

**OPTIONAL PROTOCOL TO THE CONVENTION ON THE RIGHTS OF THE
CHILD ON THE SALE OF CHILDREN, CHILD PROSTITUTION, AND CHILD
PORNOGRAPHY
FIRST COUNTRY REPORT**

INTRODUCTION

The Convention on the Rights of the Child (CRC), to which our Country is a Party, was signed on 1990, ratified in 1994, and became part of the domestic legislation with the Law numbered 2054 promulgated in the Official Gazette in 1995. The General Directorate of Social Services and Protection of Children Agency (SSPCA) has been designated as the "Coordinating Organization" that is responsible for the monitoring of the implementation of the fundamentals and principles of the CRC.

Articles 34 and 35 of the CRC read: "States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form. States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare." This optional protocol consists of measures aimed at increasing social awareness and sensitivity to the issues, ensuring the implementation of the existing legislation, and providing more widespread treatment of the issues at international levels.

The Optional Protocol in question comprises definitions concerning the sales of children, child prostitution and child pornography, and requires the States Parties to take national and international measures on this issue.

Another issue addressed in the Protocol is the child adoption which is regulated so as to prevent violation of international treaties.

States Parties are expected to formulate legal provisions for preventing the offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child, transfer of organs of the child for profit, engagement of the child in forced labor, improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption, offering, obtaining, procuring or providing a child for child prostitution, producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography.

States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

In the preparation stage of the report, letters were sent to the governorates requesting the list of the non-governmental organizations (NGOs) working in this field. Although there are many NGOs conducting activities targeting children, few NGOs are known to work on the subject. Yet, the child exploitation and ignorance units established by the relevant departments of universities and the child rights commissions established by the bars are conducting work on this subject.

Under the coordination by the General Directorate of SSPCA, a commission was established consisting of 31 lawyers of the relevant Ministries, universities, bars and non-governmental organizations, and this commission embarked on the preparation activities for the report. In line with the decisions taken in the meetings, the participation of relevant people and NGOs was ensured to obtain information. Moreover, the professionals in this area throughout Turkey were contacted, and they provide information and their opinions on this subject via the Internet.

Three sub-commissions were established to study a specific area: Existing Status, Legislation and Internet.

The report prepared in line with the principles related to the first report which must be submitted by the States Parties:

ARTICLE 1:

The existing legislation in our country includes provisions prohibiting child pornography, child prostitution and sale of children. Furthermore, the Turkish Penal Code (TPC) has more effective sanctions.

ARTICLE 2:

In the Articles 80, 94, 96, 102, 103, 104, 105, 109, 226, 227, 231 and 234 of Turkish Penal Code, sale of, and sexual assault against children, sexual exploiting of children, child prostitution and child pornography are considered to be a separate type of crime and have been defined as such.

ARTICLE 3

a) For the implementation of the Protocol in the domestic law, necessary amendment to Article 90 of the Constitution has been made, which ensures its direct application in the domestic law.

b) No reservation was specified for any article of the Protocol in question.

c) The cooperation among the Social Services and Child Protection Agency, the Ministry of Justice, the Ministry of Health, the Ministry of Interior, universities and non-governmental organizations concerning the subject is ensured through the coordination by the Ministries at the central level, and by their rural organizations at the rural level. The coordination in question is undertaken in the form of training seminars, symposiums, congresses, and projects.

The General Directorate of Social Services and Protection of Children Agency has been designated as the "Coordinating Organization" that is responsible for the monitoring of the implementation of the fundamentals and principles of the Convention.

The duty of coordination with respect to the Optional Protocol in question has been given to the General Directorate of Social Services and Child Protection Agency at the central level, and to Provincial Directorates of Social Services at the provincial level.

With the Prime Ministerial Circular dated 26 May 2000 and numbered 14 in which the principles for our General Directorate, which is the Coordinating Organization, to monitor the nationwide implementation of the Convention on the Rights of the Child, and conduct the necessary coordination activities, were laid down, the "Higher Board and Lower Board of Monitoring and Assessment of Rights of the Child" were established.

d) In the National Action Plan in which all public and non-governmental organizations (NGOs) in the field are included under the coordination of Social Services and Child Protection Agency, training of the target groups, professionals, society leaders, mass media, and the society was targeted for the period 2005-2015, and the organizations which would cooperate were determined. Within the scope of the National Action Plan, it was planned that the provisions of the Optional Protocol would be promoted extensively, and training concerning them would be made using suitable methods.

The Child Rights Center of Istanbul Bar prepared a handbook for the prevention of sexual abuse for parents, teachers and all adults who are in charge of children.

The Association for Promoting Women Handwork of the Social Center of the Provincial Directorate of Social Services of Çanakkale Governorate organized activities for the "World Day for the Prevention of Sexual Harassment of the Children."

Under organizational structure of İzmir Governorate, the Child Exploitation and Ignorance Sub-Commission of the Child and Family Commission of the Executive Board of Child Rights has several activities.

Publication of several articles on the subject for increasing social awareness and providing information in the journal of the Medical Faculty of 19th of May University and in the local press was ensured.

Department of Juvenile Health and Diseases of the Aegean University conduct training activities for informing the medical personnel and the society of child exploitation and ignorance and preventing it. "Aegean University Medical Faculty Child Exploitation and Ignorance Monitoring and Prevention Commission" was established.

In the Social Centers of the Social Services and Child Protection Agency, trainer training courses were held with the participation of 39 professionals (social service specialist, psychologist, child development specialist) between 1-4 November 2001 for increasing social awareness concerning the Convention on the Rights of the Child, sales of children, child prostitution, and child pornography, protection the rights of the child, and creating a national agenda on the issue. 520 children in 8 provinces were trained by the trainers.

With a view to creating primary schools sensitive to child rights and gender in the education period 2003-2004, the child rights training module, the children under risk module, and gender sensitivity modules were prepared. These modules which contain the approaches to the children under risk and communication strategies, the measures to be taken, the guidance characteristics were prepared for students, teachers and families.

In the primary schools, training is given by class teachers and advisor teachers especially to the students who are in the puberty concerning the negative effects of the websites containing gender sensitive, pornographic elements.

The General Command of Gendarmerie conducts activities for the prevention of forcing and instigating children to sexual activity, or using them in prostitution or pornographic shows.

e) The UN High Commissioner for Refugees organized four training courses for the non-governmental organization, the bars, and the security forces concerning the child kidnapping and child pornography within the scope of asylum, and these training courses will continue.

The Ministry of Justice has conducted three activities for the training of judges and prosecutors working the areas dominated by such crimes, and the activities will continue.

The process of signature and ratification of the optional protocol in question has been notified by the coordinating organization to all public bodies and organizations, universities and governorates.

The Child Rights Center of Istanbul Bar has conducted several events for informing teachers and advisor teachers of child rights and child exploitation, and forensic medicine experts of the prevention of child ignorance and exploitation.

In our country, 11 Youth Consultation and Medical Service Centers were opened in Ankara, İzmir, Diyarbakır, Gaziantep, Antalya, Adana, and Mersin in 2004. The medical personnel working in these centers were given a 10-day training with practical and theoretical content before the start of services.

In April 2002, a 5-day training course was given to the relevant personnel from the Ministry of National Education and 40 advisor teachers selected from 20 provinces concerning the Convention on the Rights of the Child, the domestic legal practices, the working children, the measures to be taken against the exploitation of children, and the protection of children from prostitution and pornography.

In May 2004, 150 administrators, advisor teachers and primary education inspectors selected from 25 primary schools in Ankara, İzmir and Van were trained about the schools sensitive to child rights, communication with the children under risk, and the child-friendly schools.

On 29 May 2004, 30 advisor teachers selected from various provinces were trained about the communication with the children under risk, child prostitution, prevention of child pornography, techniques for communication with parents, approaches to and guidance services

for such children, prevention of child exploitation, and techniques for approaching such children.

With a view to eliminating child employment and child exploitation, this issue was included within the 5-year work program of the Ministry of National Education, and in 2002, the implementation of the "Project of Directing Children Working in the Streets to Education" was initiated and 250 teachers were trained in cooperation between the Ministry and the trade unions.

In the "Project of Directing Working Children to Education" conducted by Labor Inspection Board of the Ministry of Employment and Social Security in İzmir, a training program was organized for 250 teachers in cooperation with the Ministry of National Education, departing from the importance of the experience and interest of teachers in children for increasing their training capacities. The training program contained the child rights, psychosocial conditions of working children, their family characteristics, and methods for increasing their training capacities and communicating with them, and there was an exchange of experiences and knowledge between labor inspectors and teachers.

Within the scope of the "Project of School Improving Health in Europe", teachers from 94 primary schools in 81 provinces were trained about the rights of the child.

Before inception, the personnel working in Gendarme Child Centers were given a special training in the Istanbul University Faculty of Law and the Forensic Medicine Institute for 9 weeks concerning the protection of children, child psychology and communication. Taking into consideration the needs found out during the training, the cooperation with the Forensic Medicine Institute for the training of the personnel will continue.

19th of May University introduced the course "Child Exploitation and Ignorance". The students in the Forensic Medicine Department were given training about the child ignorance and exploitation under the course Forensic Medicine, and they were trained about the identification of such cases and the steps that physicians should take. Under the scope of popular health practice, all interns are given training concerning the child exploitation and ignorance.

Istanbul University Juvenile Health and Diseases Department organized a "Trainer Training" for the people working as forensic specialists (April 2003). In May 2002, an

interdisciplinary "Child Exploitation Workgroup" consisting of 24 people was formed under the leadership of the Social Pediatrics Department.

Within the scope of the training program organized by the UNICEF and the Social Services and Child Protection Agency for the specialists working with the children living in the streets in the centers subordinated to the Social Services and Child Protection Agency in 2003, the Health Again and Training Association conducted short training activities concerning the psychosocial approach to the children subjected to sexual exploitation, the approach to drug addiction, and anger suppression.

Following the entry into force of the Branch Regulation of the General Directorate of Security, 761 staff members from the trained personnel were transferred to the branch in the first step. The appointment scheduling of 141 Juvenile Police Officer Branched staff members who were to be appointed in 2003 out of 761 staff members who were transferred to the branch was made. In the training courses organized in 16 provinces throughout the country, 554 staff members were trained in 2003.

Since 13.04.2001, the General Directorate of Security has been conducting Juvenile Police in-service courses, and up to now, 1676 staff members have been trained. The training activities and restructuring of Branch Directorates are in progress throughout the country.

"The Juvenile Police In-Service, Minor Protection In-Service Trainer Training Handbook," for use in the juvenile police in-service trainings, and "the Interpol Good Practices Handbook for Specialists on the Crimes against the Child," in cooperation with the General Secretariat of the Interpol, were prepared and distributed to the relevant places.

f) In 2003, commission was established within the Ministry of Justice in order to determine the status of the existing legislation concerning the children, and their compatibility with the international conventions, and to a new law based on its findings. Under the coordination of the Social Services and Child Protection Agency, the Ministry of Justice and UNICEF conducted a second study to find out the compatibility of the UN Convention on the Rights of the Child with the domestic law, and the publication of the resulting report is imminent.

In our country, the preparation of the second CRC Implementation Audit List is still in progress. In this process, the country practices, the difficulties encountered, and the solutions proposed concerning the CRC and the optional protocol will also be specified.

The audits concerning its Internet aspect are conducted by the Ministry of Interior, and the relevant units and their activities are given below.

Information Crimes Investigation Office: The Internet and Information Crimes Branch Directorate was established due to an increase in the Internet access and in information crimes paralleling to the world trend. The Office continuously monitors the developments concerning the information crimes, investigates possible actions and measures against unauthorized access and damage to computer systems, identifies the standards for the training of personnel about the information crimes, and contacts national and international organizations working on the information crimes.

Computer Crimes and Information Security Board: For performing research into computer crimes and information security and eliminating the legal loopholes in this issue, the Computer Crimes and Information Security Board was established on 18.04.1998 with the participation of one staff member from the Departments of Public Order, Data Processing, Interpol, Intelligence, Smuggling and Organized Crimes, Anti-Terror, and Operations, and the Legal Counseling Office.

Computer Crimes Workgroup: The Computer Crimes and Information Security Board established a workgroup among its members to conduct studies and research about the computer crimes, which are highly to be among the most important types of crimes in the future. In the report prepared by the Computer Crimes Workgroup, the computer crimes were classified, the duties of the Departments concerning the computer crimes were specified, and the steps to be followed in the spot of a computer crime were explained.

In order to ensure the participation by the people, and to facilitate the complaint procedure about such websites, the complaint facilities and information on the legal procedure to be followed are provided in the website of the General Directorate of Security.

The important challenge for the police organization is the lack of legal provisions that will facilitate cooperation with police organizations of the relevant countries when the routes in

several countries are used or a foreign service provider is utilized in the crimes committed over the Internet.

In 1998, the Internet Supreme Board (ISB) was established under the coordination of the Ministry of Transportation, and the purpose of this board was to ensure the widespread Internet access and act a catalyst in the co-regulation attempts by the sector concerning the relatively harmful effects of the Internet. In this context, a group consisting of lawyers from the Ministry of National Education, the Ministry of Interior, the Ministry of Justice, the General Directorate of Social Services and Child Protection Agency, service providers, and universities is conducting activities concerning the possible actions and measures against the negative effects of the Internet, especially on the young people.

In our country, the Internet access is not at desired levels. Emergence of the Internet cafes has contributed to the increase in the Internet access. The legal provisions applicable to the Internet cafes are given in the "Regulation on the Procedures for Regulated Workplaces" promulgated in the Official Gazette dated 30.12.1999 and numbered 23922. Thus,

- The workplaces which will be operated like a "gaming place" for gaming and entertainment purposes by maintaining PCs with Internet access, electronic or mechanic game machines and tools or by allowing PC gaming shall be at least 200 m far away from educational organizations, and the licenses of such places shall state that it has the quality of a gaming place, and minors at an age below 18 shall not be allowed to enter such places,

- The Internet café operators and users shall be properly notified that the computers shall be configured to deny access to the Internet websites having gambling, betting or pornographic content, and the utilization from the websites having any criminal element shall not be allowed.

Moreover, the Regulation prohibits the copying, renting, or sales through copying, of unlicensed movies or movies without banderole with unknown content, computer software, digital data and computer games, and their CDs or similar equipments.

ARTICLE 4:

The Optional Protocol in question contains actions and measures for ensuring the viability of the provisions of the CRC on sale of children, child prostitution, and child pornography, and the more comprehensive national and international promotion of the

protection of the rights of children in these areas. In this context, the Protocol will be useful in increasing social awareness and sensitivity in these areas and ensuring the implementation of our legislation on the protection of children from sexual exploitation and abuse. In line with Articles 34 and 35 on the protection of children from all kinds of sexual exploitation and abuse of the Convention on the Rights of the Child, which identifies universal standards in the protection of child rights and which contains provisions on the care, protection and securing various rights of children, the optional protocol on sale of children, child prostitution and child pornography was formulated to ensure the viability of the provisions of the CRC in these areas.

In all activities conducted for the children within the scope of this protocol, the CRS and fundamental rights and principles are taken into consideration.

In the preparation stage of the report, letters were sent to the governorates requesting the list of the non-governmental organizations working in this field. Although there are many non-governmental organizations conducting activities targeting children, few NGOs are known to work on the subject. Yet, the child ignorance and exploitation units established by the relevant departments of universities and the child rights commissions established by the bars are conducting work on this subject. Under the coordination by the General Directorate of SSPCA, a commission was established consisting of 31 lawyers of the relevant Ministries, universities, bars and non-governmental organizations, and this commission embarked on the preparation activities for the report. In line with the decisions taken in the meetings, the participation of relevant people and NGOs was ensured to obtain information.

ARTICLE 5

a) This is the first report submitted. It was accepted by Turkey on 20.04.2001. The deficiencies in fields of education, training, information, legislation, etc., were determined, and they were included in the laws, and action plans in this process.

The Internet Commission established in the Communication Council held between 20-21 February 2003 in Ankara with the participation of public bodies and organizations, universities, and non-governmental organizations took the following decisions in principle on the subject:

Programs for training the people working at various levels in the judicial process should be implemented; special procedures should be specified for specialization areas such as the

identification of evidence in information and communication technologies, and the determination of harmful content; and steps should be taken for paving the way for the establishment of specialized courts.

In the Internet publication, the concept of harmful content should be taken into consideration within the framework of generally accepted concepts such as "child pornography", "racism and violence", etc., in international standards, and the establishment of a self-control mechanism among organizations providing content hosting services should be supported.

The regulations to be formulated in the criminal law with respect to the Internet and information and communication technologies should be made in compliance with the international practices, should be flexible enough to reflect technological development, and should not compromise the principle of "no crime and punishment without law" and the rule of law, and should ensure extensive participation of all related parties. In the legal regulations to be formulated, all definitions, the authorized units, and duties and responsibilities of these units should be clearly and explicitly specified. During the procedural transactions to be performed at the stage of examination, investigation, and prosecution of information and communication technologies, there may be practices which undermine the secrecy of private life and which limit communication freedom; therefore, the investigation and prosecution procedures should be clearly detailed in the laws, and it should be ensured that all procedural transactions are subject to judicial review by court order. In this framework, it was proposed that the Turkish Penal Code and the Turkish Code of Criminal Procedure (TCCP) should be discussed. **Within this frame of understanding the arrangements concerning the subject have been provided with the Turkish Code of Criminal Adjudication numbered 5271 and Turkish Penal Code numbered 5237.**

It was emphasized that special programs should be developed for the training on the subject of all personnel in all levels of the judicial process from judges and prosecutors to security forces.

In the Declaration on Freedom of Communication on the Internet by the Council of Ministers of the European Council dated 28.05.2003, it was stressed that the freedom of communication on the Internet should not cause damage to human dignity, human rights and

fundamental freedoms of others, especially of minors under age, and it was declared in principle that public authorities should not deny public access to information or other communication on the Internet through general blocking or filtering measures without taking into consideration the boundaries, however this should not prevent the installation of filters for the protection of minors in places accessible to minors such as schools and libraries.

Türk Telekom A.Ş. should ensure that Internet users are not subjected to inconvenient content containing violence, porno, alcohol, terror, etc., which they (may) confront when they are automatically redirected by certain websites to other websites or which they request to open. In order for parents who worry about ensuring that their children correctly utilize from the Internet not to prohibit Internet access, a model should be developed whereby rules of Internet access are defined by the parents, and thereby young people are protected from harmful content such as gambling, porno, etc. Thus, Türk Telekom A.Ş. should provide a service of optional blocking and filtering of the Internet content.

b) Internet law is a controversial field where different applications are rather common throughout the world. The most important factor in this is the lack of a framework which will ensure national and international cooperation with respect to identification of and response to harmful content without undermining individual freedoms and freedom of communication. Another challenge in this respect is the insufficient number of personnel and lack of infrastructure.

As specified also in the framework defined by the Declaration on Freedom of Communication on the Internet by the Council of Ministers of the European Council and the Convention on Cyber Crimes by the European Council, the failure by Internet Service Providers (ISP) to maintain regular access records, the fact that the periods set forth for keeping such records are insufficient and cannot be standardized, and there are not legal regulations on this subject are limitations. Therefore, necessary regulations must be formulated at the shortest time taking into consideration the internationally accepted conventions and declarations.

c) The budgets allocated by the Social Services and Child Protection Agency, the Ministry of Justice and the Ministry of Health are given below. Although the Ministry of National Education, the Ministry of Interior and local administrations make a special allocation

under the scope of the Protocol in question, the general budgets allocated by the organizations providing services mainly and primarily to children are specified below.

