

### Question 6.a.

Article 31 entitled “Minors” of the Turkish Criminal Code no. 5237 reads as follows:

“(1) Minors who are under the age of twelve at the time of an offence are exempt from criminal responsibility. While such minors cannot be prosecuted, security measures specific to minors may be imposed.

(2) Where a minor is older than twelve but younger than fifteen years at the time of an offence, and he is either incapable of appreciating the legal meaning and consequences of his act or his capability to control his behaviour is underdeveloped, then he shall be exempt from criminal responsibility. However, such minors shall be subject to security measures specific to minors. Where the minor has the capability to comprehend the legal meaning and consequences of the act and to control his behaviours in respect of his act, for offences requiring a penalty of aggravated life imprisonment, a term of twelve to fifteen years of imprisonment shall be imposed and for offences requiring a penalty of life imprisonment, a term of nine to eleven years’ imprisonment shall be imposed. Otherwise, the penalty to be imposed shall be reduced by one-half, and in such cases, the penalty for each act shall not exceed seven years.

(3) Where a minor is older than fifteen but younger than eighteen years at the time of the offence, then for offences requiring a penalty of aggravated life imprisonment, a term of eighteen to twenty-four years of imprisonment shall be imposed and for offences requiring a penalty of life imprisonment, twelve to fifteen years of imprisonment shall be imposed. Otherwise, the penalty to be imposed shall be reduced by one-third, and in such cases, the penalty for each act shall not exceed twelve years.”

Accordingly, minors who have not attained the age of twelve years at the time of the offence do not have criminal responsibility. A criminal prosecution may not be conducted in respect of those minors; however, security measures specific to minors are imposed.

Where minors below the age of criminal responsibility commit an act constituting an offence under the Turkish Criminal Code no. 5237, it is mandatory that the Public Prosecutor’s Office render a decision of non-prosecution. No bill of indictment is issued in respect of those minors, and it is not proceeded to the prosecution stage. Public prosecutors may request an order of measure in respect of them where they deem it necessary. An order of measure may not be issued by the public prosecutor in person but by a judge upon whom the public prosecutor will make a request to that end. Measures public prosecutors may request are enumerated in Article 5 entitled “Protective and supportive measures” of the Juvenile Protection Law no. 5395. Accordingly;

1- Consultancy measure is governed in subparagraph a of paragraph 1 of Article 5 of the Child Protection Law and in Article 12 of the Regulation on the Implementation of the Protective and Supportive Measures Imposed in Accordance with the Child Protection Law. Accordingly, the consultancy measure is a measure oriented to providing guidance to children on solving problems related to their education and development and guidance on child rearing to those who are responsible for the care of the child. The consultancy measure is executed by the Provincial or District Directorates of the Ministry of Family and Social Services, the Provincial Directorates of National Education or local governments. There is no distinction made as to the designation of the implementing institution, the matter is subject to the discretion of the judge.

Article 12 of the Regulation on the Implementation of the Protective and Supportive Measures Imposed in accordance with the Child Protection Law regulates the implementation of the consultancy measure. According to the said article, consultancy measures are implemented for the purposes of ensuring the protection of the child while he/she is with his/her family, or supporting the child during the implementation of the measures imposed in respect of him/her, or informing him/her of the possible measures to be implemented.

2- Education/training measure is governed in subparagraph b of paragraph 1 of Article 5 of the Child Protection Law and in Article 13 of the Regulation on the Implementation of Protective and Supportive Measures Imposed in accordance with the Child Protection Law. Accordingly, the education/training measure is a measure oriented to ensure that the child attends an education institution as a day-student or boarding student, attends a vocational training course or arts and crafts course, or is placed under the supervision a master of profession or in a workplace belonging to the public or private sector for the purpose of acquiring a job or a profession. Such an order of measure is referred to Provincial Directorates of National Education or the Regional Directorates of the Ministry of Labour and Social Security for implementation.

3- Care measure is governed in subparagraph c of paragraph 1 of Article 5 of the Child Protection Law and in Article 14 of the Regulation on the Implementation of Protective and Supportive Measures Imposed in accordance with the Child Protection Law. Accordingly, the care measure is a measure to take a child from those who are responsible for the care of the child but who fail to do fulfil their care duties due to any reason, and place him/her in a governmental or private care services center or enable him/her to benefit from foster family services. Placing a child under the care services of an institution limits both the freedom of the child and the guardianship of the mother and father over the child. Therefore, keeping a child in a care services center without a judge decision is limited to five days. It is necessary to obtain a judge decision prior to the expiry of the said duration; otherwise, it will result in criminal responsibility for the public officers keeping him/her at the institution. That is why urgent protection decisions have been introduced; in case of a situation which requires taking the child under immediate protection and where there is not enough time to conduct any enquiry, an urgent protection decision may be rendered, and after the necessary enquiry has been conducted, a care measure may be imposed or the child may be returned to his/her family.

According to Article 14 of the Regulation on the Implementation of Protective and Supporting Measures Imposed in Accordance with the Child Protection Law, the care measure is a measure to have the child placed in a governmental or private care services center by the Social Services and Child Protection Agency or having the child benefit from the other service models carried out by the Agency in this scope or from the foster family services. While it is stated as the Social Services and Child Protection Agency in the regulation, the measure in question is implemented by the Directorate General for Child Services under the Ministry of Family and Social Services. Besides, it may be decided to keep those children in need of rehabilitation under the care of the institution until their rehabilitation is ensured.

4- Shelter measure is governed in subparagraph e of paragraph 1 of Article 5 of the Child Protection Law and in Article 15 of the Regulation on the Implementation of Protective and Supportive Measures Imposed in accordance with the Child Protection Law. Accordingly, the shelter measure is a measure oriented 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. The shelter measure is implemented by the Provincial or District Directorates of the Ministry of Family and Social Services, local governments, the Provincial Directorates of National Education and the Ministry of Interior. Furthermore, the ID and address

information of those about whom a shelter measure is being implemented is kept confidential upon their demand.

5- Health measure is governed in subparagraph d of paragraph 1 of Article 5 of the Child Protection Law and in Article 16 of the Regulation on the Implementation of Protective and Supportive Measures Imposed in accordance with the Child Protection Law. Accordingly, the health measure is a measure to ensure medical care and rehabilitation for treatment and protection of the child's mental and physical health, and treatment and therapy for children who use addictive substances. Health measures are implemented by the Provincial Directorates of Health Care under the Ministry of Health. The health measure is implemented to ensure treatment of mental health. As is for all of the other measures, in the implementation of the health measure, reports are drawn up in every three months at the latest in respect of the children, and either the measure is revoked by a judge decision or the treatment is maintained.