EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

17 July 2017

Case Document No. 5

European Roma Rights Centre & Mental Disability Advocacy Centre v. the Czech Republic
Complaint No. 157/2017

OBSERVATIONS OF THE UN SPECIAL RAPPORTEUR ON THE RIGHT OF EVERYONE TO THE ENJOYMENT OF THE HIGHEST ATTAINABLE STANDARD OF PHYSICAL AND MENTAL HEALTH

Registered at the Secretariat on 10 July 2018

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

This submission is made by the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, Mr. Dainius Pūras. I make this submission as a third party intervener, independent from the complainant organisations and the Government in this case.

The submission sets out the harmful consequences of institutionalisation of infants and young children from a psychological and neurobiological perspective. This submission aims to assist the Committee by detailing the harmful impact that institutional care in reality has on infants and young children. It places a particular focus on the effects of institutional care on child development. The submission details the consequences of institutional care in relation to attachment, social, emotional and behavioural development, physical development, and brain growth and cognitive development.

The Special Rapporteur submits to the Committee that a human rights compliant response to the existing situation of infants and young children institutional care in Czechia call for the immediate and total elimination of institutional care and the development of appropriate child support services in the whole country.

Introduction

This submission is respectfully made in relation to collective complaint no. 157/2017 concerning the alleged violation of Article 17 of the 1961 European Social Charter by Czechia. The complainant organisations complain that children under the age of three, especially Roma children and children with disabilities, are routinely placed in early childhood institutions, and that these institutions cannot be regarded as appropriate services within the meaning of the above mentioned provisions of the 1961 Charter.

The submission sets forth the existing knowledge about harmful effects of institutionalisation of infants and young children which were first explored as long ago as 1952, when an American child psychologist, John Bowlby, wrote about the negative effects of early maternal

separation.[1] In a report for the World Health Organization, he detailed these effects and advocated that young children should not be placed into institutions but rather should remain in their families or be placed into families where they might receive warm, responsive, and loving care—all missing from institutional settings.

Recently, a number of observational studies have compared the development of institutionalised children to children not living in institutions. These studies tell a compelling story of the effects of institutional care.[2] The existing research suggests that institutionalised children have significant developmental deficits across virtually every domain that has been examined,[3] especially if they are institutionalised below the age of two.[4] Below, relying on a meta-analysis of existing research, I present an overview of the literature confirming that institutionalisation in early life negatively impacts child development across multiple domains. When young children experience institutionalisation, social and interpersonal development is impaired, physical growth is slowed, and cognitive and language development is delayed.[5] It should be stressed that, even if it were possible to provide conditions in institutions that are not inhuman or degrading or to eliminate violence and abuse, it is almost impossible for children in institutions to form consistent attachment to a carer[6] and this will still lead to detrimental effects on their development.

1. Attachment

Institutional care is associated with differences in whether children form specific attachments to their caregivers, and the quality of attachments they form to their caregivers.[7] Virtually all children raised in families develop clear attachments to specific caregivers.[8] **However, the**

[1] Bowlby J. Maternal care and mental health. Geneva: World Health Organization; 1952.

[2] See, for a comprehensive review, Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25.

[3] See, e.g. Catherine Stamoulis, Ross E. Vanderwert, Charles H. Zeanah, Nathan A. Fox, and Charles A. Nelson, Early Psychosocial Neglect Adversely Impacts Developmental Trajectories of Brain Oscillations and Their Interactions, Journal of Cognitive Neuroscience 2015 27:12, 2512-2528; Rus, Adrian V., Parris, Sheri R., Stativa, Ecaterina (Eds.) Child Maltreatment in Residential Care. History, Research, and Current Practice, Springer, 2017, p. 510-511.

[4] Nelson, Charles A. A Neurological Perspective on Early Human Deprivation, Child Development Perspectives, V.1, p13-18.

[5] See, Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25.