SSCPA Budget Allocated to Protection of Children

Million TL

Years	General Budget	SSCPA Budget	Ratio of SSCP Budget to General Budget %	Share Allocated to Family and Child Services	Ratio to SSCPA Budget %
2002	98.131.000.000	121.619.000	0.12	55.770.000	45.8%
2003	147.230.170.000	229.993.000	0.15	93.500.000	40.6%
2004	150.658.129.000	297.828.000	0.19	153.609.000	51.5%

SSCPA Extra-Budgetary Incomes Allocated to Protection of Children

Million TL

Years	Incomes Obtained as per Law no. 3418- 4760	Share Allocated to Family and Child Services	Ratio to Incomes Obtained as per Law no. 3418-4760 %
2002	71.395.760	18.449.018	25.8%
2003	17.543.204	4.086.278	23.2%
2004	4.991.850	901.722.000	18.0%

Disabled Children Budget, SSCP

Million TL

Years	General Budget	SSCPA Budget	Ratio of SSCPA Budget to General Budget %	Share Allocated to Disabled Children	Ratio to SSCPA Budget %
2002	98.131.000.000	121.619.000	0,12	11.427.000	9,4%
2003	147.230.170.000	228.993.000	0,15	24.441.000	10,6%
2004	150.658.129.000	297.828.000	0,19	36.502.600	12,2%

General Directorate of SSCPA Extra-Budgetary Incomes as per the Law no. 3418 – 4760

Million TL

Years	Incomes Obtained as per Law no. 3418-4760	Share Allocated to Disabled Children	Ratio to Incomes Obtained as per Law no. 3418-4760 %
2002	71.395.760	5.905.857	8.2%
2003	17.543.204	1.320.284	7.5%
2004	4.991.850	253.123.	5.0%

Ministry of Health

Year	General Budget	Budget of Ministry of Health		Mother Infant Health and Family Planning		Budget for Basic Medical Services	
		Amount	Gen. Bud. %	Amount	MoH Bud. %	Amount	MoH Bud. %
2002	97.831.000.000	2.345.447.691	2,40	52.025.850	2,22		0,00
2003	146.806.170.000	3.570.054.000	2,43	67.392.412	1,89	1.029.350.900	28,83
2004	149.858.129.000	4.787.751.000	3,19	86.682.100	1,81	1.515.444.300	31,65

Budget of Ministry of Health (Million TL)

YEAR	39/A		39/B	
	MIHFP	BMS	MIHFP	BMS
2001		3.323.000.000	74.440.000	398.376.930
2002	177.000.000	2.048.528.000	Set to zero (0) as per resolution by Council of Ministers no. 2003/5142.	
2003		2.281.258.833		

As per Law no. 3418 (Thousand TL)

**ALLOCATIONS SENT BY THE GENERAL DIRECTORATE OF DETENTION HOUSES AND PRISONS OF THE MINISTRY OF JUSTICE
TO CONVICTED CHILDREN**

Year	General Budget	MoJ Budget to General Budget		Budget Allocated to Children to DHP Budget		To MoJ Budget Allocated to Children		To MoJ Budget Allocated to Children	
		AMOUNT	RATIO (%)	AMOUNT	RATIO (%)	AMOUNT	RATIO (%)	AMOUNT	RATIO (%)
2002	98.100.000.000.000.000	808.141.000.000.000	0,82	303.424.000.000.000	37,55	4.037.000.000.000	1,33	4.037.000.000.000	0,57
2003	146.485.000.000.000.000	1.114.931.000.000.000	0,76	365.727.500.000.000	32,8	4.941.750.000.000	1,35	4.941.750.000.000	0,44
2004 *	150.658.129.000.000.000	1.368.435.000.000.000	0,91	509.254.000.000.000	37,21	5.019.128.000.000	1,97	5.019.128.000.000	0,73

* Since the allocations for 2004 consists of the allocations sent in the first six months, this is the projected value.

d) In the illegal publications sections of the statistics for the period 1998-2001 of the General Directorate of Security, the child pornography with a ratio of 40% comes through the Interpol. 25% consists of displaying of pornographic contents in Internet cafes, etc., or sale of such CDs.

According to the data from the General Directorate of Security, the commonest type of Information Crimes in our country is the copying and sale of pornographic CDs.

CHILD INCIDENTS STATISTICS FORM (Crimes Against Person) Year 2002

CRIME TYPE	NUMBER OF SUSPECTS				NUMBER OF VICTIMS											
	CAUGHT		DESERTED		DEAD				INJURED				OTHER			
	Turkish		Turkish		Turkish		Foreign		Turkish		Foreign		Turkish		Foreign	
	K	E	K	E	K	E	K	E	K	E	K	E	K	E	K	E
Child Kidnapping	4	7	1	1	0	0	0	0	1	6	0	0	28	20	1	0
Taking Hostage	0	4	0	0	0	0	0	0	0	0	0	0	1	0	0	0
Threat	20	385	1	7	0	0	0	0	13	22	1	0	77	116	5	0
Ill-treatment to Family Members	19	69	0	3	0	0	0	0	236	187	1	0	114	58	2	0
Insult and Bad Language	19	87	0	1	0	0	0	0	5	5	1	1	33	18	0	0
Indecent Acts	3	183	0	1	0	0	0	0	36	11	0	0	390	64	0	0
Rape	12	303	0	12	1	0	0	0	86	60	0	0	252	64	3	1
Attempted Rape	4	169	0	2	0	0	0	0	24	32	0	0	154	84	2	0
Breaking Chastity with the promise of marriage	1	67	0	1	0	0	0	0	69	1	0	0	181	4	1	0
Instigation to prostitution, Women trading and commissioning	39	62	2	1	0	0	0	0	5	0	2	0	63	3	6	0

CHILD INCIDENTS STATISTICS FORM (Crimes Against Person) Year 2003

CRIME TYPE		NUMBER OF SUSPECTS				NUMBER OF VICTIMS											
		Referral to Prosecutor		Deserted		Dead				Injured				Other			
		Turkish		Turkish		Turkish		Foreign		Turkish		Foreign		Turkish		Foreign	
		Aged 18 or below		Aged 18 or below		Aged 18 or below		Aged 18 or below		Aged 18 or below		Aged 18 or below		Aged 18 or below		Aged 18 or below	
		K	E	K	E	K	E	K	E	K	E	K	E	K	E	K	E
Crimes Against Public Morality, Family Order, or Personal Freedom	Girl-Woman, Man Kidnapping	31	536	12	83	0	0	4	1	264	74	0	4	1760	32	9	0
	Child Kidnapping	2	29	0	0	0	0	0	0	10	5	0	0	54	21	0	1
	Taking Hostage	0	6	0	1	0	0	0	0	0	0	0	0	1	0	0	0
	Threat	22	467	0	10	0	0	0	0	11	34	0	0	83	129	0	1
	Ill-treatment to Family Members	15	72	0	2	0	2	0	0	239	144	0	3	141	79	5	0
	Insult and Bad Language	11	109	0	3	0	0	0	0	3	3	0	1	26	14	2	0
	Indecent Acts	10	172	0	4	0	0	0	0	17	6	0	0	365	67	1	0
	Rape	17	305	1	13	0	0	0	0	100	50	2	0	332	95	0	0
	Attempted Rape	1	156	1	2	0	0	0	0	39	24	1	2	166	100	2	0
	Breaking Chastity with the promise of marriage	2	46	2	0	0	0	0	0	48	0	0	0	190	2	0	0
Instigation to prostitution, Women trading and commissioning	29	83	6	3	0	0	0	0	6	1	2	0	56	2	7	0	

SERVICES PROVIDED IN ADOLESCENT CENTERS IN 2004

SERVICES	NUMBER OF APPLICANTS	NUMBER OF EXAMINATIONS	NUMBER OF CONSULTATIONS	NUMBER OF PSYCHOLOGICAL CONSULTATION
Adana No. 1-2	664	316	348	342
Ankara No. 9	1343	926	263	146
Antalya No. 1	727	599	317	
Bursa No. 2	367	235	127	110
Diyarbakır Şehitlik	190	80	116	11
Gaziantep Abdulkadir Konukoğlu	126	74	15	4
İzmir No. 2	499	53	246	266
İzmir No. 8	1486	981	527	367
İzmir No. 12	1925	1566	332	
Mersin M. İnan	585	338	383	116
TOTAL	7912	5168	2674	1362

TYPES OF SERVICES PROVIDED BY SSCPA TO GIRLS SUBJECTED TO COMMERCIAL SEXUAL EXPLOITATION AND NUMBER OF SUCH GIRLS AS OF DECEMBER 2003

NO	NAME OF ORGANIZATION	CAPACITY	NUMBER OF TOTAL CHILDREN ACCESSED	NUMBER OF CHILDREN SENT TO SCHOOL	NUMBER OF CHILDREN ATTENDING TO SCHOOL	NUMBER OF CHILDREN RETURNING TO FAMILY	NUMBER OF CHILDREN TAKEN TO EMPLOYMENT	NUMBER OF CHILDREN TAKEN UNDER PROTECTION	NUMBER OF CHILDREN ADDICTED TO DRUG	NUMBER OF CHILDREN WHOSE FAMILY IS ACCUSED	NUMBER OF FAMILIES CONVICTED
2	İSTANBUL TAKSİM CHILD AND YOUTH CENTER	Boarding 15	184	1	1	1			3	2	
3	İSTANBUL BAHÇELİEVLER ÇOĞEM	Boarding 20	12	9	9		1	5	7	1	1

BREAKDOWN OF CHILDREN TAKEN UNDER PROTECTION BY REASONS OF SUCH DECISIONS

REASONS	YEARS					
	2000	%	2001	%	2002	%
Incest	27	1	39	1	42	1
Physical and emotional exploitation by family	265	5	425	7	562	10
Extra-family sexual exploitation	48	1	67	1	49	1

According to the data from the SSCPA, there is a significant increase in cases of incest, physical and emotional exploitation by family, and extra-family sexual exploitation as reasons of taking under protection. In 2000, the children taken under protection due to incest, physical and emotional exploitation by family, and extra-family sexual exploitation accounted for 7% of all children taken under protection that year. In 2002, this figure increased to 12%.

In a study on the children who were victims of incidents as determined by the gendarme forces, it was found out that 8.477 children were victims of such incidents in 2001, 15.772 in 2002, and 19.608 in 2003. Examination of types of incidents in which children were affected by crimes in 2003 revealed 1.649 cases of kidnapping girls, women or men and 735 cases of sexual crimes (indecent acts, rape, attempted rape, breaking chastity with promise of marriage, instigation to prostitution, trading and commissioning of women).

e) The articles contained in Turkish Penal Code (TPC) numbered 5237 concerning information crimes and child pornography on the Internet.

Although information crimes are regulated in Article 243 of TPC, this Article does not include any provision concerning child pornography, and

Article 226 provisioned under the headline, “Pornography” reads,

ARTICLE 226 - (1) a) Whoever gives, or makes children read, listen, or display the content of, expose, sell or distribute, products containing obscene images, writings, or statements,

b) Whoever displays the contents of such materials in places where children can have access to, or in such a manner that children can be able to see the contents, or publicly display, read, disclose, or make others to listen them,

c) Whoever submits such materials for sale, sells or rents in such a manner that contents have free access to,

d) Whoever submits such materials for sale, sells or rents in place other than those allocated for the selling of them,

e) Whoever gives away such materials together with the selling of other goods or services, or indirectly gives or distributes them indirectly,

f) Whoever advertises for such materials,

Shall be sentenced from six months up to two years in prison and fined juridically.

(2) Whoever publishes or helps to be published obscene images, writings, or statements through press shall be sentenced to six months to three years and fined with an amount corresponding to five thousand days.

(3) Whoever uses children in the production of obscene images, writings, or statements shall be sentenced from five years up to ten years and fined with an amount corresponding to five thousand days. Whoever imports into the country, reproduces, puts to sale, sells, transports, stores, exports, keeps, or makes available for others such products shall be sentenced from two years up to five years and fined with an amount corresponding to five thousand days.

(4) Whoever produces, imports, puts to sale, sells, transports, stores, makes available for others, or keeps products containing obscene images, writings, or statements about sexual behavior using violence, using bodies of dead persons, or through unnatural ways shall be sentenced from one year up to four years and fined with an amount corresponding to five thousand days.

(5) Whoever publishes or helps to be published, or makes children see, listen to, or read the contents of the products mentioned in paragraphs three and four shall be sentenced from six years up to ten years and fined with an amount corresponding to five thousand days.

(6) Due to these crimes, specific security measures are ruled regarding such persons.

(7) Provisions of Article 227 with the headline “Prostitution” that read, “Provisions of this article shall not apply to scientific works; and to works with literary and artistic

value excluding the paragraph 3 and provided that availability for children is prevented”,

Has been arranged as follows:

ARTICLE 227. - (1) Whoever encourages a child to prostitution, makes it easier to act such, who procures or boards them with this purpose, or who acts as an intermediary in child prostitution shall be sentenced from five years up to ten years and fined with an amount corresponding to three thousand days. Actions of preparation for the commitment of this crime shall be sentenced like the committed crime.

(2) Whoever encourages a person to prostitution, makes it easier to act such, or who acts as an intermediary in prostitution or provides place for such act shall be sentenced to two years to four years and fined with an amount up to three thousand days. Benefiting from the income of the person to make a living partially or wholly is considered as encouragement to prostitution.

(3) Whoever brings in persons to country with the purpose of prostitution or arranges departure of persons abroad shall be sentenced according to the paragraphs above.

(4) Punishment given according to the provisions of the paragraphs herein above to whoever directs to, or provide for prostitution of a person by using force or by threatening, using fraud, or benefiting from their despair shall be increased by half up to two-times.

(5) Where the above-mentioned crimes are committed by the spouse, ascendant, ascendants by affinity, brother or sister, adoptive parent, guardian, teacher, tutor, attendant other persons who have the responsibility of protection and supervising, or by abusing the power coming from being public officials or services, the punishment to be given shall be increased by one half.

(6) In case that these crimes are committed within the frame of activities of a crime organization established for the purpose of committing crimes, the punishment to be given according to the paragraphs above shall be increased by one half.

(7) Regarding juridical persons due to these crimes, measures specific for these are ruled.

(8) It has been arranged to read “Person who has been forced to prostitution will be given treatment or therapy.”

In our country, sanctions regarding child pornography have generally been regulated with Article 426 of TPC, and the said Article contains imprisonment and fines as sanctions against those who commit such crimes.

Article 226 of TPC contains imprisonment and fines as sanctions against those who publish and help to publishing of such materials via press.

e) The provisions of the Turkish Penal Code (TPC) concerning information crimes and child pornography on the Internet.

Although information crimes are regulation in Article 525 of TPC, this Article does not include any provision concerning child pornography.

In our country, Article 426 of TPC on indecent publications is generally applied concerning child pornography, and this Article provides for only fine as sanctions.

Articles 427 and 428 of TPC contain penalties for those who write and sell these publications, and the penalties are limited to fines.

Prescription time related to Articles, 426, 427 and 428 is five years.

The provisions of the Turkish Penal Code are as follows:

Article 228: Whoever makes children read, listen, or display the content of, expose, sell or distribute, obscene materials, etc., to children shall be sentenced to six months to two years in prison and fined.

Article 228/2: Whoever publishes obscene materials through the press or the media shall be sentenced to six months to three years in prison and fined.

Article 228/3: A person who employs children in the production of obscene materials shall be sentenced to ten years in prison, and a person who imports into the country, reproduce, sells, keeps, or makes available to other people's use shall be sentenced to two years to five years in prison, and fined.

Prescription: Five years for 228/1-2, and ten years for 228/3

Articles 245-248 relate to information crimes, but do not include specific provisions on child pornography.

Article 136: Privacy: A person who discloses images or audio data concerning private lives of people shall be sentenced to one year to three years in prison. In case of such disclosure made through the press or the media, the penalty shall be increased by one half.

Prescription: Ten years.

Article 31 of the Law numbered 3984: The fundamentals and principles for broadcasting and services in any technological and communication medium shall be drafted by the supreme board and submitted to the Higher Board of Communication. The compliance of such broadcasting and services is audited by the supreme board.

In Turkey, there are legal regulations aimed at protecting children from sexual harassment. As per paragraph (c) of Article 11 of the Law on Police Duties and Powers numbered 2559, "Those who produce or sale all types of audio and visual works of a nature contrary to public morality and etiquette shall be prohibited whether or not there are complaints about them."

"Real or corporate persons who make recordings on audio or video cassettes for commercial purposes are required to submit copies of such cassettes to governmental authorities before publication."

As per Article 12 of the same Law, "Employment of young girls and woman in casinos, bars, cafes and places selling alcoholic drinks, baths, Turkish baths, and beaches

is subject to approval by governmental authorities. Women and men aged below 21 shall not be employed in such places."

"Even if accompanied by a guardian the police shall prohibit anyone who is not yet 18 years old entering places which have alcohol such as bars, nightclubs, casinos and pubs and cafes or places where games are played or similar."

The provisions of the Turkish Penal Code on penalties for sexual harassment against children are given below:*

Under the headline "Sexual Assault" in the Sixth Section of the Volume II of the Turkish Penal Code,

"ARTICLE 102. - (1) Whoever violates the body immunity of a person with sexual behavior shall be sentenced from two years up to seven years, upon the victim's complaint.

(2) In case that the crime is committed by putting an organ or any object, the sentence shall be from seven years up to twelve years. In case that the crime is committed against a spouse, then performing of the inquiry and investigation depends on the application of the victim.

(3) Punishments according to the above-mentioned paragraphs shall be increased by one half in the following situations:

a) If the crime has been committed against a person who is unable to defend him/herself mentally or physically,

b) If the crime has been committed by abusing the power coming from being public officials or services,

c) If the crime has been committed against a person of blood relation (third degree blood relation included) or relation through affinity,

d) If the crime has been committed by threatening with a weapon or by more than one person,

(4) In case that force has been used during the commitment of the crime to the extent exceeding the resistance of the victim, then the criminal shall be punished for injury on purpose separately.

(5) In case that physical or mental health of the victim is injured at the end of the offense, criminal shall be sentenced to imprisonment no less than ten years.

(6) In case that the victim is subject to an unconscious life or dies, as a result of the crime the criminal shall be punished with heavy imprisonment for life;

Under the headline “Sexual exploitation of Children”;

“ARTICLE 103. - (1) Whoever sexually exploits a child shall be sentenced from three years up to eight years. To the purpose of this Article, the term “sexual exploit” shall mean,

a) All kinds of sexual behaviors against children who completed his/her fifteen or although completed, his or her ability to understand the legal meaning and consequences of the act is not improved,

b) Sexual behaviors against other children using force, threatening, fraudulent actions, or using other means influencing the will of the child.

(2) In case that the act of sexual exploiting is committed by putting an organ or any object into body, the sentence shall be ruled from eight up to fifteen years.

(3) **(Amended: 29.06.2005-5377/Art.12)** In case that the act of sexual exploiting have been committed by an ascendant, second or third degree blood relative, step father, adoptive parent, guardian, tutor, teacher, caregiver, medical caregiver, and other persons who have the responsibility of protection and supervising, or by abusing the power coming from being public officials or services, the punishment to be given shall be increased by one half.

(4) In case that the act of sexual exploiting have been committed against children mentioned in paragraph 1 (a) by using force or threaten, then the punishment given according to the paragraphs above shall be increased by one half.

(5) In case that the purposeful injury component of the act of sexual exploiting have caused severe consequences, then provisions regarding the crime of purposeful injury shall apply.

(6) In case that physical or mental health of the victim is injured as a consequence of the crime, then the criminal shall be sentenced to imprisonment no less than fifteen years.

(7) In case that the victim dies or passes to vegetable existence as a consequence of the crime, then the criminal shall be punished with heavy imprisonment for life,

Under the headline “Sexual intercourse with those under age”;

ARTICLE 104. - (1) Whoever has sexual intercourse with a child over fifteen without using force, threatening, or fraudulent actions, shall be sentenced from six months up to two years upon complaint.

(2) In case that the criminal is older than the victim more than five years, then the punishment shall be increased by two times regardless seeking for any requirement of a complaint.

Furthermore, in Article 80 of the Turkish Penal Code numbered 5237, provided under the headline “Human Traffic”, it reads;

“ARTICLE 80. - (1) Whoever supplies, kidnaps, transports or directs from one place to other, or boards persons for the purpose of forcing to work or serve, subjects them to slavery or similar; uses threatening, pressure, force, or violence, abuses his/her powers, deceives, or makes benefit of their possibilities of supervision or the victims despair to persuade him/her to give their body organs shall be sentenced from eight up to twelve years and fined up to an amount corresponding ten thousand days.

(2) In case that the acts attempted and comprising the crime with purposes mentioned in paragraph 1 have taken place, then the consent of the victim is invalid.

