

## JUVENILE PROTECTION LAW

**Law No** : 5395  
**Adoption Date** : 3/7/2005  
**Published in O.G.** : Dated: 15/7/2005 Numbered : 25876  
**Batch : 5 Volume : 44 Page:**

### PART I

*Purpose, Scope, Fundamental Principles, Protective and Supportive Measures*

#### SECTION ONE

*Purpose, Scope, Definitions and Fundamental Principles*

##### *Purpose*

**Article 1-** (1) The purpose of this Law is to regulate the procedures and principles with regard to protecting juveniles who are in need of protection or who are pushed to crime, and ensuring their rights and well-being.

##### *Scope*

**Article 2-** (1) This Law covers the provisions related to the principles and procedures of the measures that will be taken with regard to juveniles who are in need of protection and the safety measures to be applied with regard to juveniles pushed to crime, along with the establishment, duties and capacities of juvenile courts.

##### *Definitions*

**Article 3-** (1) For the purposes of this Law, the terms used herein shall have the following meanings:

a) Juvenile: Any individual that has not yet completed age eighteen, regardless of whether they have reached full legal age earlier. Within this scope:

1. Juvenile in need of protection: Any juvenile whose physical, mental, moral, social or emotional development and personal safety is in danger, who are neglected or abused, or who are victims of crime,

2. Juvenile pushed to crime: Any juvenile about whom an investigation or prosecution is carried out on the allegation that he/she has committed an act which is defined as a crime in the Laws, or any juvenile about whom a security measure has been decided due to an act he/she has committed,

b) Court: Juvenile courts and juvenile heavy penal courts,

c) Juvenile judge: The judge of the juvenile court which renders the decisions for the measures that will be taken with regard to juveniles pushed to crime and juveniles that are in need of protection, except for those about whom prosecution procedures have been started,

d) Institution: Public or private institutions where juveniles covered under the scope of this Law are looked after and supervised, and where the measures decreed about such juveniles are fulfilled,

e) Social worker: members of the profession graduated from

institutions that provide education in the fields of psychological consulting and guidance, psychology, and social services

9502

*Fundamental Principles*

**Article 4-** (1) For the purposes of this Law, in order to protect the rights of juveniles, the following fundamental principles shall be observed:

- a) safeguarding juveniles' right to life, development, protection and participation,
- b) safeguarding the interest and well-being of juveniles,
- c) No discrimination towards the juvenile or his/her family for any reason whatsoever,
- d) ensuring the participation of the juvenile and his/her family in the process via keeping them informed,
- e) cooperation between the juvenile, his/her family, the related authorities, public institutions and non-governmental organizations,
- f) following a procedure that is based on human rights, fair, effective and swift,
- g) employing special care appropriate to the situation of the juvenile throughout the investigation or prosecution process,
- h) supporting the juvenile in developing his/her personality, social responsibility and education as appropriate for his/her age and development, when taking and implementing the decisions,
- i) Penalty of imprisonment and measures that restrict liberty shall be the last resort for juveniles,
- j) When deciding measures, caring at institution and keeping at institution shall be considered as the last resort; when taking and implementing the decisions, ensuring that social responsibility is shared,
- k) Keeping juveniles separate from adults at the institutions where they are cared for and looked after and where the court decisions are implemented,
- l) Taking measures to prevent others from detecting the identity of the juvenile in transactions related to juveniles, trials and when carrying out the decisions.

SECTION TWO

*Protective and Supportive Measures*

*Protective and Supportive Measures*

**Article 5-** (1) Protective and supportive measures are measures to be taken in terms of consulting, education, care, health and shelter, for the purpose of protecting the juvenile within his/her own family environment before all else. These measures are as follows:

- a) Consultancy measure, is a measure oriented to providing guidance on child rearing to those who are responsible for the care of the juvenile, and guidance to juveniles on solving problems related to their education and development;
- b) Education/training measure, is a measure oriented to ensure that the juvenile attends an education institution as a day-student or boarding student, attends a vocational training course or arts & crafts

course, or is deployed with a master of profession or at a workplace belonging to the public or private sector for the purpose of acquiring a job or a profession,

c) Care measure, is a measure to make governmental or private care centre services or foster family services available for the juvenile or place the juvenile under the care of such institutions, in the event that the person responsible for the care of the juvenile fails to fulfil his/her care duties due to any reason,

d) Health measure, is a measure to ensure necessary temporary or continuous medical care and rehabilitation for treatment and protection of the juvenile's physical and physiological health, and treatment and therapy for juveniles who use addictive substances,

9503

e) Shelter measure is a measure to provide a suitable shelter for those who have children but do not have a place to live, or to pregnant women whose lives are in danger.