[6] Enabling Reform: Why supporting children with disabilities must be at the heart of successful child care reform. EveryChild and Better Care Network, 2012, p.14.

[7] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25.

[8] Zeanah CH, Smyke AT, Koga SF, Carlson E, Bucharest Early Intervention Project Core Group. Child Dev. 2005 Sep-Oct; 76(5):1015-28.

attachments of the majority of institutionalised children are incompletely developed or even absent.[9]

In relation to attachment security, which refers to children's ability to find comfort in their care-givers when they are distressed, among children who have never been institutionalized, research indicated that the majority (62%) develop secure attachments to their caregivers, with a minority (about 24%) of children developing insecure attachments, and a smaller proportion (about 15%) developing disorganized attachments to caregivers.[10] For children in foster care, 49% demonstrate secure attachment.[11] Disorganized attachment is most indicative of risk[12] and is characterized by odd behaviours that appear to reflect a breakdown in strategy to obtain proximity. **Among children who are institutionalized, disorganized attachments and other aberrant forms of attachment quality (i.e., disorganized, unclassifiable, and insecure other) predominate,**[13] with only 18% of such children demonstrating indications of secure attachment.[14] In the Bucharest Early Intervention Project, 100% of the children living in the community indicated fully formed attachments while 97% of the institutionalised children showed absent, incomplete, or odd and abnormal attachment behaviours.[15] These findings have since been replicated in substance in three other studies involving children currently or previously living in institutions.[16]

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[9] Dobrova-Krol NA, Bakermans-Kranenburg MJ, Van Ijzendoorn MH, Juffer F J Child Psychol Psychiatry. 2010 Dec; 51(12):1368-76; Zeanah CH, Smyke AT, Koga SF, Carlson E, Bucharest Early Intervention Project Core Group. Child Dev. 2005 Sep-Oct; 76(5):1015-28.

[10] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25; van Ijzendoorn MH, Schuengel C, Bakermans-Kranenburg MJ Dev Psychopathol. 1999 Spring; 11(2):225-49.

[11] The Deprived Human Brain, Charles A Nelson III, Elizabeth A Furtado, Nathan A Fox and Charles H Zeanah Jr, American Scientist, v.97, p.222-229.

[12] Fearon RP, Bakermans-Kranenburg MJ, van Ijzendoorn MH, Lapsley AM, Roisman GI Child Dev. 2010 Mar-Apr; 81(2):435-56.

[13] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25; Smyke AT, Zeanah CH, Fox NA, Nelson CA, Guthrie D Child Dev. 2010 Jan-Feb; 81(1):212-23; Vorria P, Rutter M, Pickles A, Wolkind S, Hobsbaum A J Child Psychol Psychiatry. 1998 Feb; 39(2):225-36; Vorria P, Papaligoura Z, Sarafidou J, Kopakaki M, Dunn J, Van Ijzendoorn MH, Kontopoulou A. J Child Psychol Psychiatry. 2006 Dec; 47(12):1246-53; Zeanah CH, Smyke AT, Koga SF, Carlson E, Bucharest Early Intervention Project Core Group. Child Dev. 2005 Sep-Oct; 76(5):1015-28.

[14] The Deprived Human Brain, Charles A Nelson III, Elizabeth A Furtado, Nathan A Fox and Charles H Zeanah Jr, American Scientist, v.97, p.222-229.

[15] The Effects of Psychosocial Deprivation on Attachment: Lessons from the Bucharest Early Intervention Project, Psychodyn Psychiatry. 2017 Winter;45(4):441-450, Nathan A. Fox, Ph.D., Professor, Charles A. Nelson, III, Ph.D., Professor, and Charles H. Zeanah, M.D. 15 February 2018.