(3) In case that persons under 18 are supplied, kidnapped, transported or directed from one place to another, and boarded with purposes mentioned in paragraph 1, the criminal shall be punished as mentioned in paragraph 1, even if none of the instrument acts for the crime have been used.

(4) Juridical persons also shall be subject to security measures for these crimes.”,

In ARTICLE 94 under the headline “Torture”;

ARTICLE 94. - (1) Any public official who treats someone in a way that is not consistent with human dignity or that causes physical or moral suffering, that will influence his/her perceptive capabilities or will, or that will cause humiliation shall be sentenced from three years up to twelve years.

(2) In case that the crime is committed

a) Against a child, against someone who is unable to defend him/herself because of mental or physical reasons, or against a pregnant woman, or,

b) Against an attorney at law or other public officials as related to his/her duty,

Then, the criminal shall be sentenced from eight years up to fifteen years.

(3) In case that the act is committed as a sexual harassment, then the sentence shall be from ten years up to fifteen years.

(4) Other persons participating in the commitment of such crime shall be punished like the above-mentioned public official.

(5) In case that such crime is committed through negligence, no reduction is made with the punishment to be ruled for this reason”,

In Article 96 under the headline “Torment”;

“ARTICLE 96. - (1) Whoever performs acts so as to cause someone to be tormented shall be sentenced from two years up to five years.

(2) In case that the above-mentioned acts are committed against;

a) A child, to a person who is unable to defend him/herself because of mental or physical reasons, or against a pregnant woman, or,

b) Ascendants, descendants, adoptive parents or spouse,

Then the criminal shall be sentenced from three years up to eight years.

In the Article 109, arranged under the headline “Depriving a person from his/her freedom”,

ARTICLE 109. - (1) Whoever deprives a person from his/her right of going to a place from another or reside in a place shall be sentenced from one year up to five years.

(2) In case that the criminal uses force, threatening, or fraudulency during, or with the purpose of committing the above-mentioned crime, such criminal shall be sentenced from two years up to seven years.

(3) In case that such crime is committed,

a) By using a weapon,

b) With the participation of more than one person,

c) Because of the public service performed by the victim,

d) By abuse of public service authority,

e) Against a person from the ascending or descending line or spouse,

f) Against a child or body or any person who is unable to defend him/herself because of mental or physical reasons,

Then the punishment given according to the paragraphs above shall be increased by one time.

(4) In case that such crime causes significant economic losses on part of the victim, then the criminal shall also be fined for an amount corresponding up to a thousand days.

(5) In case that such crime is committed with sexual purposes, then the punishment given according to the paragraphs above shall be increased by one half.

(6) In case that more severe forms of the crimes are committed as a consequence of injuring someone on purpose with the aim of, or during the committing of this crime, then provisions regarding injuring someone on purpose shall apply,

In Article 231, under the headline “Changing the link of relations of a child”,

“ARTICLE 231. - (1) Whoever changes, or conceals the link of relations of a child shall be sentenced from one year up to three years.

(2) Whoever causes a child to be confused with another by violating the obligation of meticulousness shall be sentenced up to one year,

In Article 232, under the headline, “Maltreatment”,

ARTICLE 232. - (1) Whoever maltreats anyone that s/he lives together within the same residence shall be sentenced from two months up to one year,

(2) Whoever abuses the power of discipline arising from right of tutoring on a person that s/he cares and has the obligation of raising, sending to school, take care of, board or teach an art shall be sentenced up to one year,

In Article 234, under the headline, “Kidnapping and keeping hold of a child”,

“ARTICLE 234. - (1) In case that any of the parents that the power of guardianship has been denied to, or a blood relative (third degree relationship included) kidnaps and keeping hold of a child under sixteen without using force or threaten from where the child resides with a guardian, ward, or with any other person with the responsibility of care giving and supervising shall be sentenced from three months up to one year.

(2) In case that the act has been committed by using force or threaten, or if the child is under twelve, then the punishment is increased by one time”,

Article 228 reads to the effect that whoever provides a place and possibilities for the gambling of children, shall be sentenced for two years and fined,

Article 229 regulating the crime of using children in mendicity,

“ARTICLE 229. - (1) Whoever uses children or those who are unable to make a living because of physical or mental reasons shall be sentenced from one year up to three years.

(2) In case that the act has been committed by relatives by blood including third degree relationship or marriage or by spouse, then the punishment is increased by one half.

(3) In case that the act has been committed within the activities of a crime organization, then the punishment is increased by one time.”

As per Article 435 of the Turkish Penal Code:

Those who instigate a child aged below 15 to prostitution and those who intermediate prostitution are sentenced to at least two years in prison with heavy fine.

Where the above-mentioned wrongs are committed by the victim’s brother or sister, ascendant, ascendant by affinity, husband, natural or appointed guardian, teacher, tutor, servant or supervisor, the offender shall be imprisoned at least three years.

In case of sexual harassment of children, the following penalties shall be applied:

As per Article 414, "Whoever ravishes a child who has not completed fifteen years of age shall be heavily punished by not less than five years of imprisonment"

If this act is performed, by using force, violence or threats, or against a person who, because of a physical or mental defect or on account of a fraudulent means used by the perpetrator, was not in a state to resist the offender, the minimum sentence is 10 years of imprisonment.

Those who act against dignity and honor of a child aged below 15 shall be sentenced to two to four years in prison, and in case such acts are performed under the conditions described in the second paragraph of the foregoing Article, the sentence shall be 3 to 5 years in prison.

As per Article 416, "Whoever ravishes a child who is over fifteen years of age, by using force, violence or threats, or a person who, because of a physical or mental defect or on account of a cause other than the perpetrator's action or on account of a fraudulent means used by the perpetrator, was not in a state to resist the offender, shall be punished by heavy imprisonment for not less than seven years."

Whoever has carnal knowledge of a minor with her or his consent shall be imprisoned for six months to three years, provided that his offense is not punishable more severely.

As per Article 417, "If the offences specified in the foregoing articles are committed by more than one person or by the parent, legal guardian, tutor, teacher or servant of the victim or by a person under whose care the victim was placed, or by a person who had authority over the victim, the offender shall suffer twice the punishment prescribed by law"

As per Article 418, "If the foregoing acts and actions lead to death of the victim, the offender shall be sentenced to imprisonment for life."

As per Article 273 of the Civil Code, "In case it is held that physical or mental development of the child is at risk or if the child is psychologically deserted, the judge may order the removal of child from his/her parents and his placement to another family or an institution."

As per Article 274 of the Civil Code, "The judge may deny the parents who fail to perform their parenthood duties or who seriously neglect their child, their right of parenthood.

When the parents are severed of their parenthood right, a legal guardian is designated for the child. This provision applies to children to be born in future."

"Those who change or destroy the heredity of a child is sentenced to one to five years in prison" (Article 445).

"Those who conceal the identity of a child born in wedlock and desert him/her in hospital or streets shall be sentenced to imprisonment for three months to two years.

In case the person who commit the foregoing action is a kin of the child, the sentence shall be increased to one to three years" (Article 446).

As per Article 478 of the Civil Code, "Whoever maltreats a child below the age of twelve shall be imprisoned for thirty months.

Where the maltreatment is performed by a member of the family of or kin of the child, the punishment shall be imprisonment from three months to three years."

As per Article 545 of the Penal Code, "Whoever collects children aged below 15 and forces to them to mendicancy or who instigates or allows a child left to his/her care shall be sentenced to at least three months in prison and fined to"

In Turkish legal system, child kidnapping is regulated under the Chapter entitled "Crimes Against Freedom of Person" of the Turkish Penal Code, and is considered as a crime which limits freedom of the person and which is committed against the will of the person.

Whoever illegally deprives a person of his/her freedom shall be sentenced to one to 5 years in prison and heavily fined.

In case the offender uses force or threat or commits this action for taking vengeance, obtaining material benefits or for reasons arising from difference in religious, political, ideological and social ideas or for taking the victim to another country for military recruitment, then the sentence shall be heavy imprisonment for three to eight years and heavy fine.

As per Article 179 of the Turkish Penal Code, "In case the foregoing actions are performed by two or more persons or with the threat of using firearms, the sentence shall be increased by one half."

As per Article 180 of the Turkish Penal Code, "In case the offender frees the person who is deprived his/her freedom on his/her own will and without causing any harm to him/her and before investigation without fulfilling his/her aim, the sentence shall be decreased to one sixth or one half."

"Those who instigate a child aged below 15 to prostitution and those who intermediate prostitution are sentenced to at least two years in prison.

Where the above-mentioned wrongs are committed by the victim's brother or sister, ascendant, ascendant by affinity, husband, natural or appointed guardian, teacher, tutor, servant or supervisor, the offender shall be imprisoned at least three years.

Kidnapping for ransom, which is among reasons of kidnapping, is handled in Article 449 of the Turkish Penal Code. As per this Article:

"Whoever kidnaps or puts in imprisonment a person for the purpose of obtaining money, moveable property or legally valid documents such as title deeds shall be sentenced to 15 to 20 years in heavy imprisonment if they fulfilled their purpose. If they fail to fulfill their purpose, the upper limit of the penalty shall be applied."

In Turkish legal system, those under age of 18 are considered as children though the age of 15 is taken as basis for certain act or actions (Article 182 and 435).

Adoption is regulated in Articles 235-258 of the Turkish Civil Code. For adoption, mutual consent of persons and the permission from a Court of Peace are required.

However, newborn infants are sometimes kidnapped from hospitals for adoption, and some families with low income and many children may attempt to sell their newborn infants.

The legislation on kidnapping, sale and trading of children is in compliance with the Convention on the Rights of the Child. Turkey considers the points requiring improvement.

Applicable Basic Legislation on the Issue:

1. Turkish Civil Code:

B. Protection of personality

I. Against waiver and excessive limitation

Article 23.- Nobody shall waive his/her rights and capacity to act, whether partially or not. Nobody shall waive his/her freedoms or limit them in violation of law or morality.

Upon written consent, human originated biological agents may be taken, implanted and transferred. However, a person who is indebted to give biological agent shall not be required to perform this action or pay tangible or intangible compensation for it.

II. Against Attack

1. Principle

Article 24.- A person whose personality is under attack illegally may request judge to ensure his/her protection against attackers.

Unless justified by consent of the person whose personality is compromised, private or public good of higher quality or use of a legal power, any attack against personality is illegal.

2. Suits

Article 25.- The claimant may request the judge to ensure the prevention of the risk of attack, the elimination of an ongoing attack, and the verification of the illegality of an attack which has stopped, but whose effects are ongoing.

The claimant may also request the notification of the correction or decision to third parties, or its publication.

The rights of the claimant to request tangible or intangible compensation and demand the income obtained as a result of the illegal attack to be given to him/her as per the provisions of conducting business without attorney are reserved.

The request for intangible compensation cannot be assigned unless agreed by the other party; it cannot be inherited unless put forward by the deceased person.

The claimant may file a suit for the protection of his/her personality rights at the court of his or defendant's residence.

III. Rights related to name

1. Protection of name

Article 26.- A person usage of whose name is controversial may file a suit for the verification of his rights.

A person whose name is unjustly used may request that such usage be stopped, that the losses and damages to him/her be compensated if the person using his/her name unjustly is found guilty, and that tangible compensation be paid to him/her if the quality of the wrong to which s/he was subjected.

2. Changing of name

Article 27.- Changing of name may be requested from the judge only on justified reasons.

Change of name is recorded to the civil register, and announced.

Change of name does not imply a change in personal status.

A person who suffers any damage or loss due to such change of name may file a suit for the removal of decision on the change of name within one year starting from the day on which s/he is informed of such change.

D. Paying the Costs of Care and Education of Children

I. Scope

Article 327.- The costs and expenditure for the care, education and protection of the child are paid by his/her parents. In case parents are poor or a special situation of the

child requires extraordinary expenditure or in case of another extraordinary situation, the judge may allow the parents to spend from the property of the child to the extent necessary to cover his/her care and education expenses.

II. Duration

Article 328.- The mother and the father are responsible to take care of the child until the age of maturity

If the education of the child continues after the child reaches to maturity, the father and the mother are responsible to take care of the child to the extent reasonably expected from them according to their status and conditions until the end of his/her education

II. Right to Suit

Article 329.- Either the mother or father who actively takes care of the child may file for an alimony suit against the other.

When necessary, for a minor who does not have the capacity for discretion, the file for alimony may be filed by his/her legal guardian or appointed trustee.

The child may also file this suit, provided that he or she has the capacity for discretion.

IV. Determination of alimony amount

Article 330.- The alimony amount is determined taking into consideration the needs of the child and the living conditions and standards of the father and the mother. The expenses of the child are also taken into consideration. Alimony is paid monthly.

The judge may make adjustments in the amount to be paid as alimony if there are changes in the needs of the child or in the living standards of the mother and the father.

V. Change of situation

Article 331.- In case of a change of situation, the judge may make adjustments in the alimony or remove alimony.

VI. Provisional Measures

1. In General

Article 332.- When an alimony suit is filed, the judge will take necessary measures during the suit upon request by the claimant.

If a bond of relation is verified, the judge may require the defendant to post the suitable amount of alimony or pay it provisionally.

2. Before the verification of paternity

Article 333.- The judge may decide, even before the suit is finalized, on an appropriate amount of alimony to cover the needs of the child if the judge decides that there is reasonable evidence in favor of paternity.

VII. Security

Article 334.- If the mother and the father do not fulfill their obligations of alimony on a continuous and repeated basis or it is held that they are preparing to flee or they are wasting their property, the judge will take the necessary measures concerning their future obligations of alimony by ensuring they provide security or may take other actions.

PARENTHOOD

A. In General

I. Conditions

Article 335.- The child who has not reached maturity is under the parenthood of the father and the mother. Unless there is a legal reason, the parenthood is not removed from the father and the mother. Unless the judge holds it necessary to designate a legal

guardian, the restricted children who have reached maturity remain under the parenthood of the father and the mother.

II. If the Father and the Mother are Married

Article 336.- As long as the marriage continues, the parenthoods is used jointly by the father and the mother. If the joint life is terminated or in case of separation, the judge may grant the parenthood to one of the spouses.

Parenthood belongs to the living one in case of death of the father or the mother, and to the one to whom the child is entrusted.

III. If the Father and the Mother are not Married

Article 337.- If the father and the mother are married, the parenthood belongs to the mother.

If the mother is a minor, is restricted or dead or is severed of parenthood, the judge may, in child's benefits, designate a legal guardian or may grant the parenthood to the father.

IV. Stepchildren

Article 338.- The spouses are responsible for taking care of their stepchildren who have not reach maturity as well. The other spouse helps the spouse using parenthood on his/her own child in a proper manner, and represents him/her for the needs of the child to the extent made compulsory by the situation and conditions.

B. Scope of parenthood

I. In General

Article 339.- The father and the mother take and implement decisions concerning the care and education of the child taking into consideration the benefits of the child. The child is responsible for obeying his/her father and mother. The father and the mother allow

the child to arrange his/her life to the extent of his/her maturity, and take into consideration the opinions of the child to the extent possible in important issues. The child shall not leave the house without the consent of the father and the mother, and shall not be removed from his/her parents without a legal reason. The name of the child is given by his/her father and the mother.

II. Education

Article 340.- The father and the mother provides the child with education opportunities according to their economic status, and ensure the physical, mental, psychological, moral and social development of the child, and protect the child. The father and the mother provide the child, especially the children with physical or mental disabilities, with a general and vocational education in accordance with their tendencies.

III. Religious Education

Article 341.- The father and the mother have the right to determine the religious education of the child.

All contracts which may restrict the rights of the father and the mother in this respect are invalid.

The matured child is free to select his/her religion.

IV. Representation of the Child

Article 342.- The father and the mother are the legal lawyers of this child before third parties within the framework of their parenthood.

Bona fide third parties may assume that each spouse acts with the consent of the other spouse.

Except for the points subject to approval from the guardianship authorities, the provisions concerning the representation of the restricted shall apply to the representation in parenthood.

V. Capacity to Act of the Child

Article 343.- The capacity to act of the child under parenthood is like the capacity of the person under guardianship.

The child is responsible for his/her debt with his/her on property irrespective of the rights of the father and the mother on the property of the child.

VI. Representation of the family by the child

Article 344.- The child under parenthood may execute legal transactions upon consent by the father and the mother if s/he has the capacity for discretion, and such legal transactions bind the father and the mother.

VII. Legal transactions between the child and the parents

Article 345.- For the child to be indebted as a result of a legal transaction made between the child and his/her father or mother or between the child and the third party to the benefit of the father and the mother, a trustee must be included and the judge must approve it.

C. Protection of the child

I. Measures for protection

Article 346.- In case the benefits and development of the child are at risk, and the father and the mother fail to find a solution, the judge will take the necessary measures for the protection of the child.

II. Placement of children

Article 347.- In case the physical and mental development of the child is at risk or the child is left psychologically deserted, the judge may remove the child from the father

and the mother and place him/her to another family or an organization. If the child's stay in the family disrupts the peace of the family to the extent that cannot be expected from them and there is no other solution, the judge may taken the same measures upon request by the father and the mother or the child. If the father and mother lack the payment capability as required by such measures, the expenses shall be covered by the State. The provisions concerning alimony are reserved.

III. Removal of parenthood

1. In General

Article 348.- In case the measures for the protection of the child prove to be useless or this is understood beforehand, the judge may decide on the removal of parenthood in the following cases:

- Failure by the father and mother to perform the duty of parenthood properly due to the inexperience, illness, disability, remoteness of the father and the mother or similar reasons.
- Failure by the father and the mother to show sufficient interest in the child or neglect gravely their responsibilities against him. If the parenthood is removed from both the father and the mother, then a legal guardian is appointed to the child. Unless otherwise is specified in the decision, the removal of the parenthood applies to the existing and future children.

2. If the Father or the Mother Marries Again

Article 349.- Marrying by the father or the mother who has the parenthood right does not require the removal of the parenthood. However, the holder of the parenthood may be changed depending on the benefits of the child, and the parenthood may be removed and a legal guardian may be appointed depending on the changes.

3. Responsibilities of the Father and the Mother in Case Removal of the Parenthood

Article 350.- The responsibilities of the father and the mother for covering the costs of care and education of the child shall survive the removal of the parenthood.

If the father and mother lack the payment capability, the expenses shall be covered by the State.

The provisions concerning alimony are reserved.

IV. Change of situation

Article 351.- In case of change of situation, the measures for the protection of the child shall be adapted to the new conditions.

In case of elimination of the reason which requires the removal of the parenthood, the judge reinstates the parenthood automatically or upon request by the father or the mother.

2. Law on the Social Services and Child Protection Agency numbered 2828

In paragraph (b) of Article 3 of the Law, the Child Requiring Protection is defined, and in subsequent Articles, the provisions concerning the fundamentals and principles related to measures for protection of the children requiring protection are given.

Thus, a Child Requiring protection is a child whose physical, spiritual and moral development or personal security is at risk, and

1. who has no mother or father or both;
2. whose father or mother or both are unknown;
3. who is deserted by father or mother or both; or
4. who are neglected by father or mother, and

who are left defenseless against social dangers and bad habits such as prostitution, mendicancy, addiction to alcoholic drinks or drugs.

3. Turkish Penal Code

In the Turkish Penal Code, that children are victims of certain crimes is considered as an aggravating circumstance.

Moreover, the Turkish Penal Code contains provisions for protecting the child within the family, and certain circumstances are regulated as crimes.

Under the headline, “Maltreatment”,

ARTICLE 232. - (1) Whoever maltreats anyone that s/he lives together in a residence shall be sentenced from two months up to one year.

(2) Whoever abuses the power of discipline arising from right of tutoring on a person that s/he cares and has the obligation of raising, sending to school, take care of, board or teach an occupation or art shall be sentenced up to one year,

Under the headline “Violation of obligations arising from family law”,

ARTICLE 233. - (1) Whoever does not perform his/her obligations of giving care, training or supporting, derived from family law shall be sentenced up to one year upon complaint.

(2) Whoever deserts his wife that he knows to be pregnant, or woman he lives together and knows she is pregnant to his child in a desperate situation shall be sentenced from three months up to one year.