(2) The identification and address information of those about whom a shelter measure as defined in paragraph 1 subparagraph (e) is being implemented shall be kept confidential if they so demand.

(3) If it is established that the juvenile is not under any danger, or if it is understood that, although the juvenile is in danger, such danger can be eliminated by supporting the juvenile's parent or guardian or the person who is responsible for the juvenile's care, then the juvenile shall be delivered to these persons. For the purposes of this paragraph, one of the measures specified in paragraph one can also be decided with regard to the juvenile.

#### *Applying to the Agency*

**Article 6-** (1) Judicial and administrative authorities, law enforcement officers, health and education institutions and non-governmental organizations have the obligation to notify the Social Services and Child Protection Agency of any juveniles that are in need of protection. The juvenile and the persons who are responsible for the care of the juvenile can apply to the Social Services and Child Protection Agency to take the juvenile under protection.

(2) The Social Services and Child Protection Agency shall immediately carry out the necessary enquiry regarding the events notified to it.

#### *Taking Protective and Supportive Court Decisions*

**Article 7-** (1) Protective and supportive court decisions regarding juveniles can be taken by the juvenile judge either suo sponte or upon the request of the juvenile's father, mother, guardian, the person responsible for the care and supervision of the juvenile, the Social Services and Child Protection Agency or the Public prosecutor.

(2) Before rendering a court decision, a social enquiry regarding the juvenile shall be carried out.

(3) The type of the measure shall be indicated in the decision. The judge may decide for one or more measures.

(4) The judge may also decide for taking under supervision the juvenile about whom he/she has decided for a protective and supportive measure.

(5) Taking into consideration the development of the juvenile, the Judge may decide to change or abrogate the protective and supportive measure. In case of emergencies, this decision may also be rendered by the local judge where the juvenile is located. However, in such a case, the decision shall be notified to the judge or court that had rendered the original decision.

(6) The execution of the measure shall terminate automatically when the juvenile completes age eighteen. However, the judge may decide to continue with the implementation of the measure for a certain period of time in order to allow the juvenile to continue his/her training or education, provided that the consent of the juvenile is taken.

(7) Aside from rendering decisions for protective and supportive measures regarding juveniles that are in need of protection, the court shall also have the authority to decide with regard to custody, guardianship, warship, caretaker, trustee, alimony and personal contact, in accordance with the provisions of the Turkish Civil Code dated 22.11.2001 and numbered 4721.

*Capacity with regard to Measures*

**Article 8-** (1) Protective and supportive measures regarding juveniles in need of protection shall, for the benefit of the juvenile, be decided by the juvenile judge of the locality where the juvenile, his/her mother, father, guardian or those with whom he/she lives are located.

(2) The implementation of the decision for a measure shall be inspected by the deciding judge or court at intervals of maximum three months.

9504

(3) The judge or the court may, suo sponte or upon the request of the supervision officers, the juvenile's parent, guardian, caretaker or supervisor, the representative of the institution or person implementing the measure and the Public prosecutor, examine the results of the measure being implemented with regard to the juvenile, and abrogate, extend or change the measure.

*Urgent Protection Decisions*

**Article 9-** (1) In case of a situation which requires taking the juvenile under immediate protection, the juvenile shall be taken under care and supervision by the Social Services and Child protection Agency, and then the Agency shall apply to the juvenile judge within five days at the latest following the day the Juvenile was brought to the Agency, in order for an urgent protection decision. The judge shall decide with regard to the request within three days. The judge may decide for keeping the juvenile's location confidential and, when necessary, establishment of personal contact.

(2) An urgent protection decision can only be rendered for a limited period of maximum thirty days. Within this period, the Agency shall carry out a social enquiry regarding the juvenile. If, following the enquiry, the Agency concludes that there is no need to decide for a measure, it shall notify the judge of its opinion and the services it will provide. Whether the juvenile is to be delivered to his/her family or whether any other measures are to be taken shall be decided by the judge.

(3) In case the Agency concludes that a measure is required for the juvenile, it shall file a request to the judge demanding for a protective and

supportive measure.

*Carrying out care and shelter measures*

**Article 10-** (1) The Social Services and Child Protection Agency shall take the necessary measures immediately with regard to events referred to it, and shall place the juvenile under the care of governmental or private organizations.

