

Question 7.b.

A) Of the Child Protection Law no. 5395,

1- Article 6 entitled "Applying to the agency" reads as follows:

"(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 children that are in need of protection. The child and the persons who are responsible for the care of the child can apply to the Social Services and Child Protection Agency for the child to be taken under protection.

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

2- Article 9 entitled "Urgent protection decisions" reads as follows:

"(1) In case of a situation which requires taking the child under immediate protection, the child 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 Child was brought to the Agency, in order for an urgent protection decision to be taken. The judge shall decide with regard to the request within three days. The judge may decide for keeping the child'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 child. 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 child 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 child, it shall file a request to the judge demanding for a protective and supportive measure."

3- Article 31 entitled "Police juvenile unit" reads as follows:

"(1) Law enforcement duties related to children shall be carried out first of all by the police juvenile unit.

(2) When starting a procedure related to children in need of protection or pushed to crime, the police juvenile unit shall notify the situation to the child's parent or guardian, or to the person who has undertaken the care of the child, to the bar and the Social Services and Child Protection Agency, and if the child is residing at a public institution, then also to the representative of such institution. However, any relatives of the child who are suspected of having instigated the child to commit the crime or of having abused the child shall not be given any information.

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

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

(5) In case of a notification or establishment that the child 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 child, the police juvenile unit shall secure the safety of the child by taking the measures required due to the circumstances and shall deliver the child to the Social Services and Child Protection Agency as soon as possible.”

B) Article 6 entitled “Best interests of the child” of the Regulation on Judicial Support and Victim Services reads as follows:

“(1) The principle of the best interests of the child shall serve as the basis for carrying out all works and procedures intended for children and providing services.

(2) All works and procedures relating to the children shall be conducted within the shortest time possible and in a manner that prevent the child from getting further abused. These procedures shall not be repeated unless there is a necessity.

(3) During the statement and declaration procedures, the expertise of the judicial support officials shall be utilized in order to reduce the anxiety level of child victims and enable them to express themselves more comfortably.

(4) Children shall be informed about the judicial processes according to their level of development.

(5) Respecting their right to understand and to be understood, the children shall be given the opportunity to express themselves before decisions are taken.

(6) Necessary measures shall be taken to prevent acts that may cause children to get further abused.”

In Türkiye, once received by the police juvenile unit, in line with the principle of not exposing the child to a secondary abuse, it is essential in the first place that the child victim does not an interview with any official other than the social worker on duty in that unit. The information obtained during the interview held with the child is reported to the Public Prosecutor. Where it is suspected that the child is a victim of sexual abuse, the child will be referred to a child monitoring center with unmarked vehicles and in the company of undercover policemen in line with the instruction of the Public Prosecutor. Under paragraph 5 of Article 236 of the Criminal Procedure Code no. 5271, the statement of the child shall be absolutely taken in the presence of the Public Prosecutor by the experts at the Child Monitoring Centers (CMCs) and with footages being recorded in order to avoid repetitive statement taking.

CMCs are state institutions where, in cases of abuse, statements are taken by the experts from children who have been exposed to sexual abuse and harassment, by protecting them from the effects of the traumas they have experienced and from a secondary abuse; likewise, the children are examined in the presence of the experts in the field; a roadmap is created for the health and development of the children by having interviews with their families; and equipment and necessary personnel are provided to collect and report all findings. The child who has been brought to the center is welcomed by a judicial interviewer, taken into the waiting room, and the registration procedures are completed. The child is taken into a preliminary interview room appropriate for his/her age, and a preliminary interview is held. In this manner, it is ensured that the child gets accustomed to the environment and distanced

from the trauma. Thereafter, the child is taken into the judicial interview room, and his/her statement is taken under the supervision of the Public Prosecutor and with the participation of the persons concerned. It is mandatory to take video and audio recordings while the child's statement is being taken. A statement record is prepared and undersigned right after the judicial interview. A copy of the recordings will be submitted along with the minutes immediately after the interview has taken place. After the statement of the child is taken, in line with the instructions of the Public Prosecutor, under Article 76 of the Criminal Procedure Code no. dated 04/12/2004 and numbered 5271, the physical examination and/or sampling of the child shall be carried out at the center by a forensic medicine expert or other relevant specialist physicians. Consultation is requested from the relevant specialist physicians for the physical and psychological examination and assessment of the child. Consultations are held at the center. Where follow-up and treatment are required at the end of the examination, the relevant clinic/polyclinic provides the follow-up and the treatment. In the family interview room is held an interview with the family with the exception of those who are alleged to have committed a sexual offence against the child. The findings obtained during the interview, including the neglect of the child, are evaluated, a report on the family interview is drawn up, and a copy of the report is conveyed to the Public Prosecutor's Office. All these procedures are conducted under a single roof, and multidisciplinary cooperation is made in order to prevent the child from getting further affected.

Where the child is to be taken under urgent protection, once the procedures are completed at the center, the social services expert available at the center gives company to the child until he/she is handed over to the institution.

In other words, starting from the moment of suspicion of abuse, the process involving declaration and other procedures relating to the child victim are carried out in line with the instruction of the Public Prosecutor, in the presence of experts, at specially established child monitoring centers, regardless of his/her parents' consent, in a manner to prevent secondary abuse of the child, and separately from his/her parents.