(3) Parents who endanger the morality, security and health of children because of material and moral diligence as a consequence of habitual abuse of alcohol or narcotic or stimulant substances, shall be sentenced from three months up to one year, even if the right of guardianship is removed.

Article 477 - Whoever endangers, or causes the deterioration of the health of, a person who is under his/her rule or who is entrusted to him/her for raising, ensuring education, protecting, caring or teaching a profession or craft, by misfeasance of his right on the person in question shall be sentenced to 18 months in prison.

Article 478 - (Amended: 8/6/1933 - 2275/1 Article) Excluding the cases specified in the foregoing Article, whoever maltreats a child below the age of twelve, living with the family, or any other member of the family, in way impossible to conciliate with compassion or love shall be imprisoned up to thirty months. Where the maltreatment is

against a person who is related either by blood or by marriage to the offender from the ascending or descending line, the punishment shall be imprisonment from three months to three years. Where the maltreatment is against the husband or wife of the offender, legal proceedings may be initiated upon the victim's complaint. If the victim is a minor, those who have had the right of parenthood or guardianship over the victim before his or her marriage may themselves file a complaint in this respect.

Article 479 - Under the conditions described in the foregoing two Articles, if the action leading to conviction is done by a person who is related by blood to the victim from the descending line, the judge may rule his/her deprivation of all legal rights he/she has on the person or property of the victim on account of parenthood, and if it is committed by a legal guardian, then the judge may rule his/her removal from guardianship and the removal of all duties and rights arising from guardianship.

4. Law on Family Courts

Article 6. Provided that provisions of other laws are preserved, for cases in its jurisdiction, a family court may:

1. Concerning adults:

- a) issue a warning to spouses concerning their marital responsibilities, and, when necessary, ensure compromise between them,
- b) take necessary actions and measures for the preservation of economic asset of the family or for ensuring that financial obligations arising from the marital union are fulfilled,
- c) place to public or private medical or social service organization, rest homes or similar places,
- d) ensure enrollment to a vocational training course or any suitable educational organization,

2. Concerning minors:

- a) take necessary actions and measures concerning the alimony obligation for care and maintenance,

- b) order the removal of the child whose physical or mental development is at risk or who is spiritually deserted from his/her parents and his placement to another family or a public or private medical organization or an institution providing services for children with education problems,
- c) take actions or measures for the administration and protection of property of minors,
- d) order placement to general or mixed-budget departments, local administrations, state economic enterprises, or organizations or enterprises established by banks or a similar workplace or a professional,

One or several specialists appointed as per Article 5 may be commissioned for the follow-up and enforcement of such decisions given by a family court. In case of failure to abide by these decisions, Article 113/A of the Code of Legal Procedure shall be applied.

5. Law on the Protection of the Family

Article 1 - If a spouse or child or another member of the family living under the same roof is subject to abuse, and notification is made either by the victim or by the Public Prosecutor, in addition to the provisions of the Turkish Civil Code, taking into consideration the specific circumstances, a Justice of the Peace can pass one or more of the following rulings or take any other measures that are deemed appropriate. The accused spouse can be ordered:

- a) Not to use violence or threatening behavior against the other spouse or children or another member of the family living under the same roof;
- b) To leave the dwelling shared with the spouse or children if there are any and not to approach the dwelling occupied by the spouse and children or their place of work;
- c) Not to damage the property of the spouse or children or of others living under the same roof;
- d) Not to cause distress to the spouse or children or others living under the same roof using means of communication;
- e) To surrender a weapon or other similar instruments to the police;

f) Not to arrive at the shared dwelling while under the influence of alcohol or other intoxicating substances nor use such substances in the shared dwelling.

The above-mentioned measures can be applied for a period not exceeding six months and, if the accused does not abide by the rulings, s/he shall be warned that s/he is liable to arrest and confinement. The judge shall take into account the standard of living of the victim and rule on maintenance payments accordingly. Under the first paragraph of the statute, no fee is charged for applications.

Article 2 - A copy of the protection order is entrusted to the Public Prosecutor by the court. The Public Prosecutor monitors the application of the order through the police. In the event of the order being implemented, the police, without the need for the victim to submit a written application, will themselves conduct an investigation and transfer the documents to the Public Prosecutor within the shortest possible time. The Public Prosecutor can file a suit at the Criminal Court of Peace against the spouse who does not abide by the order. The location of the case and the avoidance of loss of time in its expedition are governed by the Law on Legal Procedure of Witnessed Crimes numbered 3005. The spouse who has not abided by the protection order can be sentenced to a prison sentence of three to six months.

**DECISIONS BY THE SUPREME COURT AND BY THE COUNCIL OF STATE
(ANNEX 1)**

ARTICLE 6: Turkish Penal Code, which contains legal provisions related to acts and actions describe in Article 3 of the Optional Protocol, and which will bring numerous new measures against child exploitation, is included in the report.

ARTICLE 6 a-b-c

<p>EXISTING LEGISLATION</p> <p>1) SEXUAL EXPLOITATION</p> <p>ATTEMPTED RAPE</p> <p>a) Age limit:</p>	<p>RELEVANT CLAUSES OF THE TURKISH PENAL CODE NO 5237</p> <p>1) SEXUAL EXPLOITATION</p> <p>ATTEMPTED RAPE</p>
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<p>TPC 415: Whoever attempts to rape a minor under the age of 15 shall be sentenced to imprisonment of two to four years</p>	<p>a) Age limit TPC ARTICLE 103: All kinds of sexual acts against a person who has completed or not his / her age of 15, but, incapable of comprehending the legal consequences of the act, shall be punishable with imprisonment from three years up to eight years.</p>
<p>TPC 416/2 : Whoever attempts to rape a person who is over fifteen years of age, by using force, violence or threats, or a person who, because of a physical or mental defect or on account of a cause other than the perpetrator's action or on account of a fraudulent means used by the perpetrator, was not in a state to resist the offender, shall be punished by imprisonment for 3 to 5 years.</p>	<p>Sexual acts against other children using force, threat, fraud or based on other reasons affecting will shall be punishable with imprisonment from three years up to eight years.</p>
<p>b) Aggravating and mitigating circumstances: 415/2: Whoever attempts to ravish a person aged below 15, by using force, violence or threats, or a person who, because of a physical or mental defect or on account of a cause other than the perpetrator's action or on account of a fraudulent means used by the perpetrator, was not in a state to resist the offender, shall be punished by imprisonment for 3 years to 5 years.</p> <p>417: If attempted rape is committed by more than one person or by the parent, legal guardian, tutor, teacher or servant of the victim or by a person under whose care the victim was placed, or by a person who had authority over the victim,</p>	<p>b) Aggravating and mitigating circumstances: 103/3: In case the offense of sexual exploitation is performed by a person from the ascending line, a relative by blood or marriage at secondary or tertiary level, stepfather, adopter, legal guardian, trainer, tutor, companion, or a person providing medical services or a person under whose care the victim is placed, or through misfeasance of service relationship, the punishment shall be increased by one half.</p> <p>103/4: In case the attempted rape is committed against a child aged below 15 as an act or attempt of violence of honor or chastity of the child, the criminal shall be imprisoned from 3</p>

<p>the offender shall suffer twice the punishment prescribed by law.</p>	<p>years up to 5 years.</p> <p>103/5: In case the violence resorted to during sexual exploitation lead to intended injury, then the offender shall be punished also for purposeful injury.</p> <p>103/6: In case that the physical or mental health of the victim is harmed as a consequence of the crime, then the offender shall be imprisoned for at least fifteen years.</p> <p>103/7: In case the victim suffers unconscious life and dies, then the offender shall be sentenced for a aggravated life.</p>
<p>C) Prescription:</p> <p>102/4: The prescription time for attempted rape is 5 years.</p>	<p>C) Prescription:</p> <p>69/d: The prescription time is 15 years from the date of commitment of the offense.</p> <p>66/6 : In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription time shall start after the child completed the age of 18.</p>
<p>RAPE</p> <p>a) Age limit :</p> <p>TPC 414: Whoever rapes a minor under the age of 15 shall be sentenced to a minimum of 5 years of imprisonment.</p>	<p>RAPE</p> <p>a) Age limit:</p> <p>103/2: In case sexual exploitation is performed against a person younger than 15 or who has completed his/her age of 15 by inserting organ or</p>

<p>TPC 416: Whoever ravishes a person who is over fifteen years of age, by using force, violence or threats, or a person who, because of a physical or mental defect or on account of a cause other than the perpetrator's action or on account of a fraudulent means used by the perpetrator, was not in a state to resist the offender, shall be punished by heavy imprisonment for not less than seven years.</p>	<p>other object into the body, but incapable of comprehending the legal consequences of the act, the punishment shall be ruled from 8 years up to 15 years.</p>
<p>b) Aggravating circumstances:</p> <p>417: If attempted rape is committed by <i>more than one person</i> or by the parent, legal guardian, tutor, teacher or servant of the victim or by a person under whose care the victim was placed, or by a person who had authority over the victim, the offender shall suffer twice the punishment prescribed by law.</p> <p>418: If the foregoing acts and actions lead to death of the victim, the offender shall be sentenced to imprisonment for life.</p> <p>If the act in question leads to disruption in medical status of the victim, the sentence shall be increased by one half.</p>	<p>b) Aggravating and mitigating circumstances:</p> <p>103/3: In case the offense of sexual exploitation is performed by a person from the ascending line, a relative by blood or marriage at secondary or tertiary level, stepfather, adopter, legal guardian, trainer, tutor, companion, or a person providing medical services or a person under whose care the victim is placed, or through misfeasance of service relationship, the punishment shall be increased by one half.</p> <p>103/4: In case the sexual exploitation is committed against a child aged below 15 through force or threat, the punishment shall be increased by one half.</p> <p>103/5: In case the violence resorted to during sexual exploitation leads to intended injury, then the offender shall be punished also for purposeful injury.</p>

	<p>103/6: In case physical or mental health of victim is harmed as a consequence of the crime, then the offender shall be imprisoned for at least fifteen years.</p> <p>103/7: In case the victim suffers unconscious life and dies, then the offender shall be sentenced for life.</p>
<p>c) Prescription:</p> <p>102 / 3: The prescription time for rape is 10 years.</p>	<p>c) Prescription:</p> <p>66/d : The action is exposed with prescription 15 years later than the date when the crime was committed.</p> <p>66/6 : In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription shall start after the child completed his / her age of 18.</p>
<p>SEXUAL INTERCOURSE WITH A PERSON UNDER AGE:</p> <p>a) Age limit :</p> <p>416/3: Whoever has sexual intercourse with a person under age, shall be imprisoned for six months to three years, provided that his offense is not punishable more severely.</p>	<p>SEXUAL INTERCOURSE WITH A PERSON UNDER AGE:</p> <p>a) Age limit :</p> <p>104/1: Whoever has sexual intercourse with a child aged over fifteen without force, threat or fraud shall be sentenced from six months up to 2 years in prison upon complaint.</p>
<p>b) Aggravating circumstances:</p> <p>417: If attempted rape is committed by more than one person or by the parent, legal guardian,</p>	<p>b) Aggravating causes:</p> <p>104/2 : In case the offender is older than 3 years from the victim, the punishment shall be</p>

<p>tutor, teacher or servant of the victim or by a person under whose care the victim was placed, or by a person who had authority over the victim, the offender shall suffer twice the punishment prescribed by law.</p> <p>418: If the foregoing acts and actions lead to death of the victim, the offender shall be sentenced to imprisonment for life.</p> <p>If the act in question leads to disruption in medical status of the victim, the sentence shall be increased by one half.</p>	<p>increased by two times without requiring complaint.</p>
<p>c) Prescription:</p> <p>102/4: The prescription time for sexual intercourse with a person under age is 5 years.</p>	<p>c) Prescription:</p> <p>66/e : The prescription time is 8 years from the date of the offense.</p> <p>66/6 : In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription time shall commence when the child completed his/her age of 18.</p>
<p>INSTIGATION TO PROSTITUTION:</p> <p>a) Age limit:</p> <p>435: Those who instigate a child aged below 15 to prostitution and those who intermediate prostitution are sentenced to at least two years in prison.</p>	<p>INSTIGATION TO PROSTITUTION:</p> <p>a) Age limit:</p> <p>227/1: Those who instigate a child to prostitution, facilitate prostitution, procure her/his for this purpose and execute mediation for prostitution are sentenced from 4 years up to ten years in prison, and fined corresponding to</p>

<p>If this offence is committed against person aged above 15 but below 21, the offender shall be sentenced to 6 months to 2 years in prison and fined.</p>	<p>five thousand TL.</p>
<p>b) Aggravating circumstances: 435/2: If the offense of instigation is committed by the victim’s brother or sister, ascendant, ascendant by affinity, husband, natural or appointed guardian, teacher, tutor, servant or supervisor, the offender shall be imprisoned at least three years.</p>	<p>b) Aggravating causes: 227/5: In case this is performed by a person from the ascending line by blood or marriage, brother, adopter, legal guardian, trainer, tutor, companion or a person under whose care the victim is placed, or through misfeasance of service relationship, the punishment shall be increased by one half. 227/6: In case this offense is committed under an organization constitute for this purpose, the punishment shall be increased by one half.</p>
<p>c) Prescription: 102/4: The prescription time for instigating to prostitution is 5 years.</p>	<p>c) Prescription: 66/d : The action is exposed with prescription 15 years later than the date when the crime was committed 66/6 : In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription time shall commence when the child completed his/her age of 18.</p>
<p>KIDNAPPING AND SALE OF CHILDREN: a) Age limit: 430: Whoever through force, violence threats or fraud and under lascivious feeling or with the</p>	<p>KIDNAPPING AND SALE OF CHILDREN: a) Age limit: 109: Whoever deprives a person from his/her freedom by illegally taking him/her to a place or</p>

<p>intention of marriage, abducts a person under age or detains her in a place shall be punished by heavy imprisonment from five to ten years.</p> <p>431: If the victim is aged below 12, the offence of kidnapping and confinement shall be punished with imprisonment for at least five years.</p>	<p>forcing him/her to stay in a place shall be sentenced from one year up to five years in prison.</p> <p>109/f: In case this offense is committed against a child or a person who is incapable of defending himself/herself, the punishment shall be increased by one time.</p>
<p>b) Aggravating and mitigating circumstances:</p> <p>430: In case the minor has consented to the abduction or detention in a place the punishment for the offender shall be imprisonment from six months to three years.</p> <p>432: In case the offender delivers the victim to her family without any lascivious act, the punishment for the offender shall be imprisonment from one month to six years.</p> <p>433: In case the offense is committed with the intention of marriage and no act of rape is committed, the punishment shall be decreased by 1/3 to 1/2.</p> <p>434: If the abducted or detained girl or woman and one of the accused or convicted get married, the punishment shall be suspended.</p>	<p>b) Aggravating and mitigating causes:</p> <p>109/c: If the offense is committed by more than one person, or</p> <p>109/d: through malfeasance of public authority service, or</p> <p>109/e: against spouse or a person from the ascending or descending line, the punishment shall be increased by one time.</p>
<p>c) Prescription:</p> <p>102 / 3: The prescription time for child</p>	<p>c) Prescription:</p> <p>66/d : The prescription time is 15 years starting</p>

<p>kidnapping is 10 years.</p>	<p>from the date of offense if the upper limit of punishment is more than 5 years from the date of the offense.</p> <p>69/e : The prescription time is 8 years starting from the date of offense if the upper limit of punishment is less than 5 years</p> <p>69/6 : In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription time shall commence when the child completed his/her age of 18.</p>
<p>2) TRANSFER OF ORGANS FOR PROFIT: Existing penal code does not bring any regulation on this subject.</p> <p>a) Age limit: It is regulated by the Law on Removal, Storing and Transfer of Organs and Tissues</p>	<p>2) TRANSFER OF ORGANS FOR PROFIT:</p> <p>a)Age limit : 91: Whoever takes an organ from a person without a legally valid consent shall be sentenced from 5 years up to 9 years in prison.</p>
<p>ARTICLE 5 - It is prohibited to taking organs or tissues of people who are under age of 18 and who are capable of discrimination.</p> <p>ARTICLE 15 - Those who take, remove, store, implant or transfer or sell, purchase or commission tissues or organs in violation of this Law shall be sentenced to two years to four years in prison and fined 50.000 TL to 100.000 TL, if the offense does not require more severe punishment.</p>	

<p>b) Aggravating circumstances:</p>	<p>b) Aggravating causes:</p> <p>91/4: In case this offense is committed by the activities of an organization, then the punishment shall be from eight years up to fifteen years, and fined corresponding to ten thousand days.</p>
<p>c) 102/4: The prescription time for the offense of organ transfer is 5 years.</p>	<p>c) Prescription:</p> <p>66/d : The action is exposed with prescription 15 later than the time when the crime was committed.</p> <p>66/6: In case this offense is committed by a person from the ascending line to the victim or a person who has authority on the victim, the prescription time shall commence when the child completed his/her age of 18.</p>

d) Although it is not specified in paragraph 1 of Article 3 of the Optional Protocol, there are not other acts or actions which are regulated as crimes or offenses in the penal codes of that state party.

e) Responsibility of corporate persons has been regulated in the Turkish Penal Code numbered 5237.

f) It is stated in Article 5.

ARTICLE 7:

In our country, there is not an effective auditing mechanism concerning the adoption services. Establishment of family courts, the amendments to the Civil Code, and the measures included in the new Penal Code taking into consideration the international conventions will bring improvement in this field.

The adoption services in our country are regulated by Article 305-320 of the Civil Code, and the Regulation on Adoption issued by our Agency.

As per Article 305 of the Civil Code, for adoption to be effected, the child must be cared and trained by the potential adopter for one year and adoption is considered as to the benefit of the child, and as per Article 316, all kinds of circumstances and conditions must be thoroughly investigated, and if necessary, specialist opinion must be taken.

As per Article 308, adoption of a child who is capable of comprehension contrary to his/her consent is prohibited.

As per Article 309 and 310, adoption needs the consent of the minor's biological mother and father as recorded in a minute in a court, and a period is specified for withdrawing such consent.

Article 311 describes the cases in which the consent of biological parents is not required.

As per Article 320, intermediary actions in the adoption of minors can be practiced only through those organizations that are authorized by the Council of Ministers, and such matters shall be regulated by a by-law. In this context, the General Directorate of Social Services and Child Protection Agency, which actually conducts the adoption transactions, has prepared a By-Law, and the legalization of this by-law is progress.

Following the entry into force of this by-law, significant improvements will be made for the protection of children since under this by-law, investigations will be made concerning adoption.

In the Regulation on Adoption issued by the SSCPA, the requirements for potential adopters are described in detail. Under this Regulation, investigations are made

concerning the potential adopters, who are required to evidence their status. In the one-year period before adoption in which the child is placed, the SSCPA conducts necessary investigations.

On 14.01.2003, with the Law no. 5049, our country ratified the Hague convention on the protection of children and cooperation on international adoption, and this Law will enter into force on 01.09.2004.

The law in question regulates the adoption matters, and brings measures for the prevention of kidnapping, sale or trading of children by securing their fundamental rights.

The Regulation on Adoption issued by the Social Services and Child Protection Agency and the by-law in question are in compliance with the Hague Convention.

For cases of international adoption, the files are processed through the International Social Services (ISS), which at the same monitors the one-year probation period.

ARTICLE 8:

a) As for the governing jurisdiction in case the acts or actions specified in paragraph 1 of Article 3 of the Optional Protocol are committed within the borders of the state party or aboard a vessel or plane registered with the state party, the general principle in criminal cases is that governing law and judicial organs are those of the state of the country in which the crime is committed. In this context, **in Article 12 of the Turkish Code of Criminal Procedure numbered 5271**, it is stated that the court of the place where the crime is committed is authorized to process the case.

Again, **in Article 15 of the Turkish Code of Criminal Procedure**, special rules for jurisdiction concerning the crimes committed aboard, or using, marine or air vehicles. Under this Law, two places are authorized jurisdictions if such vehicles carry a Turkish flag and the crime is committed outside Turkey: the court of the first port of calling and

the court of the anchoring port in Turkey. The court of the port or territorial waters containing the vehicle on which the crime is committed is authorized in case the crime is committed within Turkish territorial waters, and the court of the port of calling is authorized in case the crime is committed within another domain or international waters.

b) As for the cases in which the suspected person is the citizen of the state party or the domicile of this person is within the borders of the state party, **the Turkish Penal Code numbered 5237 contains the following clauses.**

“ARTICLE 8 - (1) Turkish laws shall apply to the crimes committed in Turkey. In case the act is committed partially or completely in Turkey, or the aftermath is realized in Turkey, then this crime is considered committed within Turkey.