*Juvenile-specific safety measures*

**Article 11-** (1) The protective and supportive measures regulated in this Law shall be interpreted as juvenile-specific safety measures with respect to juveniles who are pushed to crime and who do not have penal liability.

*Mental Disorder*

**Article 12-** (1) In case the juvenile pushed to crime also has a mental disorder, juvenile-specific safety measures shall be applied for juveniles falling under the scope of paragraphs one and two of Article 21 of the Turkish Penal Code dated 26.9.2004 and numbered 5237.

*Procedures for Court Decisions*

**Article 13-** (1) Except for the cases provided for in paragraph seven of Article 7 of this Law, a decision for measures shall be rendered without any hearings for juveniles pushed to crime and who do not have penal liability and juveniles that are in need of protection. However, the judge may hold a hearing if considered necessary.

(2) Before rendering a decision for measure, the opinion of the juvenile having adequate perception capacity shall be taken, the relevant persons may be heard, and preparation of a social enquiry report regarding the juvenile may be demanded.

*Appeals*

**Article 14-** (1) In accordance with the provisions of this Law, the legal path to appeal a decision for measures rendered by the juvenile judge shall be open. The appeal shall be filed to the nearest juvenile court in accordance with the appeal provisions of the Criminal Procedures Law dated 4.12.2004 and numbered 5271.

9505

PART II

*Investigation and Prosecution*

SECTION ONE

*Investigation*

*Investigation*

**Article 15-** (1) Investigations related to juveniles pushed to crime shall be carried out personally by the Public prosecutor assigned at the juvenile bureau.

(2) During interrogation and other procedures related to the juvenile, the juvenile may be accompanied by a social worker.

(3) When considers necessary during investigation, the Public prosecutor may file a request to the juvenile judge for a protective and supportive measure regarding the juvenile.

*Detaining a juvenile*

**Article 16-** (1) Detained juveniles shall be kept at the juvenile unit of the law enforcement.

(2) In cases where the law enforcement does not have a juvenile unit, the juveniles shall be kept separate from detained adults.

*Crimes committed through participation*

**Article 17-** (1) In case of juveniles who have committed crime together with adults, the investigation and prosecution shall be carried out separately.

(2) In such a case, the necessary measures shall also be applied with regard to juveniles; nevertheless, if considered necessary, the court may delay the trial related to the juvenile until the finalization of the case continuing in the general court.

(3) In case it is considered necessary that the trials be carried out together, general courts may decide, during any stage of the trial, for consolidation of trials, on the condition that such consolidation is found appropriate by the courts. In such an event, the joint cases shall be administered at general courts.

*Transfer of the Juvenile*

**Article 18-** (1) Chains, handcuffs and similar tools cannot be put on juveniles. However, when necessary, the law enforcement may take necessary measures to prevent the juvenile from escaping, or to prevent dangers that may arise with regard to the life and physical integrity of the juvenile or others.

*Deferring the commencement of a public prosecution suit*

**Article 19-** (1) If the upper limit of the penalty provided for in the law for the committed act requires penalty of imprisonment for more than three months and up to two years (including two years) or requires judicial monetary fine, the public prosecution, which will be commenced with regard to the suspect after the evidences are collected by the Public prosecutor, may be deferred for five years, provided that all of the following conditions co-exist:

a) If the juvenile has no previous convictions for any intentional crimes,

b) If the conducted investigation gives the opinion that the suspect will refrain from committing a crime if the commencement of public prosecution is deferred,

c) if deferring the commencement of a public prosecution will be more beneficial than commencing a public prosecution suit both for the suspect and the society,

d) if the damage caused to the victim or the public by the extortion of the crime has been indemnified completely via exact return, restoring to original state as was before the crime or via paying compensation.

The condition set forth in subparagraph (d) of this paragraph may not be sought if the economic means of the juvenile or his/her family are not favourable for such indemnification.

9506

(2) Implementation of the decision to postpone the commencement of public prosecution shall be subject to the approval of the juvenile judge. This decision shall be rendered within five days.

(3) In case the juvenile is not sentenced to a penalty of imprisonment for an intentional crime he/she has committed within the deferment period, it shall be decided that there is no requirement for prosecution. In case the juvenile is sentenced to a penalty of imprisonment for an intentional crime he/she has committed within the deferment period, a public prosecution shall be commenced. Statute of limitations

shall not run during the deferment period.

