INSTITUTIONS AND AUTHORITIES INVOLVED IN JUVENILE INVESTIGATION AND PROSECUTION IN TÜRKİYE

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Abstract - This study examines the institutional structure and key authorities involved in the investigation and prosecution of children within the juvenile justice system in Türkiye. It analyses the fragmented legal framework governing juvenile justice, which is primarily shaped by the Child Protection Law, the Criminal Procedure Code, and international instruments to which Türkiye is a party, particularly the United Nations Convention on the Rights of the Child. The study emphasizes that juvenile justice in Türkiye is based on a child-centered and protective approach, distinguishing it from the adult criminal justice system through specialized procedural safeguards and institutions.
The analysis focuses on the main actors of the juvenile justice system, including juvenile courts, juvenile high criminal courts, the juvenile bureau of the public prosecutor's office, law enforcement child units, social investigation officers, and defence counsel. It highlights the importance of multidisciplinary participation and specialization in handling cases involving children in conflict with the law or in need of protection. The findings indicate that the Turkish juvenile justice system aims to balance the effective functioning of criminal proceedings with the best interests of the child, while also ensuring procedural guarantees and social reintegration. However, certain structural and practical challenges remain, particularly regarding institutional capacity and the consistent implementation of specialization requirements.

Keywords: Child protection, Juvenile courts, Juvenile justice system, Social investigation reports, Türkiye

INTRODUCTION

Children constitute one of the most vulnerable groups within society and therefore require special protection under both domestic and international legal frameworks. Historically, the concept of the "child" has largely been constructed from an adult-centered perspective, which has inevitably shaped its legal and social meaning. From this standpoint, children have often been understood as individuals who, due to their limited political and economic agency, are particularly exposed to various forms of dependency and vulnerability within the family, educational environments, and state structures. As a result, they may be subject to both physical and psychological forms of violence or neglect in different spheres of life.

Within the criminal justice system of Türkiye, there is no single, standalone statute that exclusively regulates the investigation and prosecution of children. Instead, the relevant legal framework is dispersed across several instruments, primarily the Child Protection Law (Law No. 5395), the Criminal Procedure Code, and other related legislation. In addition, the United Nations Convention on the Rights of the Child, which Türkiye has ratified, serves as an important normative reference and is applied as part of domestic law.

Under Article 3 of the Child Protection Law, a child is defined as any individual who has not yet reached the age of eighteen, even if they have attained legal maturity earlier under certain circumstances. Within this legal framework, children are categorized as either "children in need of protection" or "children driven to crime," reflecting a deliberate legislative choice to adopt more sensitive and child-focused terminology, particularly in relation to victimized and offending children.

Recognizing the special status of children, the Turkish legislator has established a distinct set of procedural and institutional safeguards that differentiate child justice from adult criminal justice. In this context, Article 32 of the Child Protection Law explicitly requires that all personnel involved in child-specific investigation and prosecution processes receive specialized training. Accordingly, judges, prosecutors, social workers, and probation officers are trained during their candidacy period in areas such as child law, child development, psychology, and social work, in line with principles determined by the Ministry of Justice. Furthermore, professionals working within child justice institutions continue to receive in-service training throughout their careers to ensure ongoing specialization and professional competence.

This presentation will outline the institutional structure and key actors involved in the investigation and prosecution of children within the Turkish criminal justice system, with a particular focus on procedural safeguards and the specialized nature of juvenile justice practice.

II. JUVENILE COURTS

Juvenile Courts in Türkiye were first established in 1987 in four provinces: Ankara, Istanbul, İzmir, and

Trabzon. In fact, the first legislative framework governing the establishment of Juvenile Courts was enacted in 1979 through Law No. 2253 on the Establishment, Duties, and Trial Procedures of Juvenile Courts.[2] This law envisaged the nationwide expansion of Juvenile Courts within five years. However, due to deficiencies in the necessary institutional infrastructure, implementation was significantly delayed, and the first Juvenile Courts could only be established eight years later in these four provinces. Today, the number of Juvenile Courts remains insufficient to meet the needs of the juvenile justice system.[3]

The development of the Juvenile Court system in Türkiye has followed three successive institutional models. Under the first model, judges who were authorized to adjudicate adult criminal cases also served as judges in Juvenile Courts. In this system, although the same judges presided over both adult and juvenile cases, they were required to apply the special procedural rules governing juvenile proceedings.