[16] The emergence of attachment following early social deprivation. *Carlson EA, Hostinar CE, Mliner SB, Gunnar MR Dev Psychopathol. 2014 May; 26(2):479-89;* The importance of quality of care: effects of perinatal HIV infection and early institutional rearing on preschoolers' attachment and indiscriminate friendliness. *Dobrova-Krol NA, Bakermans-Kranenburg MJ, Van Ijzendoorn MH, Juffer F J Child Psychol Psychiatry. 2010 Dec;*

Indiscriminately sociable behaviour refers to children's lack of reticence with unfamiliar adults, willingness to approach and engage strangers, and failure to maintain proximity to attachment figures in unfamiliar settings.[17] It can manifest in an attachment disorder known as disinhibited social engagement disorder. Studies have emphasised the lack of social boundaries among children with this behaviour pattern.[18] However, research suggests that as many as 44% of institutionalised children show high levels of indiscriminately sociable behaviour as contrasted with 18% of children who had never been institutionalised.[19] Reactive attachment disorder is another commonly reported condition associated with institutional rearing and is an extreme disturbance in attachment behaviour in young children characterised by a paucity or even absence of attachment behaviours.[20]

2. Social, emotional and behavioural development

The culture of institutional practice is primarily concerned with the physical care of children and the establishment of routines, with less emphasis on play, social interaction and individual care. Thus, the residential care of young children under three years old will have long-lasting effects on social and emotional behaviour.[21] Children in institutions will have reduced social abilities[22] and problems of anti-social conduct, social competence, play and peer/sibling interactions. Studies discussed in *Young children in institutional care at risk of harm*[23] have demonstrated that 1 in 10 institutionalised children displayed "quasi-autistic" behaviours such as face-guarding and/or stereotypical "self-stimulation/comfort" behaviours, such as body rocking or head banging. Children learnt from their failed interactive initiatives not to be

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51(12):1368-76; and Herreros F, Neriz C, Magnani ML. Presented at the Inter-American Attachment Conference Attachment Theory: A Humanistic Approach for Cross-Cultural Research and Practice. University of San Diego; San Diego, CA: 2014. An investigation of the attachment formation and organization of infants living in Chilean institutions.

[17] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25.

[18] O'Connor TG, Rutter M, Beckett C, Keaveney L, Kreppner JM Child Dev. 2000 Mar-Apr; 71(2):376-90; O'Connor TG, Zeanah CH, Attach Hum Dev. 2003 Sep; 5(3):223-44.

[19] Zeanah CH, Smyke AT, Koga SF, Carlson E, Bucharest Early Intervention Project Core Group. Child Dev. 2005 Sep-Oct; 76(5):1015-28.

[20] See The Effects of Psychosocial Deprivation on Attachment: Lessons from the Bucharest Early Intervention Project, Psychodyn Psychiatry. 2017 Winter;45(4):441-450, Nathan A. Fox, Ph.D., Professor, Charles A. Nelson, III, Ph.D., Professor, and Charles H. Zeanah, M.D. 15 February 2018.

[21] The Risk of Harm to Young Children in Institutional Care, Kevin Brown, Save the Children, 2009.

[22] Family Matters: A Study of Institutional Childcare in Central and Eastern Europe and the Former Soviet Union, EveryChild Report.

[23] Young Children in institutional care at risk of harm, Johnson R, Browne K.D. and Hamilton - Giachritsis C.E., Trauma, Violence & Abuse, V. 7, No. 1, January 2006, 34-60;

sociable, and visible efforts of the child to interact with others become rare due to unresponsive care-giving practices.