(4) Decisions regarding deferment of the commencement of a public prosecution shall be recorded in a dedicated system. These records can only be used for the purpose stated in this Article and in connection with an investigation or prosecution, by the Public prosecutor, the judge or by the court upon demand.

(5) For juveniles who have not yet completed age fifteen at the time of committing the act, the upper limit for prison penalty provided for in paragraph one shall be applied as three years (including three years).

*Judicial control*

**Article 20-** (1) At the investigation or prosecution stages related to juveniles pushed to crime, the court may, as judicial control measures, decide for the one or several of the measures listed below, or for the measures specified under Article 109 of the Criminal Procedures Law:

- a) No moving outside specified peripheral boundaries.
- b) No access to certain places or access to certain places only.
- c) No contact with specified persons and organizations.

(2) However, in case these measures do not bring favourable outcomes, or in case it is understood that these measures will not bring favourable outcomes or in case of violation of these measures, the court may decide for an arrest.

*Prohibition of Arrest*

**Article 21-** (1) An arrest warrant cannot be issued for juveniles who have not yet completed age fifteen for acts that require an imprisonment penalty with an upper limit of five years.

## SECTION TWO

### *Prosecution*

#### *Hearing*

**Article 22-** (1) The juvenile, his/her parent, guardian, court-assigned social worker, the family that has assumed the care of the juvenile, or if the juvenile is cared for by the Agency, the representative of the Agency may be present at the hearing.

(2) The court or the judge may allow a social worker to accompany the juvenile during the juvenile's interrogation or during other procedures regarding the juvenile.

(3) The juvenile present at the hearing may be taken outside the courtroom if his/her interests require so; additionally, a juvenile whose interrogation procedures have been completed may not be required to be present at the hearing.

#### *Putting Off Announcement of the Verdict*

**Article 23-** (1) If the penalty determined after the trial procedures carried out with respect to the crime with which the juvenile is found guilty is imprisonment for maximum three years (including three years) or judicial monetary fine, the court may decide to put off the announcement of the sentence.

9507

(2) A decision to put off the announcement of the sentence shall require the following:

- a) The juvenile shall have no prior convictions for an intentional crime.

b) The court shall have the opinion that the juvenile will not commit any other crimes.

c) Due to the personal characteristics of the juvenile and his/her attitude and behaviour during the trial, the court concludes that it is not necessary to sentence the juvenile to a penalty.

d) Complete rectification of the damages incurred by the victim or the public due to the delinquency, via exact return, restoring to original state as before the extortion of the delinquency or through compensation. In case of failure to determine the damage incurred by the public due to committed delinquency, the amount of money to be appreciated by the court must be deposited to the cashier of the Ministry of Finance as lumpsum. However, this condition may not be sought if the economic means of the juvenile or his/her family are not favourable.

(3) In case of a decision to put off the announcement of the sentence, the juvenile shall be subjected to a measure of supervised freedom (probation) for a period of five years. The judge may decide that the juvenile: continue attending an educational institution; be banned access to certain places; be imposed an obligation to attend certain institution or to fulfil another obligation which will be appreciated by the court, within such period. During probation, the statute of limitations shall cease running.

(4) In case of failure to fulfil the condition set forth in paragraph 2(d), the court may decide to put off the announcement of the sentence and impose one of the following obligations on the accused for the probation period:

a) Full indemnification of the damage incurred by the victim or the public due to the offence committed, via payment in monthly instalments.

b) In case of failure to determine the damage incurred by the public due to the committed offence, depositing to the Finance cashiers the amount to be appreciated by the Court, in monthly instalments.

(5) In case the juvenile is not sentenced to imprisonment due to an intentional crime he/she has committed within the probation period and in case the behaviours of the juvenile are in concordance with the imposed obligations, the court shall decide for abatement of the case.

(6) In case the juvenile is convicted due to an intentional crime requiring imprisonment that he/she has committed within the probation time or in case the juvenile acts in violation of the imposed obligations, the court shall announce the verdict that it had put off. However, taking into consideration the circumstances regarding fulfilment of the obligations, the court may reduce the penalty for up to 50%.

(7) The decision to put off announcement of the verdict may be appealed.

(8) The decision to put off announcement of the verdict shall be registered in a dedicated system. These records can only be used for the purpose stated in this Article and in connection with an investigation or prosecution, by the Public prosecutor, the judge or by the court upon demand.

