



ngo group for the crc

STATE PARTY EXAMINATION OF TURKEY'S INITIAL REPORT ON THE OPTIONAL PROTOCOL ON THE SALE OF CHILDREN, CHILD PROSTITUTION AND CHILD PORNOGRAPHY

42ND SESSION OF THE COMMITTEE ON THE RIGHTS OF THE
CHILD

15 May – 2 June 2006

Contents

Opening Comments	1
Legislation and Criminal Code	2
Implementation and Coordination	2
Assistance to Victims	3
NGO Involvement	3
Awareness and Prevention	3
Trafficking and Sale of Children	3
Child Pornography and Internet Crimes	4
Prostitution.....	4
Adoption	4
Closing Remarks	4

Turkey ratified the OPSC in 2002. On 17 May 2006, The Committee on the Rights of the Child (the committee) examined Turkey's Initial Report on the OPSC.

Opening Comments

Prof. Hamit Hanci, the head of the delegation, explained that many reforms were under way to comply with European Union (EU) regulations. The penal code was reformed in 2005 and the definition of the child was changed to anyone under 18. There was a clear definition of sexual abuse and the damage done to victims was recognised by the court. Assisting human trafficking, child prostitution or pornography was described in detail as a crime, and it included information crimes. He noted that the rights of child victims and children forced to commit crimes were recognised and many efforts were underway to protect them, including the presence of child specialists in courts and the recording of hearings so children only testified once. There was also an emphasis on counselling, education and guaranteed health care for all children to resolve social and economic problems. The state had created a National Action Plan and Task Force to fight human trafficking. Meanwhile, the curriculum included children's rights and plans were underway with UNICEF to distribute pamphlets. He announced that the International Congress on the Rights of the Child would be held in Turkey in 2006. In addition, legislation was being amended based on the fundamental principles of the CRC, which was a revolutionary change in Turkey. Effects were already seen, and much effort was put into overcoming implementation difficulties. He stressed that they would continue ensuring children's rights to create a better world to grow up in.

The country rapporteur, Mr. Pollar, was happy about the training courses for teachers, but wanted more done to prepare a teacher's handbook defining abuse. He commented that the National Action

Plan looked achievable, displayed clear intentions, and covered all aspects of the CRC. He noted that many laws were in draft form and hoped this work would continue. He also hoped the practice of providing lawyers to child victims would be strengthened.

Legislation and Criminal Code

The Committee asked if a ratified optional protocol (OP) automatically became law of the land or if legislation was needed. The delegation said that international agreements superseded national law and were applied directly by courts. It would therefore be included in domestic law for simplification. The committee asked about the measures taken to ensure awareness was raised about the changes especially amongst judges. The delegation explained that once it was ratified by parliament it was binding. It was published in the official gazette and bulletin to inform judges about all changes. The Committee commented that the spirit of the OP was missing in the amendments, and many crimes were not addressed with the perspective of children's rights. It enquired if draft legislation was independently reviewed to ensure that the CRC requirements were met. The delegation replied that texts were distributed to NGOs, bar associations and universities, and it was also on the internet. There was a drafting commission which assessed all comments and made changes.

The Committee asked about laws related to children of similar ages involved in sexual intercourse. The delegation said that intercourse under the age of 15 was not publicly addressed or prosecuted unless there was a complaint about a threat or instigation. The Committee commented that between 15 and 18 a case could not be prosecuted unless an element of coercion, threat or deception was present. However, this did not comply with the CRC and an explanation was needed. The delegation admitted that it was the law. The Committee also enquired about the kidnapping of girls for marriage. It requested confirmation that the legal marriage age was 17, and the delegation confirmed that it was the case since 2002. The Committee then asked if it was true that any criminal penalties were suspended if the abductor married the victim, expressing concern for girls abducted against their will. The delegation responded that this was changed so marriage was not a reason for acquittal in cases of abduction or rape.

The Committee asked how often a foreigner was tried in Turkey for OPSC crimes, and if Turkish citizens were tried in other countries. The delegation said that anyone who committed a crime in Turkey, or consequences of a foreign crime were felt in Turkey, they were subject to Turkish law. The Committee asked if legal entities could also be tried criminally and punished in cases of corporations or organisations committing crimes. The delegation noted that legal entities did not have criminal responsibility but measures could be taken against them as a security provision, such as confiscating assets or cancelling permission to function if applicable. The Committee asked if the head of the corporation could be punished. The delegation said that anyone aware of, or assisting in, the crime was a perpetrator. If a company was set up for illegal reasons, it could no longer exist. The Committee asked why the power of individuals to start civil law suits was annulled and only public prosecutors could lodge a suit. This was not discussed.