The second model introduced the principle of specialization by requiring that judges appointed to Juvenile Courts be selected from among judges serving in ordinary criminal courts who possessed specialized knowledge and experience in matters relating to children.[4]

The third model, which reflects the contemporary approach to juvenile justice, emphasizes interdisciplinary participation rather than judicial specialization alone. Under this model, Juvenile Courts are composed not only of professional judges but also of experts such as physicians, pedagogues, or other professionals with expertise and interest in child-related issues, thereby ensuring that judicial decision-making is informed by multidisciplinary perspectives.[5]

In Türkiye, the courts of first instance within the juvenile justice system consist of Juvenile Courts and Juvenile High Criminal Courts. The relevant provisions are set out in Articles 25 et seq. of the Child Protection Law. [6]
Pursuant to these provisions, a Juvenile Court is composed of a single judge. Such courts are established in the provincial centres of every province. In addition, they may also be established in districts determined on the basis of geographical conditions and workload, subject to the favourable opinion of the Council of Judges and Prosecutors. Where the volume of cases so requires, more than one chamber of the Juvenile Court may be established, and these chambers are numbered accordingly. Public prosecutors do not participate in hearings conducted before Juvenile Courts. However, public prosecutors serving in the jurisdiction where the court is located may lodge appeals against the decisions of Juvenile Courts.

Juvenile Courts exercise both civil and criminal jurisdiction. They are authorized to order protective and supportive measures concerning children in need of protection and children in conflict with the law who do not bear criminal responsibility. They are also responsible for conducting criminal proceedings in respect of offences falling within the jurisdiction of the Criminal Court of First Instance (Child Protection Law, Art. 26/1).

Juvenile High Criminal Courts have jurisdiction over cases that do not fall within the competence of Juvenile Courts, as well as other matters specifically assigned to them by law. These courts consist of one presiding judge and a sufficient number of member judges, and they adjudicate cases as a panel composed of one presiding judge and two member judges. Public prosecutors do not participate in hearings conducted before Juvenile Courts. Nevertheless, public prosecutors serving within the jurisdiction where the Juvenile Court is located are authorized to seek appellate review of the court's decisions by filing the appropriate legal remedies.

Juvenile Courts exercise both civil and criminal jurisdiction. They are empowered to order protective and supportive measures for children in need of protection and for children in conflict with the law who lack criminal responsibility. In addition, they are responsible for conducting criminal proceedings in relation to offences falling within the jurisdiction of the Criminal Court of First Instance (Child Protection Law, Art. 26/1).

Pursuant to Article 1(3) of the Transitional Provisions of the Child Protection Law, in jurisdictions where Juvenile Courts and Juvenile High Criminal Courts have not yet been established, investigations and prosecutions concerning offences committed by children shall, until such courts are established and become operational, be conducted by the Chief Public Prosecutor’s Office and the competent courts in accordance with the provisions of the Child Protection Law.

Just as juvenile courts operate under a distinct judicial framework, the judges serving in these courts are expected to possess qualifications that distinguish them from judges serving in ordinary criminal courts. It is essential that juvenile court judges have specialized knowledge of child psychology and the causes of juvenile delinquency, as well as the ability to communicate effectively with children and adopt a child-sensitive approach when hearing their statements. The appointment of judges possessing these qualifications is a fundamental requirement for the proper functioning of the juvenile justice system

and for ensuring that proceedings involving children are conducted in accordance with their best interests. The need for particular care in the appointment of judges to Juvenile Courts is expressly stipulated in Article 28 of the Child Protection Law. Accordingly, appointments to Juvenile Courts are made by the Council of Judges and Prosecutors from among judges and public prosecutors serving in the judicial judiciary who have become eligible for appointment to the relevant judicial region or a lower judicial region and who have, preferably, specialized in juvenile law and received training in child psychology and social work (Child Protection Law, Art. 28/1).