#### *Negotiation and Settling*

**Article 24-** (1) Negotiation and settling with regard to juveniles pushed to crime shall be applicable for crimes the investigation and prosecution of which are dependent on complaint or which are committed intentionally and the lower limit of penalty for which is imprisonment not



exceeding two years or judicial monetary fine, or for negligent offences.

(2) For juveniles who have not yet completed age fifteen on the date of the delinquency, the lower limit for penalty of imprisonment provided for in paragraph one shall be three years.

9508

### PART III

#### *Courts and Public Prosecutor's Offices*

#### SECTION ONE

#### *Establishment, Duties and Capacities of Courts*

##### *Establishment of courts*

**Article 25-** (1) The juvenile court shall be composed of a single judge. These courts shall be founded in each provincial centre. In addition, they may be established in the districts determined taking into consideration the geographical locations and work load of the regions, by obtaining the positive opinion of the Supreme Council of Judges and Public Prosecutors. Where required due to heavy work load, more than one chambers may be established for juvenile courts. These chambers shall be given numbers. The Public prosecutor shall not be present at the hearings administered at juvenile courts. The Public prosecutors of the locality of the juvenile courts may refer to legal remedies against the decisions of juvenile courts.

(2) Juvenile heavy penal courts shall have one presiding judge and an adequate number of members, and the court shall sit with one presiding judge and two members. These courts shall be established in the localities determined taking into consideration the geographical locations and work load of the regions, by obtaining the positive opinion of the Supreme Council of Judges and Public Prosecutors. Where required due to heavy work load, more than one chambers may be established for juvenile heavy penal courts. These chambers shall be given numbers.

##### *Duties of Courts*

**Article 26-** (1) Juvenile courts shall administer the actions filed with regard to juveniles pushed to delinquency, for crimes falling under the jurisdiction of basic penal courts and penal courts of peace.

(2) Juvenile heavy penal courts shall administer suits related to crimes committed by juveniles and falling under the jurisdiction of the heavy penal court.

(3) Courts and juvenile judges shall have the duty to take the necessary measures specified in this law and in other laws.

(4) Public prosecution suits filed with regard to juveniles shall be administered at the courts established via this Law, provided that the provisions of Article 17 herein shall be reserved.

##### *Judicial territory of the courts*

**Article 27-** (1) The judicial territory of juvenile courts shall be determined with the territorial boundaries of the province or district in which it is established.

(2) The judicial territory of juvenile heavy penal courts shall be the administrative territories of the central province or district where they are located, and of the districts which are judicially connected thereto.

(3) Any decision to determine or change the judicial territories of the juvenile courts and juvenile heavy penalty courts in consideration of

geographic location and work load shall be given by the Supreme Council of Judges and Public Prosecutors upon the proposal of the Ministry of Justice.

*Appointment of Judges*

**Article 28-** (1) Judge appointments to courts shall be made by the Supreme Council of Judges and Public Prosecutors, selecting among judges and Public prosecutors who have earned the right for appointment to the region of appointment or to the next lower region, who are assigned to duties in the judiciary, preferably specialized in juvenile law with training in the fields of child psychology and social services.

(2) Priority shall be given to those who express a willing interest for the appointment and those who have previously served in such posts.

9509

(3) In case the appointed judge fails to take up his/her post due to any reason, the chairperson of the judicial justice commission shall, also taking into consideration the qualifications sought in paragraph one, designate which of the local judges will assume the post until the originally appointed judge starts office or until a new appointment is made by the Supreme Council of Judges and public Prosecutors.

## SECTION TWO

### *Public Prosecutor's Office and Law Enforcement*

*Public prosecutor's juvenile bureau*

**Article 29-** (1) A juvenile bureau shall be established at the Chief Public Prosecutor's Offices. An adequate number of Public prosecutors shall be assigned to this bureau by the Chief Public prosecutor, from among those who meet the qualifications provided for in paragraph one of Article 28.

*Duties of the Juvenile Bureau*

**Article 30-** (1) The duties of the juvenile bureau shall be as follows:

a) to carry out the investigation procedures related to juveniles pushed to crime,

b) to ensure that necessary measures are taken without any delay, in cases which require measures to be taken with regard to juveniles,

c) to work in cooperation with the relevant public institutions and organizations and non-governmental organizations for the purpose of providing the necessary support services to juveniles who need help, education, employment or shelter, from among juveniles who need protection, who are victims of a crime or who are pushed to delinquency; and to notify such and similar cases to the authorized institutions and organizations, and

d) to carry out the duties specified in this Law and in other laws.