(2) In case the crime is committed,

a) Within Turkish land and airspace, and in Turkish territorial waters,

b) In the open sea and the air space over it, however, within, or using Turkish naval and air vessels,

c) Within, or using Turkish naval and air combat vessels,

d) On, or against the fixed platforms established within the continental shelf of Turkey or within its exclusive economic region,

Then this crime shall be considered as committed in Turkey.

“ARTICLE 9. - (1) A person sentenced abroad due to a crime committed within Turkey, is commits a crime and convicted in a foreign country will be reheard in Turkey.

“ARTICLE 10. - (1) A person who has a duty in a foreign country in the name of Turkey, and commits a crime because of this duty, will be reheard in Turkey, even if s/he was convicted in the foreign country as regards this crime.

“ARTICLE 11. - (1) In case that a Turkish citizen commits a crime in a foreign country other than those mentioned in Article 13 requiring a punishment of imprisonment with the lower limit not less than one year according to Turkish laws, and if s/he was currently in Turkey, shall be punished according to Turkish laws, provided that s/he is not convicted in the said foreign country and also that such crime is prosecutable in Turkey.

(2) In case the crime requires a punishment of imprisonment with the lower limit less than one year, trying will depend on the complaint of the injured or the government of the said foreign country. In this case, complaint must be made within six months starting from the entry of the said Turkish citizen to Turkey,

“ARTICLE 12. - (1) In case that a foreigner commits a crime other than those mentioned in Article 13 in a foreign country so as to give harm to Turkey requiring a punishment of imprisonment with the lower limit not less than one year according to Turkish laws, and if s/he is currently in Turkey, shall be punished according to Turkish laws. Performing of the trial will depend on the request of the Minister of Justice.

(2) In case the above-mentioned crime is committed so as to give harm to a Turkish citizen or to a corporate person established according to Turkish laws, and if the offender is currently in Turkey, then the offender will be punished according to Turkish laws, provided that s/he has not been convicted in the foreign country as regards the said crime.

(3) In case the victim is a foreigner, the offender will be tried upon the request of the Minister of Justice, in the existence of the following conditions:

a) Provided that the crime requires a punishment of imprisonment with a lower limit no less than three years according to Turkish laws.

b) Provided that no extradition treaty exists or extradition of the perpetrator is not adopted by the Government of the State in whose territory the crime was committed, or by the State of which the offender is a citizen of.

(4) A foreigner who has been convicted in a foreign court for a crime subject to the paragraph 1, or that punishment or suit has been dropped for any reason, or that the crime has become un-prosecutable will be reheard in Turkey upon the request of the Minister of Justice,

“ARTICLE 13. - (1) Turkish laws shall apply in case the following crimes are committed by citizens of by foreigners in a foreign country:

a) Crimes contained in Volume II, Section 1.

b) Crimes contained in Volume II, Section 4, Parts 3, 4, 5, 6, 7, and 8.

c) Torture (ARTICLE 94, 95).

d) Intentionally contaminating the environment (ARTICLE 181).

e) Manufacturing and trading narcotics or stimulants (ARTICLE 188), facilitating the abuse of narcotics or stimulants (ARTICLE 190).

f) Counterfeiting (ARTICLE 197), production and trading of tools used in manufacturing tenders and valuable presses (ARTICLE 200), forgery in seals (ARTICLE 202).

g) Prostitution (ARTICLE 227).

h) Bribery (ARTICLE 252).

i) Hijacking or to keep hold of sea, railway, or air transport vessels (ARTICLE 223, paragraph 2, 3) or damages against these vehicles (ARTICLE 152).

(2) **(Amendment: 29.06.2005-5377/art. 3)** excluding those mentioned in Volume II, Section 4, Parts 3, 4, 5, 6, and 7; trying in Turkey for crimes under paragraph 1 is subject to the request of the Minister of Justice.

(3) Due to crimes mentioned in (a) and (b) subparagraphs of paragraph 1, trial in Turkey will be performed even a decision of conviction or acquittal has been made in a foreign country upon the request of the Minister of Justice.

Criminal Court Law numbered 5271 on Internet Crimes

ARTICLE 12. - (1) Jurisdiction belongs to the courts of the place where the crime was committed.

(2) Jurisdiction, in case of attempt, belongs to the courts of the place where the last executing act was committed, in repeating crimes and successive crimes, where the last crime had been committed.

(3) In case the crime was committed with a printed work, jurisdiction belongs to the courts of the place that is the center of printing for the printed work. However, if the same work has been printed in more than one place, and if the crime had been committed on an edition other than printed in the printing center, jurisdiction also belongs to the court of the place where the work has been printed for that crime.

(4) For the crime of insult, which inquiry and prosecution is subject to complaint, jurisdiction also belongs to the court of the place where the work has been distributed, in case such place is the place that the victim is located or resides in. In case the victim is imprisoned or arrested, jurisdiction also belongs to the court of the place where such imprisonment or arrest is executed.

(5) Provisions of the paragraph 3 of this Article shall apply also to audio/visual publications. If the audio/visual publication has been seen or listened to in the place of residence or location of the victim, then jurisdiction also belongs to the court of that place.

c) In case of being a citizen of a party state, is also regulated in the Article 12 of the Turkish Penal Code, regarding injured.

“ARTICLE 12. - (1) In case that a foreigner commits a crime other than those mentioned in Article 13 in a foreign country so as to give harm to Turkey requiring a punishment of imprisonment with the lower limit not less than one year according to Turkish laws, and if s/he is currently in Turkey, shall be punished according to Turkish laws. Performing of the trial will depend on the request of the Minister of Justice.

(2) In case the above-mentioned crime is committed so as to give harm to a Turkish citizen or to a corporate person established according to Turkish laws, and if the offender is currently in Turkey, then the offender will be punished according to Turkish laws, provided that s/he has not been convicted in the foreign country as regards the said crime.

(3) In case the victim is a foreigner, the offender will be tried upon the request of the Minister of Justice, on the existence of the following conditions:

a) Provided that the crime requires a punishment of imprisonment with a lower limit no less than three years according to Turkish laws.

b) Provided that no extradition treaty exists or extradition of the perpetrator is rejected by the Government of the State in whose territory the crime was committed, or by the State of which the offender is a citizen of.

(4) A foreigner who has been convicted in a foreign court for a crime subject to the paragraph 1, or that punishment or suit has been reduced for any reason, or that the crime has become un-prosecutable will be retried in Turkey upon the request of the Minister of Justice.”

Article 3 - A person who, in Turkey, commits a crime shall be punished in accordance with Turkish laws, and even if s/he is convicted in a foreign country, s/he will be retried

in Turkey. A foreigner who is convicted for such an act or action outside Turkey shall be retried in Turkey upon request of the Ministry of Justice.

Article 5 - A Turk who, in foreign countries, commits a crime other than one mentioned in Article 4, entailing a punishment under Turkish law which restricts personal liberty for a minimum period of three years, shall be punished, in accordance with Turkish laws, if he is in Turkey.

If the crime committed entails a punishment restricting liberty for a minimum authorized period of less than 3 years, the initiation of prosecution may be upon the complaint of the injured party or the foreign Government.

If the victim is a foreigner, the act must also entail a punishment according to the law of the country where it was committed.

Article 6 - A foreigner who commits a crime other than one mentioned in Article 4, in a foreign country, against Turkey or a Turk, entailing punishment restricting liberty for a minimum period of one year under Turkish law, shall be punished in accordance with Turkish laws, if he is in Turkey. However, institution of prosecution is subject to the request of the Ministry of Justice or the complaint of the injured party.

If the crime is committed against a foreigner, the perpetrator shall be punished upon the request of the Ministry of Justice, provided the following conditions exist:

1 - The act, according to Turkish law, entails a punishment restricting liberty for a minimum authorized period of not less than three years;

2 - No extradition treaty exists or the extradition of the perpetrator is rejected by the Government of the State in whose territory the crime was committed, or by the State of which the offender is a citizen.

If a Turk or Foreigner commits crimes described in Chapter VIII, of Part 3 of the Turkish Penal Code in a foreign country, prosecution shall be instituted directly, and the perpetrator shall be subject to the punishments provided for in the Articles of that Part.

As per Article 8 of the Code of Criminal Procedure, for Internet crimes, when the perpetrator's place and the place of Internet access are known, and employees of the Internet service provider are not perpetrators, the point of access to the Internet shall be taken as basis for determining the governing court. In case the employees of the service provider are perpetrators, then place where the head office of the company is place will be taken as basis.

c) For the case in which the victim is the citizen of the state party, Article 7 of the Turkish Penal Code is applicable.

Article 7 - In case a foreigner who commits a crime in a foreign country, against Turkey or a Turk, is convicted or acquitted by a foreign court, s/he shall be retried by Turkish courts.

If the punishment given is less than punishment specified in the Turkish Penal Code for that offense, then the punishment is increased so as to complete the specified punishment. If the reasons for acquittal or non-prosecution are not compatible with Turkish laws, punishment is given.

In this connection, institution of prosecution is subject to the request by the Ministry of Justice. In cases of insult and bad language through the Internet, prosecution shall be subject to the request of the victim as per the Code of Criminal Procedure.

d) It is regulated in Article 6/3 of the Turkish Penal Code. If the crime is committed against a foreigner, the perpetrator shall be punished upon the request of the Minister of Justice, provided the following conditions exist:

1 - The act, according to Turkish law, entails a punishment restricting liberty for a minimum authorized period of not less than three years;

2 - No extradition treaty exists or the extradition of the perpetrator is rejected by the Government of the State in whose territory the crime was committed, or by the State of which the offender is a citizen. If a Turk or Foreigner commits crimes described in Chapter VIII, of Part 3 of the Turkish Penal Code in a foreign country, prosecution shall be instituted directly, and the perpetrator shall be subject to the punishments provided for in the Articles of that Part.

For the case in which the victim is the citizen of the state party, Article 7 of the Turkish Penal Code is applicable.

ARTICLE 9:

Crimes committed by soldiers have been included in Military Penal Code numbered 353, and have not been included in the provisions of Turkish Penal Code numbered 5237.

ARTICLE 10:

Extradition, investigation and follow-up of criminals can be defined as process in which a person who commits a crime under the jurisdiction of a State and deserts to the country of another State or who happens to be in that State is caught upon the request by the State having the jurisdiction and delivered to that State. Extradition is one of most effective mechanisms of international judicial cooperation.

Our legal system does not have a specific mechanism for extradition. It is possible to come across several clauses spread over our domestic law regarding this matter. For example; Article 38 of the Constitution is the Article 18 of Turkish Penal Code numbered 5237.

Article 18 of Turkish Penal Code reads,—“ (1) A foreigner who has been prosecuted, or a decision of sentence has been made on for a crime committed or claimed to be committed in a foreign country can be extradited with the purpose of

helping the performance of the prosecution or the execution of the sentence. However, request of extradition will not be accepted in case the act that is the basis for extradition claim meets the following criteria:

- a) Act is not a crime according to Turkish legislations,
- b) The crime has the characteristics of intellectual crimes or political or military crimes,
- c) The crime has been committed against the security of the State of Turkey, against State of Turkey, or a Turkish citizen or a corporate body established according to Turkish laws,
- d) Crime is subject to the jurisdiction of Turkey,
- e) Crime has been subject to prescription or has been pardoned,

(2) Excluding the obligations arising from being a party of International Criminal Council, a citizen can not be extradited to a foreign country because of a crime.

(3) In the event of being extradited to do requesting state, if there are strong reasons to suspect that an individual will be prosecuted or punished or be tortured or maltreated because of his/her race, religion, citizenship, belonging to a certain social group, or political opinions, then the request of extradition will not be accepted.

(4) The Criminal Court for Major Cases of the location of the person in question will make the decision about the request of extradition according to this Article and the provisions of the relevant international treaties that Turkey is a part of. Such decision can be appealed.

(5) In case the court decides that request of extradition is acceptable, implementation of the decision will be at the discretion of the Council of Ministers.

(6) Implementation of protection measures for the extradition requested can be decided according to the relevant international treaties that Turkey is a part thereof.

(7) In case the court decides that request of extradition is acceptable, a decision of arrest can be made according to the provisions of Turkish Code of Criminal Procedure, or other measures of security can be implemented.

(8) In case of extradition, individual can only be tried for crimes that are bases of the decision of extradition, or the punishment that s/he has been convicted can be executed.

In practice, extradition is carried out according to extradition treaties between Turkey and the requesting state, or, in the absence of such treaty, on the basis of reciprocity.

The European Convention on Extradition, to which Turkey is a party since 1960, is the most referred conventions concerning extradition.

No request has been made to the Ministry of Justice concerning extradition as per the provisions of the Protocol in question.

ARTICLE 11:

a) It is included in Articles 54 and 55 of the Turkish Penal Code numbered **5237**, and in Articles 123, 256, and 259 of the Turkish Code of Criminal Procedure.

b) In the Turkish Penal Code numbered 5237, corporate persons are charged with responsibility, and the confiscation of the revenue acquired is being arranged.

ARTICLE 12:

- a) It has been decided in the Articles 234 and 239 of the Turkish Code of Criminal Procedure numbered 5271 that an attorney at law will be appointed in case of the request of the victim or the offended of the crime in question.

Article 234 regulated under the headline “Rights of the victim and the claimant”,

“ARTICLE 234. - (1) **Rights of the victim and the claimant are as follows:**

a) During the phase of inquiry;

- 1. Requesting the collecting of evidence,**
- 2. Requesting copies of documents from the Public Prosecutor provided that the confidentiality and purpose of the inquiry is not harmed,**
- 3. Requesting the appointment of an attorney at law for him/herself if s/he has not a lawyer,**
- 4. Having the documents of the inquiry and the object sequestered and put under protection through his/her lawyer, provided that the provisions of the Article 153 are followed,**
- 5. Using the right of objection according to the written procedure to the decision of the Public Prosecutor that prosecution is unnecessary.**

b) During the phase of prosecution;

- 1. Being informed about the trial,**
- 2. Attending the public prosecution,**
- 3. Requesting copies of minutes and documents via his/her proxy,**
- 4. Requesting the invitation of the witnesses,**
- 5. Requesting the appointment of an attorney at law for him/herself if s/he has not a lawyer,**

6. Applying for legal proceedings against the finalizing decisions about the case, provided that s/he had attended the trial.

(2) In case the victim is under 18 years of age, deaf and dumb, or disabled to such a degree that s/he is not capable of expressing him/herself, and also s/he has not a lawyer, then a lawyer will be appointed without any need for his/her request.

(3) These rights will be told and explained to the victims and compliant of the crime, and this will be recorded in a minute.

Article 239 under the headline “Rights of the Attendant”

(1) In case the victim or the offended of the crime attends the trial, and if s/he requests it, then a lawyer will be appointed.

(2) In case the victim is a child, under 18 years of age, deaf and dumb, or mentally disabled to such a degree that s/he is not capable of expressing him/herself, and also s/he has not a lawyer, then the provision of request will not be sought for appointing a lawyer.

a) Our current penal code does not include a specific mechanism for protecting the victim on the grounds that the prosecutor protects the rights of the victim. In practice, this leads to significant problems with respect victims who are children. While suspects are provided with lawyers free of charge as per the Code of Criminal Procedure, the child victims feel themselves defenseless and excluded from the system.

The Penal Code contains special provisions only for forcing to prostitution. Paragraph 8 of the Article 227 of the Turkish Penal Code reads, "Those who are forced for prostitution are provided therapy".

The existing situation is not satisfactory with respect to the protocol. In this regard, the Ministry of Justice has prepared provisions concerning the child victims. Ankara Bar provides legal counseling to child victims whether or not they are poor. There is no crisis and support center or other mechanism.

Laws do not contain provisions for providing lawyers to the victim. Provision of a lawyer to child victims aged below must be obligatory.

In Juvenile Offices, social service specialists and psychologists are employed. However, their numbers are insufficient, and service cannot be provided in all offices.

b) Age determinations are made using bones and teeth by the Forensic Medicine Organization and in the Forensic Medicine Departments of universities. The first Forensic Odontology of Turkey has been established in the Forensic Medicine Department of the Faculty of Medicine of Ankara University, and first certified Forensic Dentists have been trained. The training continues.

c) As per Article 11 of the Civil Code, being under age, minors aged below 18 are represented by their parents or legal guardians before courts. Thus, it is a right and requirement for parents or legal guardians to participate in trial together with children. In accordance with the Regulation on Legal Counseling Aid, poor victims are provided by bar with lawyers free of charge upon their request. However, this system does not automatically operate and is not well known, and therefore, it is not effectively used. Ankara and Istanbul Bars have amended their bylaws in order to eliminate this problem, and now, all child victims are automatically provided with lawyers free of charge whether they are poor or not.

Moreover, with a joint activity initiated by Ankara Bar and Ankara Juvenile Police Branch, it was ensured that lawyers accompanied children who were victims of sexual abuse, and informed them of their rights while their testimonies were taken.

d) Brochures were prepared aimed at informing children in cooperation with the Ministry of Justice, bars and other organizations. The activities for informing the children in closed organizations are underway. The bylaws related to prisons contain regulations on the issue.

e) The related organizations continue their in-service trainings on the issue.

f) Social service specialists and psychologists are employed in the police and gendarme units working with children. There are efforts at providing such specialists to all children. In juvenile courts and family courts, social service specialists, psychologists and child development specialists are employed, and there are efforts at providing psychosocial support to child victims.

g) The Law on the Supreme Board of Radio and Television, and the Code of Criminal Procedure contain provisions on the issue.

h) Attacks against public servants are considered as an aggravating circumstance in the TPC. Although the establishment of private security systems is a positive development, it is not sufficient. There are efforts at the development of the legislation on the protection of witnesses.

i) There are general procedures on this subject. There is no specific provision on the subject. **As per Article 257 of the TPC, a public servant who causes unnecessary delays will be subject to investigation on grounds of negligence of duties.**

j) The Convention on the Rights of the Child, the Constitution, laws and the Law on Social Services and Child Protection Agency numbered 2828 provides for the formulation of urgent measures concerning the child negligence and exploitation. Also, in 1997, with the Decree Having Power of Law numbered 572 annexed to the Law numbered 2828, the child and youth centers started to provide services to the children living and/or working in the streets and the girls who were sexually exploited for commercial purposes.

The purpose of the Law numbered 2828 is to regulated the fundamentals and principles concerning the social services provided to the families, children, disabled, aged or other people requiring protection, care and help, and the establishment, duties, powers, responsibilities, activities, and revenues of the organized established in order to

conduct such services. In this scope, services are provided through day care centers, rehabilitation centers and similar organizations.

Child and Youth Centers are defined as social service organizations with or without boarding facilities established in order to ensure rehabilitation and re-socialization of children and young people who are deserted in the streets due to disagreement between spouses and other reasons and who are socially at risk.

Currently, there are 39 Child and Youth Centers providing services to children living and/or working in streets, and two of these centers are focused on girls who were sexually exploited for commercial purposes.

By promulgation by the Ministry of Interior of the Regulation on Juvenile Police, the Circular on the Protection of the Family, the Circular on the Volatile Agents, the Circular on Prohibition of Handcuffing of Children, and the Circular on the Juvenile Police, the protection of child victims is secured.

With a view to increasing the effectiveness of the duties of the Gendarmerie Command protection of children from crimes and preventing them from committing crimes, Bahçeşehir Child Center was established as affiliated to the Istanbul Provincial Gendarmerie Command and started operation on 23 October 2001. Afterwards, Gendarmerie Child Centers were established in Ankara, İzmir, Aydın, and Erzurum.

In their fields of responsibility, the Child Centers subordinated to the General Command of Gendarmerie perform the following:

- They check whether children aged below 18 are employed in place open to public, whether children enter into places selling alcoholic drinks, and whether children are employed in places where employment of children is prohibited
- They check whether alcoholic drinks, tobacco products, pornographic materials, obscene or indecent materials, volatile agents, drugs, or addictive materials are sold to children.

