for systematic quality problems in legal aid for children. In this section, the picture revealed by the desk research in accordance with the relevant article of the Covenant will be explained³³.

57. When the justice statistics are analysed, it is seen that the number of children dragged into crime in the total number of files in criminal courts in 2023 was 166.152³⁴. However, when a distinction is made according to court types, it is understood that the total number of children dragged into crime tried in juvenile penal courts and juvenile assize courts is 85.382 (72.276 in juvenile courts and 13.106 in juvenile assize courts)³⁵. This data reveals that 80.770 children were tried in the criminal courts of first instance and assize courts. In other words, almost half of the children dragged into crime are tried in adult criminal courts of first instance and assize courts since there are no ordinary and assize courts for juveniles in that location. These statistics show that the organisation of juvenile courts in Turkey is not sufficient.

58. According to the Human Rights Action Plan included in the Periodic Report, although it was stated that within 6 months the courtrooms in juvenile courts would be designed to be child-friendly and that judges, prosecutors and lawyers would be allowed to attend the hearings without wearing robes, this legal amendment has not yet been made³⁶. In the same plan, it was stated that within 1 year, a new courthouse architecture model would be developed in which juvenile courts would be located in a separate campus in order to better protect the best interests of the child³⁷. However, in the intervening period, these units were opened only in 3 places³⁸, and the opened units excluded the juvenile assize courts from their scope, thus very few children were able to benefit from this opportunity.

³¹ <https://www.tihek.gov.tr/public/images/kararlar/A4DB8A.pdf>,

³² CRC/C/TUR/CO/4-5, paragraph 50/c

³³ CRC/C/TUR/CO/4-5, paragraph 49/g

³⁴ https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/22042024115644ADAlet_ist-2023CALISMALARI59.pdf Table 2.21

³⁵ https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/22042024115644ADAlet_ist-2023CALISMALARI59.pdf Table 2.1

³⁶ <https://insanhaklarieylemplani.adalet.gov.tr/resimler/insanhaklarieylemplani-ENG.pdf>, Activities 8.1.g

³⁷ <https://insanhaklarieylemplani.adalet.gov.tr/resimler/insanhaklarieylemplani-ENG.pdf>, Activities 8.1.f.

³⁸ <https://magdur.adalet.gov.tr/Home/SayfaDetay/cocukadaletmerkezinedir>

59. Again, although it is claimed in the Human Rights Action Plan that within 3 months it will be ensured that the cases on children and the examinations of appeal and appeals will be prioritised, no concrete step has been taken in this regard³⁹. According to justice statistics, in 2023, the average time for a case to be heard in the justice system is 157 days in prosecutor's offices, 297 days in juvenile assize courts, 253 days in juvenile courts, 265 days in criminal courts, 228 days in criminal departments of regional courts of justice, 674 days in criminal departments and plenary courts of the Court of Cassation⁴⁰. These periods violate children's guarantees under the right to a fair trial to be a party to a speedy trial.

Recommendations:

60. The number of juvenile courts should be increased and it should be ensured that all judicial proceedings concerning minors are carried out by trained personnel. The action plan for designing the physical structure of juvenile courts in a child-friendly manner should be implemented immediately and should cover all courts where children are tried, including juvenile high criminal courts. In order to shorten the duration of juvenile proceedings, prioritisation of juvenile cases should be ensured, the number of juvenile courts and judges should be increased, and alternative measures to take children out of the proceedings should be expanded.

³⁹ <https://insanhaklarieylemplani.adalet.gov.tr/resimler/insanhaklarieylemplani-ENG.pdf>, Activities 8.1.i

⁴⁰ https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/22042024115644ADalet_ist-2023_CALISMALARI59.pdf Table 10 and Table 19