(2) In cases where delay is considered to be risky, these duties may also be carried out by Public prosecutors who are not assigned to juvenile bureaus.

*Juvenile unit of the law enforcement*

**Article 31-** (1) Law enforcement duties related to juveniles shall be carried out first of all by the juvenile units of the law enforcement.

(2) When starting a procedure related to juveniles in need of protection or pushed to crime, the juvenile unit of the law enforcement

shall notify the situation to the juvenile's parent or guardian, or to the person who has undertaken the care of the juvenile, to the bar and the Social Services and Child Protection Agency, and if the juvenile is residing at a public institution, then also to the representative of such institution. However, any relatives of the juvenile who are suspected of soliciting the juvenile to commit the crime or of abusing the juvenile shall not be given any information.

(3) The juvenile shall be allowed to be accompanied by a next-of-kin during the period he/she remains at the law enforcement.

(4) The personnel at the juvenile unit of the law enforcement shall be provided with training on topics such as juvenile law, prevention of juvenile delinquency, child development and psychology, social services and so on, by their own agencies.

(5) In case of a notification or establishment that the juvenile is in need of protection or in case of existence of reasons indicating that waiting for an urgent protection decision will be against the interest of the juvenile, the juvenile unit of the law enforcement shall secure the safety of the juvenile by taking the measures required due to the circumstances and shall deliver the juvenile to the Social Services and Child Protection Agency as soon as possible.

9510

#### *Training*

**Article 32-** (1) Judges and Public prosecutors to be assigned at the courts, and the social workers and probation officers appointed at probation and assistance centre directorates shall be provided with training on subjects such as juvenile law, social service, child development and psychology in line with the principles set forth by the Ministry of Justice during candidateship periods.

(2) It shall be ensured that those appointed to serve at courts receive in-service training oriented to provide them with the opportunity to specialize in their fields and self-development.

(3) The principles and procedures for pre-service and in-service training shall be determined with a regulation.

### SECTION THREE

#### *Social Enquiry*

#### *Social Workers*

**Article 33-** (1) The Ministry of Justice shall appoint an adequate number of social workers to courts, from among the candidates who have completed at least an undergraduate program. In appointments, those who have completed graduate programs on child and family problems, juvenile law and juvenile delinquency shall be given preference.

(2) The social workers appointed to the Courts and serving at the Social Services and Child Protection Agency implementing the measures covered under the scope of this Law shall be given an appropriation equal to 50% of their gross monthly salaries.

(3) In case such social workers are not available, or in case there are actual or legal hindrances that prevent them from carrying out duty or in case of a need for another field of specialization, those employed in other public institutions and organizations and those who are self-employed may

also be assigned as social workers, provided that they have the qualifications set forth in paragraph one.

(4) If the environment of the juvenile about whom a social enquiry will be made is outside the jurisdiction area of the court, the enquiry shall be carried out by the local court of the place where the juvenile is located, subject to the orders of the court administering the case. In places falling within the greater municipality territories, this enquiry may be conducted by the social workers working in connection with the court administering the case.

*Duties of Social Workers*

**Article 34-** (1) Duties of social workers shall be as follows:

a) to carry out enquiries, immediately, about the juvenile with which they are assigned, to submit the reports they prepare to the assignor authorities,

b) To be present next to the juvenile during interrogation or cross-examination, and

c) To carry out the other duties assigned by the courts and juvenile judges under this Law.

(2) The officers shall have the obligation to assist the social workers during their studies and to provide them with any requested information on the juvenile.

(3) The money spent by the social workers during their duties and the duty expenses appreciated by the court shall be paid from the flagrante delicto appropriation of the Chief Public prosecutor's office.

9511

*Social Enquiry*

**Article 35-** (1) An enquiry clarifying the individual characteristics and social environment of the juveniles covered under this Law shall be conducted when considered necessary by courts, juvenile judges or Public prosecutors. The social enquiry report shall be taken into account by the court when assessing the juvenile's capacity to perceive the legal meaning and consequences of the act he/she has committed and his/her ability to direct his/her behaviours with regard to such act.

(2) In cases which require immediate measures, social enquiry may be conducted at a later date.

(3) In case the court or the juvenile judge decides not to run a social enquiry about the juvenile, the grounds for such decision shall be included in the decision.

SECTION FOUR

*Supervision*

*Decision to take under supervision*

**Article 36-** (1) The court may decide to take under supervision the juvenile about whom a protective and supportive measure have been decided, about whom the decision to defer the commencement of a public prosecution action has been approved, and about whom it has been decided to put off the announcement of verdict.