Institutionalised children have behavioural abnormalities including inattention and hyperactivity, and a syndrome that mimics autism.[24] They have markedly elevated rates of attention deficit / hyperactivity disorder, and other forms of psychopathology and difficulties with social functioning.[25] They are far more likely to have disturbances and delays in emotional development and aggressive behaviour problems[26] as well as unusually raised anxieties, eating disorders, enuresis, difficulty understanding right from wrong and difficulties in forming healthy emotional relationships as adults.[27]

3. Physical development

Children in institutional care lag behind other children in physical development.[28] Relative to their peers, they show atypically short height, low weight, and small head circumference. Several studies have found that height, weight, and head circumference of infants and toddlers in institutions were about a standard deviation below norms and significantly different from children living in the community.[29]

A study from 1996 found that children in Romania lost about 1 month of growth for every 3 months of institutional care, whereas children in the former Soviet Union showed 1 month growth delay for every 5 months of institutional care.[30] A meta-analysis from 2007 found that the longer infants remained in institutional care, the more they differed from normal growth parameters. **Even in institutions where nutritional needs are met, physical growth is delayed**.[31]

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[24] A Neurological Perspective on Early Human Deprivation, Charles A Nelson, Child Development Perspectives, V.1, p13-18.

[25] Variation in neural development as a result of exposure to institutionalization early in childhood, Margaret A Sheridan, Nathan A Fox, Charles H Zeanah, Katie A McLaughlin and Charles A Nelson III, PNAS v.109, no.31 7 August 2012.

[26] Keeping Children Out of Harmful Institutions: Why we should be investing in family-based care, Save the Children.

[27] Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, Georgette Mulheir, The Equal Rights Review, v.9, p.117-137, 2012.

[28] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25.

[29] Johnson D, Albers L, Iverson S, Mathers M, Dole K, Georgieff M, Miller LC. Health status of U.S. adopted Eastern European (EE) orphans. Pediatric Research. 1996;39:134A; Smyke AT, Koga SF, Johnson DE, Fox NA, Marshall PJ, Nelson CA, Zeanah CH, BEIP Core Group. J Child Psychol Psychiatry. 2007 Feb; 48(2):210-8.

[30] Johnson D, Albers L, Iverson S, Mathers M, Dole K, Georgieff M, Miller LC. Health status of U.S. adopted Eastern European (EE) orphans. Pediatric Research. 1996;39:134A.

[31] Van Ijzendoorn MH, Bakermans-Kranenburg MJ, Juffer F. J Dev Behav Pediatr. 2007 Aug; 28(4):334-43.

Poor physical health and illness, including chronic infections,[32] can arise as a result of institutionalisation due to limited environmental experiences inhibiting the development of the immune system.[33] In addition, children in institutions can develop hearing and vision problems resulting from poor diet and/or under stimulation. Often these problems are not diagnosed and hence left untreated.[34]

4. Brain growth and cognitive development

Nelson notes that, "There is now significant scientific evidence that being raised in institutions has detrimental effects on brain development and behavior, and greatly increases the risk of psychopathology. Children raised in these socially deprived settings have less gray matter (Sheridan, Fox, Zeanah, McLaughlin, & Nelson, 2012), show a heightened incidence of attention deficit disorder as well as other forms of psychiatric problems (Humphreys, Gleason et al., 2015; Rutter, Sonuga-Barke, & Castle, 2010)."[35]

Brain development is affected by factors such as access to a caregiver, adequate nutrition, sensory and cognitive stimulation and linguistic input, among other things. Institutions do not provide these elements or adequate experiences and brain stimulation. As a result, the immature nervous system which seeks out the environmental input for development during sensitive periods is deprived of necessary input.[36] Children raised in institutions who suffer from severe deprivation have dramatically reduced overall brain volume and institutionalisation affects both the anatomy and physiology of brain development.[37]

Children living in institutional care show very significant deficits in intellectual and cognitive development.[38] One study found brain activity across all regions of the brain was