Pursuant to Article 17 of the Child Protection Law, where children commit an offence jointly with adults, the investigation and prosecution shall be conducted separately.[7]

In cases where the prosecution is conducted separately for adults and children, depending on the status of the case file and the procedural connection between the parties in the respective files, the trial judge may, where deemed necessary, stay the proceedings concerning the child until the conclusion of the case pending against the adult defendant.[8]

In cases where an adult and a child commit an offence jointly, even if the cases are filed separately following severance, where joinder is deemed necessary, the proceedings shall be consolidated before the court hearing the case against the adult defendant.

II. THE JUVENILE BUREAU OF THE PUBLIC PROSECUTOR'S OFFICE

Articles 29 et seq. of the Child Protection Law regulate the Juvenile Bureau of the Public Prosecutor's Office and the Juvenile Law Enforcement Unit. Pursuant to these provisions, a Juvenile Bureau shall be established within each Chief Public Prosecutor's Office. The Chief Public Prosecutor shall appoint a sufficient number of public prosecutors serving within the judicial judiciary, preferably from among those who have specialized in juvenile law and have received training in child psychology and social work (Child Protection Law, Art. 29).

The use of the term preferably in this provision is problematic. In our opinion, the requirement of specialized training should not be discretionary but mandatory.

The duties of the Juvenile Bureau are as follows (Child Protection Law, Art. 30):
a. To conduct criminal investigations concerning children driven to crime;
b. To take, without delay, the necessary protective measures in situations where measures concerning children are required.
c. To work in cooperation with relevant public institutions, organizations, and non-governmental organizations in order to provide the support services required by child victims of crime or children driven to crime who are in need of assistance, education, employment, shelter, or who experience difficulties in social adaptation, and to notify the institutions and organizations responsible for child protection of such cases;
d. To perform the duties assigned under the Child Protection Law and other applicable legislation.

Pursuant to Article 31 of the Child Protection Law, law enforcement duties concerning children are primarily carried out by the child units of the police organization (Art. 31/1). Children who are brought to or come into contact with law enforcement authorities must be transferred to the child unit as soon as possible. All judicial and administrative procedures concerning children are carried out by this unit.12,13 The Child Branch Directorate/Bureau Chiefdom established under the Regulation on the Establishment, Duties and Working Procedures of the General Directorate of Security Child Branch operates in all provinces of Türkiye.

Under Article 7 of the aforementioned Regulation, the duties of the child unit in carrying out child police services are as follows:

a) To carry out procedures regarding children in need of protection and assistance, victims, missing or found children,
b) To collect evidence, traces and indications of the offence and carry out initial procedures regarding children suspected of committing crimes, in accordance with the instructions of the competent public prosecutor, and to cooperate with other units depending on the course of the incident,
c) To ensure the custody of children who are to be delivered to their families or the Provincial Directorate of Social Services, or who are subject to rehabilitation and/or treatment measures or under detention, and to meet their basic needs such as shelter, nutrition, communication and hygiene until they are handed over to their families, institutions or judicial authorities, and to ensure medical treatment when necessary,
d) To carry out preventive activities against offences committed against children and by children,
e) To ensure that a social worker conducts research into the factors leading children in conflict with the law or children in need of protection into delinquency,
f) To propose the establishment and operation of child care units,

g) To propose that transportation costs and the essential needs of children under custody or detention be covered from budget allocations,
h) To ensure that detention facilities comply with required standards,
i) To ensure that the forms attached to the Regulation on Apprehension, Detention and Statement Taking (dated 01/10/1998, Official Gazette No. 23480) are completed for each child,
j) To prepare monthly and annual Child Statistics Forms and submit them to the Directorate.[9]

The child unit of law enforcement, upon initiating proceedings regarding a child in need of protection or a child in conflict with the law, shall inform the child's parent or guardian or the person responsible for the child's care, the bar association, and the Social Services and Child Protection Agency. If the child is residing in an official institution, the institution's representative shall also be notified. However, no information shall be provided to relatives who are suspected of inciting or abusing the child (Child Protection Law, Art. 31/2).