*Appointing a supervision officer*

**Article 37-** (1) The directorate of probation and assistance centre shall appoint a supervision officer for juveniles taken under supervision.

However, in case of juveniles that are in need of protection, juveniles pushed to crime who have not yet completed age twelve at the time of the offence, and the juveniles about whom there is a court decision to return them to the custody of their families, the supervision duty regarding such juveniles shall be carried out by the Social Services and Child Protection Agency in accordance with surveillance principles.

(2) When appointing supervision officers, the personal characteristics and needs of the juvenile shall be taken into consideration and those with easy access to the juvenile shall be preferred.

*Duties of the Supervision Officer*

**Article 38-** (1) Duties of the supervision officer are as follows:

a) to support, assist, and when necessary, advise the juvenile in order to ensure the juvenile's adaptation to the educational, familial, institutional, business and social environment so as to realize the objective sought with the court decision.

b) To provide guidance to the juvenile with regard to institutions from which the juvenile can receive education, employment or support, and with regard to his/her rights and how to exercise such rights.

c) To assist the juvenile in benefiting from the services which he/she may need.

d) To visit the places where the juvenile stays, the persons with whom he/she contacts, and hence examine on-site the education and business performance of the juvenile, and his/her leisure activities.

e) to monitor the implementation of the court decision, the consequences of the implementation thereof, and its effects on the juvenile, and to inspect the fulfilment of the obligations imposed on the juvenile.

f) to submit reports on the development of the juvenile, at three-month intervals, to the Public prosecutor or the court.

(2) When carrying out his/her duties, the supervision officer shall cooperate with the juvenile's parents, guardian, caretaker and teachers.

9512

(3) Representatives of the institutions who have information on the juvenile's mother, father, guardian, caretaker, supervisor, school, workplace or on the juvenile shall have the obligation to assist the supervision officer and provide him/her with any information he/she may request in line with his/her duties.

(4) The juvenile's next-of-kin cannot interfere with the capacities of the supervision officer.

*Supervision plan and report*

**Article 39-** (1) The methodology of the supervision that will be applied for the juvenile shall be determined by the supervision officer, together with the specialist carrying out the social enquiry or the social worker at the court, via a plan that they will prepare within 10 days following the appointment.

(2) The following shall be taken into consideration when preparing the plan:

a) the purpose, nature and duration of the measure taken with regard to the juvenile,

b) the juvenile's needs,

c) The seriousness of the state of danger in which the juvenile is,

d) the degree of support given to the juvenile by his/her parents,

guardian, caretaker and supervisor,

e) In case of any measures as a result of being pushed to crime, the nature of the act constituting an offence,

f) The opinion of the juvenile.

(3) The supervision plan shall be implemented as soon as it is approved by the court or the juvenile judge. The supervision officer shall report to the court or the juvenile judge the manner in which the court decision is being implemented, its effects on the juvenile and whether the juvenile's parents, guardian, individuals or institutions responsible for looking after and supervising the juvenile fulfil their responsibilities duly, whether there are any conditions that require a change in the decided measure and any other issue on which a report may be requested, every month and whenever demanded.

*End of supervision*

**Article 40-** (1) Supervision shall terminate with the end of the period provided for in the court decision. In case the benefit expected from the measure is achieved beforehand, the supervision may be lifted before the expiry of the prescribed period.

(2) Supervision shall end when the juvenile is arrested for another crime or when the juvenile starts serving the penalty.

*Obtaining information on social enquiry and supervision reports*

**Article 41-** (1) The lawyer or legal representative of the juvenile may acquire a copy of the social enquiry report and the supervision plan from the Public prosecutor, the court or from the juvenile judge. The juvenile shall be given information about the contents of the report.

(2) However, in case it is concluded that informing the persons specified in paragraph one, except for the juvenile and his/her lawyer, about the social enquiry report and the supervision plan is against the interests of the juvenile, the examination of these documents may be banned partially or completely.

9513

PART IV

*Miscellaneous*

*Applicable provisions*

**Article 42-** (1) In cases for which no provisions are set forth in this Law, the provisions of the Criminal Procedures Law, the Turkish Civil Code, Civil Procedures Law dated 18.6.1927 and numbered 1086, and the Law of Social Services and Child Protection Agency dated 24.5.1983 and numbered 2828 shall be applied.