- They notify security forces concerning the places acting in violation of the legislation.

"Legal Counseling Aid to Child Victims Unit" of Child Rights Center of Istanbul Bar was established on 01.01.2001. This unit provides legal counseling services to children who are victims of negligence and exploitation.

Within framework of the Project for Psychosocial Support for Children Living in Streets, non-governmental organizations provided psychosocial support services to approximately 200 children staying in the Child and Youth Centers of the Social Services and Child Protection Agency, including the center providing services to the girls who were sexually exploited for commercial purposes.

With the "Regulations on the Establishment, Duties and Operation of Juvenile Branch/Office of the General Directorate of Security" prepared with a view to improving the services provided by the Security Organization to children based on the existing legislation and especially on the UN Convention on the Rights of the Child, the services for the children who need protection and help, who are deserted, whose identities cannot be determined, who live in streets, who are abandoned, who seek refuge and similar children and the all administrative or criminal investigations of child suspects are performed by the Child Branches or Offices.

Juvenile Police is providing services in 81 provinces, and they are given in-service training concerning the development characteristics, behavioral sciences, interview techniques, and communication skills for the children aged between 0 and 18. Thus, benefits of children are preserved during the transactions performed by the security forces. Child Branches are providing services through Child Care Units with full facilities in 43 provinces.

A National Action Plan has been prepared taking into consideration the targets, strategies and actions stipulated in the UN Action plan and departing from the activities conducted up to now in order to protect and improve the rights of the children aged up to 18 including those in puberty in Turkey, and with a view to determine the priorities and timelines of the future actions.

In this scope, the targets for 2005, 2010 and 2015 concerning quality education, health, HIV-AIDS and protection of children from negligence, exploitation, abuse and violence, and actions having priority are given in the following table.

NATIONAL ACTION PLAN

<p>To protect children from all kinds of sexual exploitation including pedophilia and sale</p>	<p>Legal Provisions: Review of existing legal provisions and new legal provisions. Implementation of the relevant Optional Protocol to the Convention on the Rights of the Child (A/RES/54/263, 25 May 2000). The legal provisions concerning the crimes committed on the Internet. Harmonization of the definition of the offense of intra-family sexual exploitation with international norms. Harmonization of existing laws with international convention, and new laws for harmonization Ensuring the inclusion of incest in the Turkish Penal Code as an offense, with special emphasis on the disabled children as the weakest group. Prevention of offenders of such crimes from utilization from favorable provisions of the enforcement law. Performing defense and support activities required for the performance of these activities. Establishment of a commission for new legal regulations.</p> <p>Training Conducting training activities concerning the protection of children from all kinds of sexual exploitation including sale and kidnapping</p> <p>a) Preparation of a standard training kit for each group with the participation of universities and non-governmental organizations. b) Articulation of non-governmental organizations and all organization conducting formal education concerning child and family within the training programs. c) Training of trainers. d) Training of target groups: Family Child e) Training of professionals: Medical personnel Security forces Trainers -Jurists</p> <p>f) Training of social leaders: Religious officers Headmen Other</p>	<p>Preparation of the draft by establishing a commission until 2005</p> <p>Realization of laws and all other targets until 2015</p> <p>Until 2005</p> <p>Until 2005</p> <p>During 2005-2015 During 2005-2015</p> <p>During 2005-2015</p> <p>During 2005-2015</p>	<p>Ministry of Justice, Prime Ministry KSSGM, Family Research Agency, Related non-governmental organizations, universities, other related organizations</p> <p>General Directorate of SOCIAL SERVICES AND CHILD PROTECTION AGENCY, Ministry of National Education, Ministry of Health, Prime Ministry KSSGM, Family Research Agency, non-governmental organizations, universities, SBRT, media organizations.</p> <p>Department of Religious Affairs, Ministry of Interior</p>
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<p>g) Training of the society via mass media.</p> <p>3. For ensuring the rehabilitation of sexually exploited children:</p> <p>a) Opening rehabilitation houses designed also for disabled children.</p> <p>b) Amendment of the Article of the regulation preventing non-governmental organizations from opening organizations (ensuring the possibility of opening organizations under the supervision of the SOCIAL SERVICES AND CHILD PROTECTION AGENCY) and drafting of a regulation concerning the establishment, operation and inspection of private rehabilitation houses.</p>	<p>During 2005-2015</p> <p>Opening one rehabilitation house in each region by amending the regulation until 2005</p> <p>Until 2010</p>	<p>General Directorate of SOCIAL SERVICES AND CHILD PROTECTION AGENCY, non-governmental organizations, local administrations.</p>
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ARTICLE 13:

a) The Law on the Supreme Court of Radio and Television has certain provisions prohibiting ads in which children are used. In the new Penal Code, the offenses against children are defined in a more detailed manner. **With child protection law numbered 5395 dated 03/07/2005, the procedures and principles related with protection and securing the rights and their welfare of the children having in need of protection and forced to commit crime have been arranged.** Preparation of a law on child victims is in progress. It is believed that the protocol in question will accelerate this process. Introduction of the Internet has a past of 13 years. There is an increasing trend in the Internet infrastructure and access. As stated above, there have been delays in the formation of a legal infrastructure with respect to both users and the ISPs. However, the increase in numbers of types of information crimes is parallel to the technological development. Therefore, a control mechanism must be established taking into consideration the fundamental rights and freedoms. Since such crime may have cross-border origins, international law and cooperation must be enhanced.

In Article 4 of the Law on the Supreme Board on Radio and Television, it is stated that "broadcasts should not be obscene" (t), "all kinds of violence and discrimination against women, the weak and minors should not be encouraged" (u), and "programs which may undermine physical, mental and moral development of children and young people should not be broadcast at times when they can watch them" (z).

In this context, paragraph (t) of Article 5 of the Regulation on Fundamentals and Principles of Radio and Television Broadcasting reads: "Broadcasting should not contain indecent and obscene words and acts which aim at exploiting the sexual feelings, in which individuals are presented as sexual objects, which reduce human body to the element of sexual provocation, and which cannot be displayed within a social living area. The programs which contain sexuality due to its genre and content should be broadcast between 23:00 and 05:00 by making the necessary audio/written warnings in order to protect the mental, emotional and moral development of children, and in promotion clips of such programs, the sections containing sexual exposure should not be used, and they should be announced after 21:30.

Paragraph (u) reads: "All kinds of discrimination and physical and psychological violence against women, the weak and minors should not be encouraged. Broadcasting should not contain elements which justify, mitigate or provoke the intra-family violence, battery, sexual abuse, rape, etc., which endorse inequality in social life and among family members, or which ignore consent, approval, representation and wishes of women. Physical, emotional or sexual exploitation of children or exploitation child labor should not be encouraged. Broadcasting should take into consideration the people's sensitivity concerning physical or mental disabilities, and actions facilitating the disabled people to watch programs (such as sign language, subtitles, etc.) should be encouraged. Images containing violence against animal should not be broadcast."

Paragraph (z) reads: "The programs which may undermine physical, sexual and moral development of children and young people should not be broadcast at times when they can watch them. Broadcasting should not present celebrities or other interesting characters so as to adversely affect the emotional, moral and social development of children and your viewers. The programs which contain sexuality, violence, and bad habits (gambling, alcohol, drug addiction, bad language, suicide, etc.) due to its genre and content should be broadcast between 23:00 and 05:00 by making the necessary audio/written warnings and taking into consideration the different age groups. In the promotion clips of such programs, the sections containing violence, sexual exposure, etc., should not be used, and they should be announced after 21:30." Also, paragraph 10 of Article 12 of the same Regulation, reads: "... Promotional clips for conversation, finding pairs, etc., in which special phone numbers are given can be broadcast between 23:00 and 05:00..." and the Application Guide Heading (41) reads: "For the child programs and cartoons, movies and TV films and serials which will be broadcast in protected hours, the viewers/listeners and families having different mental, emotional and social development characteristics are informed using audio/written methods and using Protective Symbol System and symbols defined for certain age groups. The application guide containing explanations and guidance on the Protective Symbol System defined in this Regulation shall be published by the Supreme Board. The provisions of this guide are taken as basis in applications concerning

the Protective Symbol System and the broadcasting is evaluated and announced in terms of these provisions."

The Supreme Board of Radio and Television issued 25 penalties of warning, defense and prohibition from broadcasting as per paragraph (z) to 7 national TV channels in 2003, and 9 penalties as per paragraph (v), one penalty as per paragraph (t) and 32 penalties as per paragraph (z) to the same channels in 2004.

The lawyers working in the Child Rights Center of Istanbul Bar attend continuous trainings concerning techniques for communicating with minors. This unit provides services on a 24/h basis, and applications mostly are from sexually exploited children.

Upon initiation by the Ministry of Interior, and as a result of joint work of the Ministry of Employment and Social Security and the Undersecretariat of Foreign Trade and Customs, the "Communiqué on Importation" concerning the control of content quantities of volatile and adhesive agents was promulgated in the Official Gazette dated 10.01.1999 and numbered 23579.

In the circular prepared by the General Directorate of Security, it has been requested "that decision be taken for the prohibition of the sale of volatile agents to children aged between 0 and 18 in accordance with Article 11/C of the Law on Provincial Administration numbered 5442 in order to ensure the public peace and prevent children from committing crimes under the effect of volatile agents, that legal proceedings be instituted against those who violate the decision to be announced as per Article 526 of the TPC unless their acts constitute another offense" from all provinces and the applications has been implemented throughout the country.

The work for "Consultation Board" for the rehabilitation of children who are under protection and who need rehabilitation among the General Directorate of Social Services and Child Protection Agency, universities, the General Directorate of Treatment Services of the Ministry of Health, and the General Directorate of Social Insurance Agency is underway in the form of diagnosis and treatment in the hospital environment.

The Law on Duties and Organization of the Internet Supreme Board has been prepared; this Law deals with numerous issues related to the Internet, and empowers the Internet Supreme Board concerning the cooperation and coordination against international Internet criminal violations.

b) The cooperation with the Ministry of Justice, the Ministry of National Education, the General Directorate of Security, the Social Services and Child Protection Agency, the Ministry of Interior, the media, non-governmental organizations and universities is included in the National Action Plan concerning the work topics of each organization, and the fields of cooperation have been determined. Moreover, as stated in paragraphs (c), (d), and (e) of Article 3 of the report, activities have been initiated concerning the actions prohibited in the optional protocol. The National Action Plan will be implemented after it is sent by the Ministry of Foreign Affairs to the secretariat of the United Nations.

c) The Law on Protection of Children from Obscene Materials aims at preventing the production and dissemination of the materials defined in the Protocol.

ARTICLE 14:

Between 2001 and 2005, the General Directorate of MCHFP of the Ministry of Health launched the "Project for Development of Strategies for Meeting the Base Information and Service Requirements of the Adolescents" in Bursa and İzmir in cooperation with the UNFPA, and the "Project for Adolescent Health and Development" in Adana and Ankara in cooperation with UNICEF. The purpose is to improve the general health and development of adolescents, to develop adolescent reproduction health concerning the training requirements of adolescents for reproduction health and sexual training, to increase the adolescent access to integrated and quality reproduction health services, and to develop a service provision model for meeting the requirements of adolescents for base information and service.

The Juvenile Police in-service trainings have been performed since 1996 in cooperation with universities, non-governmental organizations, bars, the Social Services and Child Protection, ILO, the British Council, UNICEF Turkey and the Interpol. Since 2000, 150 Juvenile Police Officers have been given the in-service training entitled "Juvenile Police in International Standards" in cooperation with the British Council and the British Consulate.

The Psychosocial School Project Report: the Psychosocial School Project, which has been implemented by the Ministry of Education and UNICEF since the earthquake in the Marmara region in 1999, provides services to students, teachers, administrators and families in order to ensure protection and prevention before critical and difficult events such as natural disasters, wars, terror, migration, negligence, exploitation, violence, abuse, accidents and suicide as well as psychological support after such events. In this scope, at the national level, the Psychosocial Prevention, Protection and Response Unit was established under the General Directorate of Special Training, Guidance and Consultation Services, and at provincial level, the Psychosocial Prevention, Protection and Response Teams were established under the Directorates of National Education in order to enhance the psychosocial capacity throughout the country. 11 books containing information and techniques concerning psychosocial prevention and protection were prepared. Throughout Turkey, first step psychosocial training has been completed in every province.

Prevention of child labor was also included in the Government's Urgent Action Plan. In the plan, under the heading "Actions to be Taken for the Prevention of Child Labor" with the code of SP 08, it was stated that actions would be taken for a more effective implementation of the Convention no. 182 of ILO, a minimum employment age would be specified for all sectors taking into consideration also the age for completion of compulsory basic education, and it would be effectively implemented. Under the coordination of the Ministry of Employment and Social Security, and in cooperation with the State Planning Organization, the Ministry of Justice, the Ministry of Interior, the Ministry of National Education, and the lawyers of employers and employees, the efforts for removing children from employment areas where they are exploited, particularly the worst forms of child labor, have been accelerated.

Moreover, within the scope of the international cooperation activities by the General Command of Gendarmerie, the cooperation with the UNICEF and the British Council on the training of the personnel working for the prevention of child crimes is progress.

Within the framework of the Program for Financial Cooperation between Turkey and the European Union, the Project for the Protection of Children and the Prevention of Child Criminality is conducted under the coordination of the General Command of Gendarmerie and jointly with the organizations working in the field of protection of children and the prevention of child criminality.

In 2003, the Health Again and Training Association ensured that the Training Guide for Psychosocial Rehabilitation of Children Who Were Sexually Exploited for Commercial Purposes, and the Self-Study Guide were translated with the International ECPAT (End Child Prostitution, Child Pornography and Trafficking of Children for Sexual Purposes) cooperation. In the short term, formation of a comprehensive training program for the people working in this field is planned, and in this program, this Training Guide will be used. Publication of the Self-Study Guide is planned for easy access by everyone.

Within the scope of the Institutional Development Fund (IDF) Grant Project Proposal submitted by the World Bank to the General Directorate of Security, the Project for the Juvenile Police Journal, the In-Service Trainings in International Standards for the Personnel of the Child Branch Directorates/Offices, a Panel on the Activities of Child Branch Directorates/Offices, a Conference, a Seminar and Promotional Activities has been submitted to the Ankara Office of the World Bank.

There are 181 member states of the General Secretariat of the Interpol. Children constitute a significant part of the human trading. This issue is discussed in General Assemblies of the Interpol, and there are workgroups of specialists working on this issue, and they hold meetings every year. There are more than 150 thousand materials concerning child pornography in the Interpol. More than 100 thousands of children were identified by examining these materials. Operations are conducted at the international level jointly with

the related member countries under the coordination of the General Secretariat of the Interpol. Turkey has taken part in some of these operations.

In the department of human trading and kidnapping subordinated to the General Secretariat of the Interpol, the activities concerning sexual exploitation are underway. The new developments concerning the fight against sexual exploitation are notified to Interpol Central Offices, and the fights continue under national legal provisions.

ARTICLE 15:

Upon initiation by the Ministry of Foreign Affairs, which is the National Coordinator with respect to human trading, a National Taskforce for Fighting with Human Trading has been established. The Department of Foreigners, Borders and Asylum, the Department of Security, the Department of Smuggling and Organized Crimes from the General Directorate of Security, the General Directorate of Judicial Records, the Ministry of Employment and Social Security, the General Directorate of Status and Problems of Women, the General Directorate of Social Services and Child Protection Agency, General Directorate of Treatment Services of the Ministry of Health, and the Human Rights, Social Solidarity and Cooperation Fund of the Prime Ministry take part in the activities of the National Taskforce.

Turkey actively supports the activities by the OSCE and the Human Trading Taskforce Stability Pact for the prevention of human trading, and strictly applies the norms developed by this Forum on the investigation of organizers and protection victims. In this respect, Turkey also cooperates with the International Organization for Migration , SECI and EUROPOL.

In Turkey, the national coordinator for international contacts concerning human trading is the General Directorate of Consulate of the Ministry of Foreign Affairs. National coordination is ensured by the General Directorate of Security with respect to security and organized crimes, and by the General Directorate of Status and Problems of Women with respect to protection. The real responsibility with respect to the international instruments on

human trading and their implementation lies with the Department of Foreign Affairs of the Ministry of Justice.

However, in connection with the victims of human trading who require physical and psychological treatment, in the annex to the Resolution by the Council of Ministers dated 05.12.2003 and numbered 2003/6565, it was decided that "the patients with foreign nationalities who are found out to be victims of human trading and who are incapable of paying costs of their medical treatment be exempt from the provisions of paragraph 1 of Article 1 of the Law numbered 4736."

Moreover, on 4 September 2003, the Foundation for Development of Human Resources and the Ministry of Interior concluded a protocol concerning the cooperation with respect to human trading, the protection, and accommodation of victims, delivery back to their countries of those who are willing, and the training of the personnel working in this field.

This Protocol specifies the fields of cooperation between the Foundation for Development of Human Resources and the Ministry of Interior, and contains the principles for protection and accommodation of victims of human trading.

The persons who are determined to be victims of human trading are given psychological support and protection, and upon their consent, they are sent back to their countries.

Up to now, 23 people have been issued the "Humanitarian Aid Visa and Temporary Residence Permit" in order to ensure their stay in Turkey for rehabilitation and treatment purposes. Also, 24 people were sent to their countries in cooperation with the International Organization for Migration (IOM) and with their own will.

ARTICLE 16:

The general clauses related with the subject are contained within the Turkish Code for Criminal Procedure.

The relevant Articles are given below.

1. Under the headline “Arresting Causes” provided at Article 100 of Turkish Code for Criminal Procedure,

“ARTICLE 100. - (1) In case of existence evidence indicating a sound suspicion of crime and a reason for arrest, a decision for the arrest of the suspect or accused can be made. In case the importance of the issue is not proportional with the expected punishment or the security measure, decision of arrest cannot be made.

(2) In the following situations, existence of a reason for arrest can be assumed:

a) Presence of material evidence rising suspicion about the running away, hiding, or creating the feeling of running away of the suspect or accused,

b) Behaviors of the suspect or the accused,

1. Destroying, hiding away, or changing the evidence,

2. Attempting to apply pressure on the witnesses, injured, or others,

(3) In case of existence of strong suspicions about the commitment of the following crimes, then a reason for arrest can be considered available:

a) Following items are contained within Turkish Penal Code dated 26.09.2004 and numbered 5237;

1. Genocide and crimes against humanity (Articles 76, 77, 78),

2. Homicide (Articles 81, 82, 83),

3. Torture (Articles 94, 95)

4. Sexual assault (paragraph 1 excluded, Article 102),

5. Sexual exploitation of children (Article 103),

6. Manufacturing and trading narcotic or stimulant (Article 188),

7. Establishing an organization for criminal purposes (paragraphs 2, 7, and 8 excluded, Article 220),

8. Crimes against the security of the State (Articles 302, 303, 304, 307, 308),

9. Crimes against the Constitutional Order and Operation of This Order (Articles 309, 310, 311, 312, 313, 314, 315),

b) Crimes related to smuggling of weapons described in Law Act Concerning Fire Guns and Knives and Other Weapons dated 10.07.1953 and numbered 6136 (Article 12).

c) Crime of embezzling described in paragraphs (3) and (4) of the Article 22 of the Law Concerning Banks dated 18.06.1999 and numbered 4389.

d) Crimes described in the Law for Struggling Against Smuggling dated 10.7.2003 and numbered 4926 requiring imprisonment.

e) Crimes described in Articles 68 and 74 of the Law for the Protection of Cultural and Natural Assets dated 21.7.1983 and numbered 2863.

f) Crimes of purposely setting fire in a forest as described in paragraphs 4 and 5 of the Article 110 of the Law Concerning Forests dated 31.8.1956 and numbered 6831.

(4) (Amended: 25.5.2005-5353/art.11) No decision for arrest can be made for crimes requiring only fines or requiring imprisonment whose upper limit does not exceed one year,

Regulated under the headline “Decision for arrest” in Article 101;

“ARTICLE 101. - (1) During the phase of investigation, arrest of the suspect will be decided by the Peace/Criminal Judge upon the request of the Public Prosecutor, upon request of Public Prosecutor or by the court directly. In such requests, reasons must be definitely pointed out and the legal and actual reasons explaining that the juridical control application would be insufficient are contained.