III. SOCIAL INVESTIGATION REPORTS AND SOCIAL WORKERS

Social investigation reports are socio-legal documents that set out the reasons for children's involvement in criminal behaviour and the types of interventions they require. These reports identify the conditions in which children in conflict with the law find themselves and determine their needs with a view to their integration into society.[10] When analysing juvenile delinquency and carrying out interventions, it is essential to evaluate and involve all relevant systems in line with the needs of the child and their environment. This is because addressing the causes of children's involvement in crime is crucial both for identifying these underlying factors and for taking the necessary steps towards the child's reintegration into society.[11]

Article 3/e of the Child Protection Law defines the concept of "social work officer," while Article 33 and the subsequent provisions, under the section titled "social investigation," regulate social work officers, the duties of social investigation officers, and the procedures governing social investigation.

Within the scope of the Child Protection Law, courts, juvenile judges, or public prosecutors are obliged, when necessary, to order an investigation into the child's individual characteristics and social environment. The social investigation report is taken into account by the court in assessing whether the child has the capacity to understand the legal meaning and consequences of the act and to direct their behaviour in relation to the offence (Art. 35/1). However, the court is not bound by the social investigation report.

The Law stipulates that in urgent situations requiring immediate intervention, a protective measure may be ordered without awaiting the outcome of a social investigation (ÇKK Art. 35/2). However, a social investigation may subsequently be conducted, and where necessary, the decision regarding the security measure may be revised accordingly.[12]

According to Article 34 of the Child Protection Law, the duties of social work officers are as follows:

a) To immediately conduct a social investigation regarding the child to whom they are assigned and to submit the reports they prepare to the authority that assigned them, b) To be present during the taking of the statement or interrogation of the child in conflict with the law, c) To perform any other duties assigned by courts and juvenile judges under the scope of this Law.

Relevant persons are obliged to assist social work officers in the course of their duties and to provide the information requested concerning the child.

The expenses incurred by social work officers during the performance of their duties, as assessed by the judge, shall be covered from the Criminal Proceedings Allowance budget of the Chief Public Prosecutor's Office.

IV. DEFENCE COUNSEL

Article 2/1-c of the Turkish Code of Criminal Procedure defines the defence counsel (müdafi) as "the lawyer who conducts the defence of the suspect or accused in criminal proceedings." Pursuant to Article 150/2 of the Code of Criminal Procedure (CMK), a defence counsel is appointed ex officio for individuals under the age of eighteen, without requiring their request. The legislator has therefore adopted the institution of mandatory defence representation for children. The defence counsel may meet with the suspect or accused without the need for a power of attorney, in an environment where communications cannot be overheard by third parties, and correspondence between the defence counsel and the client is not subject to any form of monitoring.

It is mandatory for the defence counsel to participate in all stages of the proceedings throughout the entire course of the trial.

V. CONCLUSION

The juvenile justice system in Türkiye is constructed on a child-centered and protective legal framework that clearly distinguishes it from the adult criminal

justice system. Through specialized institutions such as juvenile courts, juvenile high criminal courts, juvenile prosecution bureaus, law enforcement child units, and social investigation mechanisms, the system ensures that children are treated in accordance with their developmental needs, rights, and best interests.

A defining feature of the system is its multidisciplinary structure, which incorporates judges, prosecutors, law enforcement officers, and social workers trained in child law, psychology, and social work. This approach strengthens individualized assessment and supports both procedural fairness and rehabilitative objectives. The mandatory participation of defence counsel for children further reinforces the safeguards provided within juvenile proceedings.

Despite this well-structured legal and institutional framework, the system continues to face several challenges. These include disparities in institutional capacity across regions, limitations in the availability of specialized personnel, and inconsistencies in the practical implementation of juvenile justice principles. Strengthening specialized training, expanding institutional infrastructure, and ensuring uniform application of the Child Protection Law are essential steps toward improving the effectiveness of the system.

Overall, the Turkish juvenile justice system reflects a progressive and protective legal model that aligns with international standards. However, its full effectiveness depends on continued institutional development and the consistent realization of child-centered justice in practice.

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