[32] Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, Georgette Mulheir, The Equal Rights Review, v.9, p.117-137, 2012.
[33] The Risk of Harm to Young Children in Institutional Care, Kevin Brown, Save the Children, 2009.
[34] The Risk of Harm to Young Children in Institutional Care, Kevin Brown, Save the Children, 2009. See also, Family Matters: A Study of Institutional Childcare in Central and Eastern Europe and the Former Soviet Union, EveryChild Report.
[35] The Effects of Psychosocial Deprivation on Attachment: Lessons from the Bucharest Early Intervention Project, Psychodyn Psychiatry. 2017 Winter;45(4):441-450, Nathan A. Fox, Ph.D., Professor, Charles A. Nelson, III, Ph.D., Professor, and Charles H. Zeanah, M.D. 15 February 2018.
[36] The Neurobiological Toll of Early Human Deprivation, Monographs of the Society for Research in Child Development, Charles A Nelson III, Karen Bos, Megan R Gunnar and Edmund JS Sonuga-Barke, p.127-146.
[37] The effects of early life adversity on brain and behavioural development, Charles A Nelson III, Report on Progress 2012.
[38] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25; Carlson M, Earls F. Ann N Y Acad Sci. 1997 Jan 15; 807():419-28; Kreppner JM, O'Connor TG, Rutter M, English and Romanian Adoptees Study Team. J Abnorm Child Psychol. 2001 Dec; 29(6):513-28; Moulson MC, Westerlund A, Fox NA, Zeanah CH, Nelson CA Child Dev. 2009 Jul-Aug; 80(4):1039-56; O'Connor TG, Rutter M, Beckett C, Keaveney L,

significantly less in institutionalised children than in children who have been living in the community.[39] In a meta-analysis of 75 studies, it was shown that children living in institutional care scored on average 20 points lower on intelligence tests than children who were raised in families. Other figures have found up to 36 points difference between the average IQs of children in institutions as compared to children living in the community.[40] Differences between institutionalised children and comparison children were similar regardless of whether the comparison data represented children raised by birth parents, children raised by foster parents, or normative data.[41]

Further, in relation to the level of differential brain activation, institutionalised children showed lower alpha power at prefrontal cortex sites, and higher theta power at posterior sites, relative to never institutionalized children. **This pattern of results is suggestive of either cortical hypo activation or delayed cortical maturation, that is, either deviant or delayed development**.[42] The specific deficits in attention and executive functioning that have been seen among children who have been institutionalized are consistent with these EEG results.[43]

Disruption to the development of mind associated with under-stimulated children in institutional care is most obviously expressed by the delay in language acquisition.[44] Institutionalised children are more likely to have deficits in language production and comprehension.[45] The effects on early brain development can in fact result in the development

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Kreppner JM Child Dev. 2000 Mar-Apr; 71(2):376-90; Smyke AT, Koga SF, Johnson DE, Fox NA, Marshall PJ, Nelson CA, Zeanah CH, BEIP Core Group. J Child Psychol Psychiatry. 2007 Feb; 48(2):210-8.

[39] Caring for Orphaned, Abandoned and Maltreated Children, BEIP, Charles Nelson, Nathan Fox, Charles Zeanah, Dana Johnson, 2007.

[40] The Deprived Human Brain, Charles A Nelson III, Elizabeth A Furtado, Nathan A Fox and Charles H Zeanah Jr, American Scientist, v.97, p.222-229.

[41] van IJzendoorn MH, Luijk M, Juffer F. IQ of children growing up in children's homes: A meta-analysis on IQ delays in orphanages. Merrill-Palmer Quarterly. 2008; 54:341–366.

[42] Marshall PJ, Fox NA, Bucharest Early Intervention Project Core Group. J Cogn Neurosci. 2004 Oct; 16(8):1327-38; McLaughlin KA, Fox NA, Zeanah CH, Sheridan MA, Marshall P, Nelson CA, Biol Psychiatry. 2010 Aug 15; 68(4):329-36.