(2) The legal and verbal causes shall be indicated in the decisions related with arresting, continuation of arresting or rejecting of the request of discharge. The content of the decision is notified orally to the suspect or the accused, and also a copy of it is typed and given to him/her and this matter is stated in the decision.

(3) When arrest is requested, the suspect or the accused will benefit from the help of an attorney at law or s/he will get use of a lawyer to be appointed by the bar.

(4) In case a decision for arrest is not made, then the suspect or the accused will immediately be released.

(5) With this Article, the decisions made pursuant to Article 100 can be objected.”

In Article 107 regulated under the headline “Informing the situation of the arrested her/his relatives”,

“ARTICLE 107. - (1) A relative or a friend of the arrested person will be informed about the situation upon the decision of the judge with no delay about the arrest or the decision of extending the period of the extension.

(2) In addition, provided that it would not endanger the purpose of the investigation, the arrested individual will be allowed to inform a relative or another person s/he chooses in person.

(3) In case the suspect or the accused is a foreigner, and if s/he does not object in writing, arrest is informed to Consulate of the State s/he is a citizen of.

In Article 94 regulated under the headline, “Taking the person arrested to the court”,

“ARTICLE 94. - (1) (Amended: 25.5.2005-5353/art.9) In case the individual arrested during the phase of investigation or prosecution upon the order of arrest given by the judge or court cannot be heard by the authorized judge within 24 hours, then s/he will be heard by the nearest authorized criminal judge within the same period; if s/he is not released, s/he is arrested so as to be send to an authorized judge or the court within the shortest time possible.

In Article 102 regulated under the headline, “Period under arrest”,
“ARTICLE 102. - (1) Period of arrest is maximum six months for offences not included in the jurisdiction of criminal court for major cases. However, this period can be extended four months by giving the reasons.

(2) For offences not included in the jurisdiction of criminal court for major cases, period of arrest is maximum two years. This period can be extended by giving the reasons; extension period may not exceed a total of three years.

(3) Decisions for extension foreseen in this Article are made after hearing the suspect or the accused and their lawyers.

In Article 108, regulated under the headline, “Interrogation of the arrest”,

“ARTICLE 108. - (1) **During the phase of investigation when the suspect is under arrest in jail, decision about whether the arrest will continue or not will be made by the criminal judge upon the request of the Public Prosecutor according to the Article 100, for periods of thirty days at the most.**

(2) Interrogation of the arrest can also be requested by the suspect within the period foreseen in paragraph above.

(3) Judge or the court will make the decision on its/his/her directly whether or not continuance of arrest of the suspect under arrest is required or not on each hearing, or between the hearings when conditions require it, and within the period foreseen in paragraph 1.

In Article 103, regulated under the headline, “Request of withdrawal of Public Prosecutor’s arresting decision”

“ARTICLE 103. - (1) **(Amended: 25.5.2005-5353/art.12)** Public Prosecutor can request the release of the suspect by taking under legal control from the criminal judge.

Suspect that decision for arrest has been given and his/her lawyer can also request the same¹.

(2) In case the Public Prosecutor concludes that arrest is found unnecessary during the investigation phase, he/she can release the suspect with his/her own initiative. When the decision is made that prosecution is not required, then the suspect will be released.

In Article 90, regulated under the headline, “Arresting and the actions to be performed regarding the person arrested”

“ARTICLE 90. - (1) Anyone can make provisional arresting in the following conditions:

a) Eye witnessing the individual when committing the offense.

b) In case where there is a possibility of running away of the person followed due to a crime eye witnessed, or impossibility of identifying his/her identity immediately.

(2) In cases where preparation of arresting decision or arresting order is required and there exists a drawback; it is impossible to consult immediately Public Prosecutor or their superiors, the Police Officials have the authorization of catching.

(3) Although investigation and prosecution are subject to complaint, for the offenses committed against children, catching the perpetuator eye witnessed against, to those disabled mentally or physically, and against those incapable of defending themselves because disability of lack of strength is not subject to complaint.

(4) (Amended: 25.5.2005-5353/art.7) Upon having taken measures which would prevent her/his escape at the moment of his/her being caught, harming him/herself or others, the Police official immediately inform the caught individual his/her legal rights.

¹ Article 12 of the Code numbered 5353 and the third sentence have been delated from the article text that read, “In this case, the Criminal Judge makes his/her decision within three days after hearing the suspect and his/her lawyer.

(5) (Amended: 25.5.2005-5353/art.7) Regarding the event and the person delivered to the officials after having been caught according to first paragraph or caught by the officials pursuant to second paragraph, the Public Prosecutor is notified immediately thereof and action is taken in direction of his/her order.

(6) When the purpose of the issuing of the order of catching becomes invalid since the procedure that is the subject matter of the order of catching has been performed, court, judge, or the public prosecutor will request the immediate return of the order of catching.

In Article 91, regulated under the headline “Custody”,

“ARTICLE 91. - (1) (Amended: 25.5.2005-5353/art.8) In case where the person caught is not released by the Public Prosecutor, decision can be made for his/her custody for the completion of the investigation. Period of custody may not exceed twenty-four hours starting from the moment of catching, excluding the obligatory period for sending to the judge or the court nearest to the place of catching. The obligatory period for sending to the nearest judge or the court can not exceed twelve hours.

(2) Putting under custody is subject to necessity of this measure in respect of this investigation and indications which might cause thinking that the person could have been committed the crime.

(3) With the crimes committed collectively, the Public Prosecutor may give a written order regarding extension of the custody period for three days in such a manner it would not exceed one day at each time due to difficulty in collections of the evidences, or the abundance of the suspects. Extension order for the custody period is immediately notified to the individual under custody.

(4) Against the procedures of catching, and written orders of the Public Prosecutor about putting under custody and extension of the period of custody, the caught person, his/her lawyer, or legal representative or spouse or his/her second degree blood relative can apply the criminal judge for immediately released. The criminal

judge concluding the scrutiny of the papers, accomplishes the application without expiry of 24 hours. If it is noticed that catching, or putting under custody or extending the custody period is suitable, the application is rejected, or it is decided to make caught made available before the Public Prosecutor together with the investigation documents immediately.

(5) Unless new and sufficient evidence is obtained relating to the action which caused arresting on the person freed upon expiry custody period or decision of criminal judge and without the decision of the public prosecutor, the catching procedure can not be applied due to same reason.

(6) If the person taken under custody is not released, s/he is taken to before the criminal judge and questioned at the end of these periods at latest. His/her lawyer will also be present during interrogation.

In Article 95, regulated under the headline, “Informing the caught and the situation of the one taken under custody to his/her relatives”,

“ARTICLE 95. - (1) Once he/she is taken under custody or custody period is extended, his/her relative or another person determined by him/her is informed upon the order of the Public Prosecutor.

(2) If the person caught or taken under custody is a foreigner, and if s/he does not object in writing, his/her situation is communicated to the Consulate of the state s/he is a citizen of.

In Article 96, regulated under the headline, “Informing the catching to the relevants”,

“ARTICLE 96. - (1) If the suspect had been caught prior to complaint according to third paragraph of article 90 regarding the investigation and the offense whose proceeding is subject to complaint, the catching is advised to a person authorized to complain and at least one of them if they are more than one.

In Article 98, regulated under the headline, “Order and reasons of catching”,

“ARTICLE 98. - (1) (Amended: 25.5.2005-5353/art.10) An order of catching can be issued about the suspect who does not appear in the investigation phase although invited, or for whom an invitation cannot be made by the Public Prosecutor or the criminal judge. In addition, in case of an objection to the decision of rejecting the request of arrest, an order of catching can also be issued by the objecting authority.

(2) Public Prosecutors and police force can also issue order of catching for the suspect or accused who run away after being caught, or arrested or sentenced who broke through the prison or penalty execution institution.

(3) Order of catching for the accused who ran away during the prosecution phase will be issued directly or by the judge or the court upon the request of the public prosecutor.

(4) In the order of catching, physical characteristics of the individual, identity information if known is indicated where he/she would be sent when he/she was caught with the crime charged”.

In the Article 145, regulated under the headline, “Invitation for statement or interrogation”,

“ARTICLE 145. - (1) The person whose statement shall be obtained or interrogation shall be executed is summoned by an invitation; reason for the invitation will be stated clearly, and s/he will be forced to come if s/he does not attend the invitation.”

In the Article 146, regulated under the headline, “Bringing the suspect or the accused by force”,

“ARTICLE 146. - (1) It can be decided that the suspect or the accused for whom adequate reasons are available for his/her arresting decision or preparation of a catching order to be brought by force.

(2) Decision for taking by force contains who the suspect or the accused is clearly, the crime related with him/her, when required his/her physical characteristics and the reasons for being brought by force.

(3) A copy of the decision for taking by force will be delivered to the suspect or the accused.

(4) Any suspect or the accused summoned with the decision of bringing by force is immediately, in cases it is impossible within twenty-four hours at latest, excluding travel period, is taken before the judge, court, or Public Prosecutor who requested bringing by force and interrogated or his/her statement is taken.

(5) Taking by force will commence at a justifiable time, and continues till the end of the interrogation or taking the statement by the judge, court, or the Public Prosecutor requesting the taking by force.

(6) Reasons for the failure of the implementation of the decision of taking by force will be signed in a minute that will be signed by the elected head of the village or the quarter and the police official.

In the Article 147, regulated under the headline, “mode of statement and interrogation”,

“ARTICLE 147. - (1) The following rules will be followed when taking the statement of, or interrogating the suspect or the accused:

a) Identity of the suspect or the accused will be determined. The suspect or the accused is obliged to answer the questions regarding his/her identity correctly.

b) The offense charged is explained to him/herself.

c) S/he is informed that he/she has a right of selecting a lawyer and could get use of his/her lawyer’s legal assistance, and that lawyer could be present during his/her statement or interrogation. In case the person in question has not the means of selecting a lawyer, and wishes the assistance of a lawyer, the bar will appoint a lawyer for him/her.

d) Provided that the clause of Article 95 remains reserved, one of the relatives of the caught person is advised that he/she was caught immediately.

e) S/he will be informed about his/her right of not disclosing anything about the offense s/he is accused with.

f) S/he will be reminded that s/he might ask for collection absolute evidences for being released from suspicions and he/she is allowed to remove the existing suspecting reasons against him/her and to bring forward the points being in his/her favor.

g) Information about the personal and economical conditions of the individual giving the statement or being interrogated will be obtained.

h) Technical possibilities will be made use of when recording the statement and interrogation.

i) Statement or interrogation will be entered in a minute. The following items will be contained in this minute:

1. Place and date of taking the statement and interrogation was conducted.

2. Name and titles of the persons attending the procedure of taking the statement or interrogation, and the identities of the person giving the statement or being interrogated.

3. Whether or not the procedures given above have been performed, and if not, the reasons.

4. That the content of the minute has been read and signed by the person whose statement has been taken or interrogated and his/her lawyer.

5. Reasons for avoiding the signing of the minute.

In the Article 148, regulated under the headline, "Taking statement and prohibited interrogation procedures"

“ARTICLE 148. - (1) Statement of the suspect or the accused must be based on his/her free will. Physical or psychological interventions like maltreatment, torture, giving drugs, over-tiring, deceiving, using force or threaten, or using some tools so as to prevent the free will may not be used.

(2) A benefit being contrary the law can not be compromised.

(3) Statements obtained with prohibited procedures may not be used as evidence even if they were given with consent.

(4) Statements taken by the police in the absence of the lawyer may not be taken as the basis for the decision, unless confirmed by the suspect or the accused before the judge or the court.

(5) When the need for taking the statement of the suspect or the accused arose, this procedure can only be performed by the Public Prosecutor.

In the Article 149, regulated under the headline, “Lawyer selection, appointment, duty and competences”

“ARTICLE 149. - (1) The suspect or the accused can benefit from the assistance of more than one lawyer during every stage of investigation and prosecution; if s/he has a legal representative, that person also may select a lawyer for the suspect or the accused.

(2) During interrogation phase maximum three lawyers can attend during taking statement.

(3) Right of the lawyer to interview with the suspect or the accused, taking his/her statement, or being present during his/her giving statement or interrogation in every stage of investigation and prosecution, and assisting in legal affairs can not be hindered, restricted.

In the Article 150, regulated under the headline, “Appointing the lawyer”

“ARTICLE 150. - (1) In case the suspect or the accused states that s/he has not the means to select a lawyer, a lawyer will be appointed upon his/her request.

(2) In case the suspect or the accused is under eighteen years old, or deaf and dumb, or disabled to a degree that s/he is incapable of him/herself, and neither have an attorney, a lawyer will be appointed without seeking for the provision of request.

(3) During the interrogation and investigation carried out due to offenses requiring an imprisonment penalty at least a top limit for five years.

In the Article 151, regulated under the headline, “The action to be taken and prohibition from the mission defending in case of non-performance of the lawyer² “

“ARTICLE 151. - (1) In case the lawyer appointed according to the provision of Article 150 does not attend the hearing, or leaves the hearing untimely, or avoids performing his/her duty, the judge or the court will immediately perform the required procedures for appointing another lawyer. In this case, court can give a break to the court or can postpone the hearing.

(2) In case the new lawyer states that s/he needs time to prepare the defense, then the hearing will be postponed.

(3) (Annex: 25.5.2005-5353/art.22) The lawyer selected according to the Article 149 or appointed according to Article 150 who undertakes the defending or representing those arrested or convicted for the crimes mentioned in Articles 220 and 314 of the Turkish Penal Code, or those arrested or convicted for terror crimes, prosecuted for crimes mentioned in these paragraphs, can be prohibited from defending and representing these suspects or arrested persons.

(4) (Annex: 25.5.2005-5353/art.22) About the request of the Public Prosecutor related with the prohibition, a decision is made by the court where the prosecution established on the lawyer or the proxy without any delays. These decisions can be

² The sub-headline of the Article has been changed with that of the Article 22 of the Law dated 25.05.2005 and numbered 5353.

objected. In case the decision of prohibition is taken back, then the lawyer will continue his/her duty. Decision for prohibition from defending duties can be made for one year, provided that it will be restricted to the crime that is the subject matter of the prosecution. However, these periods can be extended for two times at the most according to the characteristics of the prosecution, provided that extension will not exceed six months each time. In case a decision other than conviction is made at the end of the trial, then the decision of prohibition will drop automatically without waiting for the finalization of the decision.

(5) (Annex: 25.5.2005-5353/art.22) Decision of prohibition from duty will be immediately notified to the presidency of the related bar for the appointment of a new lawyer for the suspect or the accused.

(6) (Annex: 25.5.2005-5353/art.22) The lawyer or the representative can not visit the person for whom he had undertaken defending and representing duty at the Penalty enforcement institution or prison during the period s/he is in prohibited state even if it is related with other cases.

In the Article 152, regulated under the headline, “Defense in the event of existence of more than one suspect or the accused”

“ARTICLE 152. - (1) The same lawyer can be appointed for the defense of more than one suspect or accused with similar interests.”

In the Article 153, regulated under the headline, “Power of file scrutiny by the lawyer”

“ARTICLE 153. - (1) The lawyer can examine the content of the file during the investigation phase, and can take copies of the documents s/he chooses without any fee.

(2) If the examining the content of the file or taking of copies of the documents might endanger the purpose of the investigation, this power can be restricted with the decision of the criminal judge upon the request of the public prosecutor.

(3) Provisions of the paragraph 2 is not applied the minutes containing the statement of the caught person or the suspect, reports of the experts, and the minutes related with other juridical procedures to which said persons are authorized to attend.

(4) (Amended: 25.5.2005-5353/art.23) Lawyer can examine the contents of the file from the date when the accusation was recognized by the court, and the evidences taken under protection and can take copies of all minutes and documents with no fee.

(5) The clause “Also the proxy of one injured from the offense gets use of the rights this article includes”.

In the Article 154, regulated under the headline, “Interview with the lawyer”

“ARTICLE 154. - (1) The suspect or the accused can always see his/her lawyer in a place where others will not hear what they talk, without any need for the power of attorney. Correspondence of such persons with their lawyers can not be subject to control.”

In the Article 155, regulated under the headline, “Presents of legal representative or the spouse during hearing”

“ARTICLE 155. - (1) Date and time of the hearing will be notified to the legal representative of the accused, and can be heard upon his/her request in the hearing.

(2) Provision of the paragraph 1 will apply on the spouse without notification.”

In the Article 156, regulated under the headline, “Mod for appointing lawyer”

“ARTICLE 156. - (1) In cases mentioned in Article 150, the lawyer will be appointed by the bar as follows:

a) In the investigation phase, upon the request of the authority taking the statement or the judge performing the interrogation,

b) In the prosecution phase, upon the request of the court.

(2) The lawyer will be appointed by the bar in the location where the investigation or the prosecution is held in situations given above.

(3) In case the suspect or the accused selects a lawyer by him/herself, duty of the lawyer appointed by the bar will end.”

2- Child Protection Law numbered 5395

Child Protection Law numbered 5395 which passed through Turkish Grand National Assembly on the date of 03/07/2005 has provided international standards concerning the Child Law. New applications have been set up regarding the principles of interrogation and prosecution (trying) of child as follows;

Interrogation

ARTICLE 15- (1) The interrogation about the child forced to commit a crime is performed personally by the Public Prosecutor functioning at the child bureau.

(2) During getting the statement of the child or other formalities regarding the child a social study official may be present beside the child.

(3) When deemed necessary the Public Prosecutor might request application of protective and supportive majors on the child from the child judge during the interrogation.

Keeping the child under custody

ARTICLE (16) (1) The children taken under custody are kept at the child unit of the police station.

(2) In the event of non-existence of a child unit at the police station are kept at a place apart from the adults taken under custody.

Crimes committed collectively

ARTICLE (17) (1) In case where the children have committed a crime together with the adults the investigation and prosecution is carried out separately.

(2) Similarly although required measures have been applied on child, when deemed necessary by the court it can suspend the trial about the child until the result of general court.

(3) In case of necessity for the lawsuits to be carried out together, during general courts, it can be decided to combine the lawsuits at any stage of them, provided that it is found suitable. In this case, the lawsuits combined are heard at general courts.

Child Transfer

ARTICLE (18) (1) Chain, handcuffs and similar instruments can not be put on the children. However; in obligatory conditions, in order to prevent escape of child and the dangers which might arise in respect of integrity of him/herself or others lives or bodies, necessary measures can be taken by the enforcement officials.

Postponing to open public lawsuit

ARTICLE (19) (1) Should the action require a penalty more than 3 months and up to two years (two years included) than top limit foreseen in the law or juridical fine, the Public Lawsuit to be established by the public prosecutor regarding the suspect followed by evidence collection;

- a) The case where the child has not been previously confined due to an intended crime,
- b) The case where the investigation carried out, in the event of postponing to establish a public lawsuit, would generate a conclusion that the suspect would avoid committing a crime,
- c) The case where postponing to open a public lawsuit would become more beneficial than establishing a lawsuit from the view point of the suspect and the society,
- d) Full compensation of the damage the injured or the public had undergone upon commitment of the crime, resuming them to previous condition or fully elimination of them through indemnification.

In the event of realization of the conditions altogether, it can be postponed for a period of five years. The stipulation in sub-paragraph (d) of this paragraph might not be sought in cases where the economic status of the family of the child or him/herself is not suitable.

(2) Application of the decision related with postponing to open a public lawsuit depends on its approval by the child judge. The decision on this matter is taken within five days.

(3) In case where s/he was not sentenced for a prison due to an intended crime within postponed period, it can be decided that there is no reason for investigation. In case where s/he was sentenced for a prison due to an intended crime within postponed period, a public lawsuit is established. The prescription does not count during postponed period.

(4) The decisions concerning postponing to open a lawsuit are recorded in a system belonging to these. These entries can be used for the purpose specified in this article only when it is demanded by the Public Prosecutor, judge or the court in connection with an investigation or prosecution.

(5) The top limit of the imprisonment stipulated in first paragraph is applied as 3 years (three years included) for a child not completed his/her age of 15 during commitment of the crime.