(2) For supervision issues for which no provisions are set forth in this Law, the provisions of the Law on Probation and Assistance Centres and Protection Rules shall be applied.

*Costs of the Juvenile*

**Article 43-** (1) Costs of the supportive and protective measures decreed with regard to the juvenile shall be paid by the Government. The amount payable shall be established via a court decision.

(2) In case the financial means of the person responsible for the care of the juvenile pursuant to the provisions of the Turkish Civil Code is not favourable, the amount paid by the Government shall be collected via

recourse to the relevant persons and authorities.

*Public Officials*

**Article 44-** (1) The provisions of the Law on Trial of Civil Servants and Other Public Officials dated 2.12.1999 and numbered 4483 shall not be applied to public officials in connection with the duties falling under the scope of this Law.

*Institutions*

**Article 45-** (1) The supportive and protective measures included in Article 5 of this Law shall be carried out as follows:

a) consulting and shelter measures specified in subparagraphs (a) and (e) by the Ministry of National Education, the Social Services and Child Protection Agency and by local governments,

b) education/training measures specified under subparagraph (b) by the Ministry of National Education and the Ministry of Labour and Social Security,

c) care measures specified under subparagraph (c) by the Social Services and Child Protection Agency,

d) health measures specified under subparagraph (d) by the Ministry of Health.

(2) Any and all kinds of assistance and support requests placed by the Social Services and Child Protection Agency with regard to the fulfilment of law enforcement services required during the execution of the care and shelter measures, the rehabilitation and education of the juveniles, or with regard to other issues falling under the jurisdiction of other ministries shall be responded to, without any delay, by the Ministry of National Education, the Ministry of Interior, the Ministry of Health and the other relevant ministries and public organizations and institutions.

(3) The Ministry of Justice shall coordinate the execution of these measures.

*Staff*

**Article 46-** (1) An adequate number of staff shall be provided from relevant classes to carry out the establishment procedures and activities of the courts which will be established under this law.

9514

*Regulation*

**Article 47-** (1) Principles and procedures related to the implementation of Articles 5 and 10 of this law shall be regulated with regulations which will be issued jointly by the Ministry of Justice and the Social Services and Child Protection Agency within six months; principles and procedures related to the implementation of the other Articles shall be regulated via a regulation to be issued by the Ministry of Justice within 6 months.

*Provisions revoked*

**Article 48-** (1) The Law on Establishment, Duties and Trial Procedures of Juvenile Courts dated 7.11.1979 and numbered 2253 has been revoked.

(2) References in the legislation to the revoked Law on Establishment, Duties and Trial Procedures of Juvenile Courts dated 7.11.1979 and numbered 2253 shall be considered as made to the provisions of this Law.

**Provisional Article 1-** (1) Cases and works pending at the juvenile

courts established under Law numbered 2253 and falling under the jurisdiction of the juvenile courts established with this Law shall be transferred to the juvenile courts as soon as they start operating.

(2) Cases and works being administered at general penal courts and concerning accuseds who have completed age eighteen on the effective date of this Law shall not be transferred to the juvenile courts or juvenile heavy penal courts.

(3) In places where there are no juvenile courts or juvenile heavy penalty courts, investigations and prosecutions concerning crimes committed by juveniles shall be carried out in accordance with the provisions of this law by the Chief Public prosecutor's offices and competent courts, until juvenile courts or juvenile heavy penal courts are established and start operating.

(4) In places where there are no juvenile courts, measures regarding juveniles who are in need of protection shall be decided by the assigned family or the civil court of first instance, until the juvenile court is established and starts operating.

(5) Under the coordination of the Ministry of Justice, the relevant ministries and attached organizations shall take the necessary measures to execute the supportive and protective measures, within six months following the coming into effect of this Law. In addition, the relevant ministries and attached organizations may cooperate with non-governmental organizations to this end.

#### *Effective Date*

**Article 49-** (1) The effective date for this Law shall be as follows:

a) provisions regarding the services that will be performed by the Social Services and Child Protection Agency with regard to juveniles pushed to crime and about whom there is a care measure being implemented, and paragraph 1(e) of Article 5 shall become effective after six months following the date of promulgation,

b) The second sentence in paragraph one of Article 37, and paragraph 1(a) of Article 5 shall come into effect after 1 year following the date of promulgation,

c) The other provisions shall come into effect on the date of their promulgation.

#### *Execution*

**Article 50-** (1) The provisions of this Law shall be executed by the Council of Ministers.