[43] Mary Dozier, Charles H. Zeanah, Allison R. Wallin, and Carole Shauffer. Institutional Care for Young Children: Review of Literature and Policy Implications. Soc Issues Policy Rev. 2012 Mar 5; 6(1): 1–25; Gunnar MR, van Dulmen MH, International Adoption Project Team. Dev Psychopathol. 2007 Winter; 19(1):129-48; Kreppner JM, Rutter M, Beckett C, Castle J, Colvert E, Groothues C, Hawkins A, O'Connor TG, Stevens S, Sonuga-Barke EJ Dev Psychol. 2007 Jul; 43(4):931-46.

[44] The Risk of Harm to Young Children in Institutional Care, Kevin Brown, Save the Children, 2009.

[45] Variation in neural development as a result of exposure to institutionalization early in childhood, Margaret A Sheridan, Nathan A Fox, Charles H Zeanah, Katie A McLaughlin and Charles A Nelson III, PNAS v.109, no.31 7 August 2012.

of an intellectual disability or developmental disabilities such as autism spectrum disorders where none existed before.[46]

Children with disabilities and Romani children

Children with disabilities are more likely to remain institutionalised for life and the most common reason for a child with a disability to leave an institution is death, compared to other institutionalised children who were most likely to leave the institution and be returned to their biological family (32%) or be adopted (24%). For children under three leaving institutions, 28% of those children with disabilities had died in comparison to 0.29% of children in social care institutions.[47]

Reviewing a number of studies, Georgette Mulheir states, "Taking account of the negative impact of institutionalisation on a child's health, development and well being, it is evident that children with disabilities and those from ethnic minorities are likely to experience a greater impact of institutionalisation. This is likely to result in more severe developmental delays or disturbed behaviours than their peers."[48]

Conclusion

In this brief overview of the existing literature, I presented recent findings concerning the profound negative effects of institutional care on infants and young children. Considering all this evidence, we must ask ourselves, where do all these findings takes us?

Clearly, institutional care has devastating effects on nearly every domain of functioning, and yet children, including very little and especially vulnerable children, are still being brought up in institutions. We need to make all the effort to ensure that infants and young children do not enter institutional settings, including those found in Czechia. The existing research provides us with incontrovertible evidence needed to find solutions.

In this connection, it is necessary to recall that children have a right to thrive, develop in a holistic way to their full potential and enjoy good physical and mental health in a sustainable environment. Hence, early childhood, a crucial time for effective investments in individual and societal health, must receive significantly more attention and a more adequate response

[46] Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, Georgette Mulheir, The Equal Rights Review, v.9, p.117-137, 2012

[47] Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, Georgette Mulheir, The Equal Rights Review, v.9, p.117-137, 2012.

[48] Deinstitutionalisation – A Human Rights Priority for Children with Disabilities, Georgette Mulheir, The Equal Rights Review, v.9, p.117-137, 2012

from all relevant actors. It is thus especially important, as I underlined in my 2015 report for the UN General Assembly (A/70/213, para. 73), that all stakeholders understand the harmful effects of institutional care in early childhood**; it is a form of violence against young children**. I urged all stakeholders to continue to implement the Guidelines for the Alternative Care of Children (General Assembly resolution 64/142, annex) and to expedite the process of eliminating institutional care for children under three years of age. Furthermore, I called for recognition of the detrimental effects of institutional care on the health and development of all young children and for the adoption of a common understanding **that institutional care should not be accepted for children.**

Therefore, in my view, it is of crucial importance to eliminate institutional care for children and to promote investments in community-based services for families at risk, including for families living in poverty, Roma families and those with young children with developmental and other disabilities.

Disclaimer

I submit this brief on a voluntary basis. My participation in these proceedings is without prejudice to, and should not be considered as an implied or express waiver of, the privileges and immunities of the United Nations, its officials, and experts on missions, pursuant to the 1946 Convention on the Privileges and Immunities of the United Nations. In accordance with my independence as Special Rapporteur, I will neither seek nor be granted authorisation to make this submission, nor for the positions and views expressed therein from the United Nations, including the Human Rights Council and the Office of the High Commissioner for Human Rights, or any of the officials associated with those bodies.