Juridical Control

ARTICLE 20 (1) As a juridical control measures during investigation or prosecution phases on the children forced to commit a crime, those ones listed in Article 109 of Turkish Penal Code and one or a few following measures are decided on:

- a) Not to go beyond environmental borders defined.
- b) Inability to go to certain places or to be able to go to certain places only.
- c) Not to establish relationship with persons and establishments defined.

(2) Yet, in cases where it was failed to achieve a result, was understood a result could not be obtained or the measures were not abided, a decision for arresting can be taken.

Prohibited Arresting

ARTICLE 21 (1) Regarding the children not completed their age of 15, a decision for arresting can not be taken because of the actions necessitating and imprisonment whose top limit does not exceed 5 years.

SECOND PART

Prosecution

Hearing

ARTICLE 22 (1) Should the child be cared by his/her guardian, curator the social service official appointed by the court, the family undertaken care of the child and at an institution, the representative of the institution may be present during hearing.

(2) During interrogation of the child or other formalities on child, the court or the judge may allow a social service official to stand by the child.

(3) When his/her interest so necessitates, while the child attending to the hearing might be taken out of the session hall, it can be deemed unnecessary for the child to be present during the hearing as well.

Postponing disclosure of the judgment

ARTICLE 23 (1) If the penalty fixed in the consequence of the trial conducted due to a crime charged to a child is a imprisonment up to 3 years maximum (3 years included) or a juridical fine; it can be decided to postpone the disclosure of the judgment by the court.

(2) The conditions required for the postponing the disclosure of the judgment to be able to be decided are as follows;

- a) The case where the child has not been previously confined due to an intended crime,
- b) The case where it was concluded that the child would not commit a crime again.
- c) The case where it was deemed unnecessary for the child to be sentenced considering his/her characteristic peculiarities attitudes and conducts during the session.
- d) Full compensation of the damage the injured or the public had undergone upon commitment of the crime, resuming them to previous condition or fully elimination of

them through indemnification. In case where the amount of loss the public was exposed due to commitment of the crime could not be fixed, depositing the Finance Teller's Window, the amount of money to be appreciated by the court at once. However this condition might not be sought in cases where the economic status of the family of the child or him/herself is not suitable.

(3) In case where disclosing the judgment is postponed the child is subjected to do measure of conditional-freedom for a period of 5 years. During this period it can be decided that the child attends to a educational institution, is prohibited to go to certain places, is obliged to attend to certain places regularly or fulfils another obligation to be appreciated. The prescription of the suit is suspended during probation period.

(4) In case of non-performance of the condition specified in sub-paragraph (d) of paragraph (4), postponing the disclosure of the judgment can be decided by charging one of the following obligations on the accused along the conditional-freedom.

a) Recovery of the loss the injured or the public was exposed upon commitment of the crime in monthly installments totally.

b) In case where the amount of loss the public was exposed with due to commitment of the crime could not be determined, depositing the amount of money to be appreciated by the court to the Finance Teller's Window in monthly installments.

(5) The cases where s/he was not sentenced for an imprisonment due to a crime committed purposefully during his/her conditional-freedom period and obeyed in compliance with the obligations, it can be decided to dismiss the case.

(6) The cases where s/he was sentenced for an imprisonment due to a crime committed purposefully during his/her conditional-freedom period and acted contrary to his/her obligations, the court discloses the judgment it had postponed. However the court in consideration of fulfillment of the obligations, may make a discount on the penalty fixed about the child by half.

(7) The decision of postponing the disclosure of the judgment can be objected.

(8) The decision of postponing the disclosure of the judgment is recorded in a system specific for these. These entries can be used for the purpose specified in this article only when it is demanded by the Public Prosecutor, judge or the court in connection with an investigation or prosecution.

Reconciliation

ARTICLE 21 (1) The reconciliation concerning the children forced to commit a crime is applied on the crimes committed requiring imprisonment whose lowest limit does not exceed two years or juridical fine and whose investigation and prosecution depend on a complaint or committed purposefully.

(2) Regarding the children not completed their age of 15, the lower limit of the imprisonment foreseen in first paragraph is applied as three years.

3. Regulation for Catching

Special Provisions for the Minor

ARTICLE 19- Special clause for the children

ARTICLE 19 – Authority for catching and taking the statement have been restricted as regards children as follows:

a) Those who have not turned eleven on the date of the act, and deaf and dumb who have not completed fifteen on the date of the act;

1) May not be caught because of crimes, and may not be used in the determination of crimes in any reason whatsoever.

2) They can be caught for determination of the identity soon after fixing the identity they are released. The identity and crime determined will immediately be notified to the public prosecutor to be the base for a decision of a preventive measure by the head of the justice court or the judge.

b) Those who are older than twelve, however, younger than 18 can be arrested for their crimes. These children will immediately be delivered to the public prosecutor after informing their relatives and lawyer; investigation concerning such children will be

performed by the Head Public Prosecutor or by a Public Prosecutor appointed by him/her in person, and will be implemented according to the provisions below:

1) Parents or the guardian of the child will be informed that the child is under custody.

2) Even if S/he does not demand, s/he is allowed to benefit from a lawyer, his/her parents or the guardian may select a lawyer.

3) Provided that the lawyer is present, the statement of the suspect child is taken.

4) Parents or the guardian can be present when the statement is being taken, in case it is not understood that this will be to his/her benefit, or there is not a legal issue prohibiting it.

5) S/he will be kept in a separate place other than the adults.

6) In case that the crimes mentioned in the Law Act Concerning the Establishment, Duties and Procedures of Juvenile Courts numbered 2253 have been committed together with adults, then the documents about the children will be separated, and investigations will be held separately.

7) Identities and acts of children will be kept confidential.

8) In case the victim of the crime is a child, upon catching on act, and for the acts the investigation is subject to the complaint of the victim, provision of complaint will not be sought for the catching of the suspect and investigation.

9) Procedures regarding children will be performed by officials in civilian clothes to do extent possible.

10) Handcuffs and similar tools can not be used on children. However, the required measures will be taken by the officials in case of obligation to prevent the running away of the child, or to prevent the dangers that be fall upon the life or physical integrity of the child or others.

b) As known, the basic legislation on confiscation is included in the Articles 54 and 55 of the Turkish Penal Code numbered 5237.

In the Article 54, regulated under the headline “Confiscation of Belongings”,

“ARTICLE 54. - (1) Provided that it does not belong to third persons with goodwill, it is judged to confiscate a belonging used in commitment of an intended crime or allocated for the commitment of the crime, or generated by the occurrence of a crime. The belongings prepared so as to be used in commitment of the crime is confiscated in cases where they are dangerous from the view point of public security, public health, or public morality.

(2) In case where the belongings included in the scope of first paragraph was removed, disposed, or consumed or their confiscation was yielded to be impossible in any manner, it is decided to confiscate an amount of money corresponding to the value of such belonging.

(3) If it is understood that the confiscation of the belongings used in the commitment of the crime will have consequences heavier than the crime itself, thus it would be contrary to the equity, confiscation may not be decided on.

(4) The belongings whose production, keeping, usage, carrying, sale and purchase constitutes a crime is confiscated.

(5) When only some parts of anything are required to be confiscated, if it is possible to separate such parts without damaging its entirety, it is decided to confiscate only such part.

(6) In relation with belongings shared by more than one person the confiscation decision is taken only the share of the person participating in the crime.

In the Article 55 regulated under the headline “Confiscation of the income”,

ARTICLE 55. - (1) The material interests obtained upon commitment of the crime or making up the subject of the crime, or for the commitment of the crime and the economical incomes resulting from appreciation, or conversion of them are decided to be confiscated. To be able to take a decision of confiscation according to this paragraph it should be impossible to return the material interest to the injured of the crime.

(2) In cases where the belongings or the material benefits cannot be confiscated or when these cannot be returned to the owners, values equivalent to these will be confiscated.

ARTICLE 17:

In connection with sale of children, child prostitution, and child pornography, the Protocol on the Prevention, Stopping and Punishment of Human Trading, Particularly Trading of Women and Children being one of two Optional Protocols to the UN Convention on Fighting Cross-Border Crimes concluded in Palermo on 12-15 December 2000, is signed by our country.

In paragraph (b) of Article 3 of the "Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor" no. 182, which was signed within the scope of ILO and which was promulgated in Official Gazette dated 27 June 2001 and dated 24445, "using children in prostitution, production of pornographic publications or pornographic images, or supply or presentation for these purposes" are considered as "child labor in its worst forms."

In our national legislation, the concept of human trading and kidnapping of children aged below eighteen for various purposes are regulated in Article 201/b of the Law numbered 4771.

In relation with the subject under the headline "Crimes against sexual immunity" regulated in sixth part of second section of second book of new Turkish Penal Code numbered 5237;

Sexual assault:

ARTICLE 102 (1) The person violating bodily immunity of a person with sexual behaviors, upon complaint of the injured is sentenced for a imprisonment from two years up to seven years.

(2) In case where the action is committed through insertion of an organ or any other object, judgment is made from seven years up to twelve years of imprisonment.

(3) In following cases, the penalties decided according to following paragraphs are reduced by half;

- a) Against a person incapable to defend him/herself in terms of body and spirit,
- b) By means of abusing the influence ensured by the public service or service relationship,
- c) Against a person being within the relationship of blood or relatives including 3rd degree,

- d) With a weapon or together with more than one person,
- (4) In case where force is used beyond the measurement which would discourage the injured during commitment of the crime, such person is also punished due to purposeful injuring separately.
- (5) In case where the bodily or moral health of the injured deteriorated as a result of the crime, a confinement is ruled provided that it would not be less than ten years.
- (6) In case where the injured turns into unconscious life or dies as a result of crime, an aggravated confinement for life is judged.

Sexual Exploitation of Children

ARTICLE 103 (1) The person exploiting a child sexually is punished for an imprisonment from three year up to eight years. Sexual exploitation means that;

a) All kinds of sexual behavior effectuated against the children who have not completed the age of fifteen or whose ability of achieving the legal meaning and the aftermaths have not develop although they have completed the age of fifteen.

b) Sexual behaviors effectuated against other children, based on another reason influencing force, threat, deceiving or will.

(2) In case where the sexual exploitation is effectuated through insertion of organ or another object into the body, a confinement is ruled from eight years up to fifteen years.

(3) (Amended 29/06/2005 – 5377/art.12) In cases where the sexual exploitation is realized by ascendant, blood relative in second or third degree, stepfather, adopter, curator, tutor by the persons who renders educational, tutorship, companionship, healthcare services or have the obligation of protecting and watching for or by abusing the influence ensured by the service relationship or more than one person together, the penalty to be ruled according to above paragraphs are increased by half.

(4) In case where the sexual exploitation is realized against the children stated in sub-paragraph (a) the first paragraph through exercises of force or threat, the penalties to be ruled according to paragraphs above are increased by half.

(5) In case where the force and the violation applied for the sexual exploitation caused severe outcomes of the intended injuring offense, the clauses regarding the crimes of intended injury are applied separately.

(6) In case where the bodily and moral health of the injured is deteriorated as a result of crime, a confinement is ruled provided that it would not be less than fifteen years.

(7) In case where the crime caused the injured to turn into unconscious life or to die, an aggravated life imprisonment is judged.

Sexual Relationship with Minor

ARTICLE 104 (1) Without existence of force threat or deceiving, a person who had a sexual relation with a child who has completed his/her age of fifteen is punished with an imprisonment for a period from six months up to two years upon complaint.

(2) Should the agent is five years older than the injured his/her penalty is increased by one time without looking for any complaint requirement.

Sexual Harassment

ARTICLE 105 (1) Regarding the person who harass sexually a person, a judgment is made for a penalty of imprisonment from three months up to two years or juridical fine upon complaint of the injured.

(2) (Amended: 29/06/2005–5377/art:13) In cases where these actions are committed through abuse of hierarchical, service or education and instruction relationship or the influence arising from in-family relationship or getting use of easiness ensured by working in the same place of business, the penalty to be given according to above paragraph is increase by half. If the injured had to leave his work, school, stay away from his family due to this action the penalty to be given can not be less than one year.

Regarding those ones instigating the children to prostitution;

Prostitution

ARTICLE 227– (1) The person who instigates a child to prostitution facilitating its manner, procuring or accommodating them for this purpose or acting as a mediator to the prostitution of the child is sentenced for an imprisonment from four years up to ten years plus juridical fine up to five thousand days. The preliminary actions-oriented towards commitment of this crime is also sentenced like an completed crime.

(2) The person who instigates a person to prostitution, facilitating its manner acting as a mediator for the prostitution supplying a place is sentenced for a imprisonment from two years up to four years plus juridical fine up to three thousand days. By getting use of income of the person forced to prostitution, ensuring the livelihood partially or completely is considered instigation for prostitution.

(3) A judgment is made according to above paragraphs regarding the person arranging human smuggling or going abroad of the people to/from a country for the purpose of prostitution.

(4) By using force or threat, deceiving or getting use of his/her inability, regarding the person instigating any body to prostitution or arranging his/her performance of prostitution, the penalty to be given according to above paragraphs is increased by one time.

(5) In cases where the above-defined crimes are realized by ascendant, blood relative in second or third degree, stepfather, adopter, curator, tutor by the persons who renders educational, tutorship, companionship, healthcare services or have the obligation of protecting and watching for or by abusing the influence ensured by the service relationship, the penalty to be given is increased by half.

(6) In cases where these offenses are committed within the frame of organizational activity constituted for the purpose of committing crimes, the penalty to be given according to above paragraphs is increased by half.

(7) Due to offenses, regarding the juridical persons security measures-specific to these are judged.

(8) The person forced to prostitution is subjected to therapy and treatment.

In Article 220 of the Turkish Penal Code, the punishment for "those who establish or participate in organizations or gangs for the purpose of committing crimes in any manner" is specified.

Since instigation to prostitution, intermediation of prostitution, and women traffic are crimes, Article 220 of the TPC can be applied for the organizations established for committing these crimes.

Furthermore, the Law on Prevention of Laundering Illegal Money considers the incomes obtained from the actions committed within the frame of Articles 227 of Turkish Penal Code, e.i. from the actions of instigating for prostitution as "illegal money" as well. Therefore application of all measures foreseen by the law for the preventing laundry of these is essential hear also.

Pornographic materials are regulated in Article 226 of the Turkish Penal Code numbered 5237. The Law on Protection of Minors from Obscene Publications numbered 1117 provides restrictions on printed materials which may have indecent effect on psychology of minors.

On the other hand, in paragraph u of Article 4, in Chapter II on "Broadcasting Principles", of the Law on Establishment of, and Broadcasting by, Radio and Television Channels numbered 3984, "non-encouragement of violence and discrimination against women, the weak, and minors" is listed among the broadcasting principles that should be respected in radio, television and data broadcastings.

On the other hand, as explained above, there are bilateral agreements between Turkey and a number of countries, and the "European Convention on Extradition" concerning extradition.

ARTICLE 18:

The activities conducted in cooperation with the UNICEF:

In the framework of the Republic of Turkey - UNICEF 2001-2005 Cooperation Program Main Implementation Plan, the projects with the related sectors are in progress. The Inter-Sectors Child Board is responsible for programming, approving, monitoring and assessing the Main Implementation Plans within the frame work of the cooperation between Republic of Turkey - UNICEF.

When the programs prepared within the scope of 2001-2005 Republic of Turkey-UNICEF cooperation are examined: program 1: Care in Early Childhood, Subprojects 1.1 Mother and Child Health, Feeding, 1.2 Mother and Child Development, Program 2: Child Adolescent Development and Protection, Subprojects 2.1 Child-Friendly Learning Places, 2.2 Adolescent Health and Development, 2.3 Children in Need of Special Protection, Program 3: Policy Development and Enhancement of Social Participation, Subprojects 3.1 Development of Local Capacity in Basic Services to Child and Woman, Program 3.2 Promotion and Enhancement of Social Participation, 3.3 Women and Child Information Network, 3.4 Preparation Projects in Disasters and Emergencies. Of the programs and projects in question, 2.3 Children in Need of Special Protection of the Child Adolescent Development and Protection Program and the Promotion and Enhancement of Social Participation Project of the Policy Development and Enhancement of Social Participation Program are conducted.

The activities conducted in cooperation with the World Bank:

Project for Decreasing Social Risk

The basic target of the Project for Decreasing Social Risk to contribute to the decreasing of poverty in Turkey in the short and long terms through the following activities. The purpose of the Project is to decrease the impact of the current economic crisis on the poor population, to increase the capacities of public organizations providing services and social aid to the poor, to establish a social aid system for the poorest 6% section of population for the improvement of basic medical and education services, and to increase the opportunities of the poor for income and employment.

The activities conducted in cooperation with the ILO:

Rehabilitation of Children Working in Streets in Diyarbakır

The SEP Regional Development Administration, which coordinates far reaching economic, social and environmental development projects in the Southeastern Anatolian Region, conducts the "Program for Rehabilitation of Children Working in Streets in Diyarbakır" within the framework of ILO-IPEC in cooperation with public, private and voluntary organizations in the region and the SSCPA in addition to other regional development activities. The purpose of this Program is to improve living standards of children working in the streets and their families, to enhance the local capacity, and to gradually decrease child labor. The Program consists of the establishment of a rehabilitation and training-support center for the children working in the streets, the training of the specialists of this center, the formation of an action committee to include the lawyers from related public and non-governmental organizations, and the direction of this committee. Within the scope of this Program, "75th Year Child and Youth Center" was established under the Social Services and Child Protection Agency in 1999 and the activities for the children working in the streets were given a start.

Program for Rehabilitation of Children Working in the Earthquake Region and Prevention of Child Labor

Strong earthquake of 17 August 1999 led to economic and socio-cultural changes in the Northeastern Anatolia. Gölçük, Yalova, and Adapazarı were the provinces which suffered the strongest impact. The economic crisis accompanying the earthquake intensified the adverse conditions of the families, which in turn needed more child labor. According to the data from a study conducted following the earthquake, there is an increase in the number of children working in streets. The same study showed that after the earthquake, as an income-raising strategy, families tended not to send their children to schools or take their children from schools in order to put them in employment. For the

foregoing reasons, with a view to developing a sustainable and repeatable "model" for the rehabilitation of the children working in streets and the prevention of child employment as a consequence of earthquake, the "Program" was implemented in these provinces in question in cooperation with ILO/IPEC, the Social Services and Child Protection Agency, the Ministry of Employment and Social Security, the Governorate of Yalova, and other partners (public, non-governmental, local administration). Under the Program, 1500 children who were working or who were under risk of being employed were accessed and provided training, medical, nutrition, psycho-social and crisis consultation services; social support was provided to their families; the capacities of the cooperating organizations in the region for rehabilitating the child workers were increased; the issue of child labor was integrated into the general development plans concerning the region; and general public awareness and sensitivity of local administrators and planning units for the issue of child labor were improved.

The Program also helped to increase the sensitivity against the children working in streets throughout the country. The General Directorate of Security and the General Directorate of Gendarme initiated actions in connection with this issue. The current Government included the issues of "children working in the streets" in the "urgent action plan."

The Department of Working Children of the General Directorate of Employment of the Ministry of Employment and Social Security drafted a national program for handling the issue of child labor, especially in its worst forms, in line with opinions of the related public and non-governmental organization within the scope of ILO/IPEC. In this program, the worst forms of child labor in Turkey were designated as the children working in streets, the children working in heavy and dangerous works in small and medium scale enterprises, and the children working in mobile agricultural works except for family enterprises.

In order to support the implementation of the national program, the projects for withdrawing of children from the works which are detrimental to their health, and security, which lead to adverse effects on their mental, psychological and social development, and which prevent their education will be implemented starting from 2005 in 24 provinces

which have significant economic, social and educational disadvantages and in which child labor is common.

The projects and the activities conducted in connection with them will be examples for other regions of the country, and the resulting synergy will significantly decrease the child labor at the national level. Training of children will contribute to a qualified work force, and new employment opportunities will emerge as the children are removed from jobs.

ARTICLE 19:

The study on the related laws and legislation of the Republic of Turkey, which was first conducted in 2000, concerning the compatibility of our legislation with the principles and provisions of the Convention on the Rights of the Child, were updated with the new harmonization laws, and were completed as of 2004, and is ready for printing.