



Ministry of Justice of
the Republic of Turkey

Mr. Thomas HAMMARBERG
Commissioner for Human Rights

Ankara, 1 July 2010

Dear Mr. Commissioner,

I have noted your views regarding juvenile justice, implementation of anti-terrorist laws and access of local human rights boards to places of detention in Turkey, which were communicated by your letter of 8 June 2010.

I would like to draw your attention that Turkey is reviewing the provisions of the Law on Combating Terrorism (No. 3713) related to children with a draft law which is currently being held by the Turkish Grand National Assembly.

In this respect, please find enclosed update information on the issues you brought up in your letter, as well as at the meetings with Deputy Undersecretary Mr. Zeki Yiğit and other Turkish authorities during your visit to Turkey from 23 to 26 May 2010.

I would also like to confirm, Mr. Commissioner, that the Turkish Government possesses the political will to continue to follow the necessary reforms to overcome these difficulties to the extent possible.

Yours sincerely,

Sadullah ERGİN

Minister of Justice

**REFORM EFFORTS ON JUVENILE JUSTICE SYSTEM:
AMENDMENT PROPOSAL TO LAW ON COMBATING TERROR**

The Ministry of Justice has prepared a package of legal amendments with the aim of improving the situation of minors who happen to fall within the remit of the Law on Combating Terror. The single most important element of the package is the fact that it renders the Law on Combating Terror inapplicable to minors.

“Draft Law on Amending the Law on Combating Terror and certain other laws” was adopted by the Justice Committee of Turkish Grand National Assembly on 22 June 2010, and is expected to be discussed at the General Assembly in the coming days and enacted before the summer recess.

Please find here-below the changes envisaged by the said amendments:

- a) Child Protection Law (No. 5395) which entered into force on 15 July 2005 covers in detail the provisions related to the principles and procedures of the measures to be taken with regard to juveniles who are in need of protection and of the safety measures to be applied with regard to juveniles pushed to crime, along with the establishment, duties and capacities of juvenile courts. Accordingly, all minors who commit crimes, without any exception, would be heard before the juvenile courts.

With the amendments brought by Law No. 5532 in 2006, several exceptions were inserted to Law on Combating Terror (No.3713) in terms of penalties imposed to children and the courts they are tried.

The new draft law envisages removing these exceptions in the Law and providing the following conditions;

1. Article 5 of Law on Combating Terrorism (No. 3713) which stipulates sentencing aggravated by one half shall not be applicable to minors who commit acts of terror.
 2. All minors who commit acts of terror would be heard before the juvenile courts.
 3. “Postponement of the promulgation of sentence”; “converting the sentence into optional sanctions or postponement of sentence” would be applicable to minors who commit acts of terror.
- b) The duration of conditional release for children who commit acts of terrorism would be reduced from 3/4 to 2/3.
- c) Minors shall not be taken to penitentiary institutions for penalties imposed for “having attended illegal meetings and demonstrations in contravention of the law and in connection to membership to an illegal organisation and making propaganda of an illegal organisation at meetings and demonstrations”. Protective measures would be taken with regard to those minors.

Article 11 under the sub-title “Juvenile-Specific Protective Measures” of the Child Protection Law provides that the protective and supportive measures regulated in the Law (Article 5) shall be interpreted as juvenile-specific measures.

Article 5 provides;

- a) Counselling measure aims to provide guidance on child rearing to those responsible for the care of the juvenile; and to provide guidance to juvenile on solving problems related to their education and development;
- b) Education measure aims to ensure that the juvenile attends to an education institution as a day or boarding student; that he/she follows a vocational training or arts and crafts course or is employed by a professional or at a public or private workplace for the purpose of acquiring a job or a profession;
- c) Care measure aims to make available public or private care centre or foster family services for the juvenile or to place the juvenile in such institutions in case the person responsible for the care of the juvenile fails to fulfil his/her care duties due to any reason.
- d) Health measure aims to ensure necessary temporary or permanent medical care and rehabilitation for the treatment and protection of the juvenile’s physical and physiological health, and the treatment of juveniles who use addictive substances.
- e) Shelter measure aims to provide a suitable shelter for people with children who do not have a place to live, or to pregnant women whose lives are in danger.

The implementation of the said safety measures aims to reintegrate children into the society and to prevent repeat offences. On the other hand, this provision will be applied to minors who commit these crimes for the first time. It will not be applicable to those who persistently violate the law and attend meetings and demonstrations with a firearm, ammunition, sharp or piercing devices or inflammable or explosive substances.

As of May 2010, there are 206 children detained under the Law on Combating Terror. As of June 2009, the average length of pre-trial is approximately 165 days and the sentences upon final convictions are presented below:

No	Name of the Convict	Sentences (Upon Final Convictions)		
		Year	Month	Day
1	F.G.	7	6	0
2	O.Ç.	6	11	10
3	A.G.	4	8	20
4	Ş.V.	4	8	20
5	V.B.	4	8	20
6	E.A.	6	11	10
7	S.K.	0	6	20
8	Ö.T.	4	8	20
9	H.K.	4	8	20

LEGAL PROCESS REGARDING SOME LOCAL REPRESENTATIVES

Diyarbakır Chief Public Prosecutor's Office, following an investigation, issued an indictment on 9 June 2010 against certain local representatives for having "knowingly and willingly assisting and carrying out propaganda for the terrorist organization PKK/KONGRA-GEL". The 6th High Penal Court of Diyarbakır found the indictment admissible and filed a criminal case against these local representatives, including the two members of the Council of Europe Congress of Local and Regional Authorities, mentioned in the Commissioner's letter of 8 June 2010.

REFORM EFFORTS ON STRENGTHENING HUMAN RIGHTS BOARDS

The draft law on establishing an independent National Human Rights Institution which will review individual human rights complaints and monitor the human rights situation in the country is currently before the Constitutional Committee of the Turkish Grand National Assembly. The draft law, which is in line with the Paris Principles, is envisaged to be enacted by the General Assembly. No precise timetable is envisaged for the procedure.