Implementation and Coordination

The Committee expressed concern regarding the lack of information about budgetary allocations for the National Action Plan. It appeared that the individual agencies and stakeholders assigned individual budgets and the Committee wondered if this was effective. The delegation responded that detailed budget information could not be given because of the separate budgetary process of each ministry and institution, but assured that each agency was giving adequate funding to each programme in the action plan.

The Committee asked for clarification regarding the General Directorate of Social Services and the Child Protection Agency. It noted that it was part of the ministry of health and wanted to know about its authority to coordinate with other ministries. The delegation responded that the ministry of health led the activities because of the importance of the right to life. It insisted that there were no

coordination problems with other ministries. The Committee then asked if children were involved in the implementation, but the delegate did not discuss this.

Assistance to Victims

The Committee asked for more information about the foster centres created to help children living on the streets and the 2 centres for victims of sexual exploitation. The delegation responded that they were administered jointly with NGOs to help child prostitution and trafficking victims, and new shelters would be opened where needed. The shelters provided assistance and psychological aid. The Committee enquired into the role of security organisations and the coordinator responsible for the work. The delegation explained that there were over 3500 people working for the juvenile police, and they collaborated through the General Directorate. A child would be assessed by the Directorate and referred to other units for aid. The Committee asked about training for the providers of assistance to child victims. The delegation noted that they were trained.

The Committee discussed the need to decentralise the child helpline to reach remote areas and the need to fund 24-hour coverage, outreach services and increase awareness. The delegation explained that local lines were set up in 8 provinces, but phone lines were not sufficient for regional areas. There were 48 centres with expert staff to respond to complaints. The Committee enquired about the budgets of these centres and if there were other measures for children to lodge complaints, specifically an Ombudsman for children. It also asked about measures in courts to assist victims, such as screens to shield victims from perpetrators. The delegation did not respond to these questions.

NGO Involvement

The Committee discussed the importance of involving NGOs and professional associations, citing the positive step of lawyers' organisations supplying free legal aid. There was concern that NGOs were not empowered to set up assistance centres for children and it enquired if this would be reformed. The delegation responded that since 2005, NGOs had that authority. It added that NGOs bar associations and universities were involved in services for child victims and were consulted in drafting this report.

Awareness and Prevention

The Committee stated that the government had an obligation to take all necessary preventative measures, but there appeared to be no concrete actions in the action plan. It asked for more information about awareness and prevention campaigns and the means to carry them out. The delegation said that a television programme was produced focusing on child abuse and child rights. The Committee asked if the campaigns were appropriate to children and if the latter were involved in their preparation. This was not discussed by the delegation. The Committee then commented on the strong Muslim influence and asked if social taboos were an obstacle to public debate and dissemination of information, especially in remote areas. The Committee mentioned that this taboo seemed to contribute to a lack of research and statistics and wondered how the gap was filled. The delegation responded that the gathering of statistics was recent and much work remained to be done. The Committee commented that more visibility was needed.

Trafficking and Sale of Children

The Committee asked what bilateral agreements existed with neighbouring countries to prevent trafficking and deal with the repatriation of victims. The delegation said that such agreements existed with 4 source countries (Ukraine, Georgia, Belarus, Moldova) to facilitate an exchange of information and carry out common operations. The Committee commented on previous problems of the police to work with foreign police and asked how this was remedied. The delegation responded that direct telephone links existed so the police could exchange information and work directly with

other countries. It said the Gendarmerie worked with many international police organisations to handle rural areas.

The Committee asked why the penalty for the sale of children was reduced from 5-10 years, to only 1-5 years. The delegation explained that there was no reduction, it was just a matter of drafting logistics. If the crime was committed against a child it was 2-10 years, and this was increased if sexual acts were involved. The Committee enquired about information gathering problems, citing very low numbers of cases and noting that the problem seemed to be on a larger scale than reported. The delegation responded that trafficking was like an iceberg. It was difficult to know the numbers that lay beneath the water, but they were opening shelters and training police, gendarmerie, coast guard, lawyers and judges. They were also working with NGOs to raise awareness.

The Committee discussed reports that large families in extreme poverty sometimes sold a child, and wanted to know what was done to stop it. The delegation insisted that this was not a problem and poverty was not a reason because over 300 million was spend to fund health care and education services for poor children. The Committee enquired about the kidnapping of babies from hospitals and if they were sold. The delegation responded that this was rare and did not usually involve sale. There had been only a handful of cases in the past decade, and it was families who wanted a child. They said that all large hospitals had security units with special measures for maternity wards. In addition, 82% of births took place in baby-friendly hospitals, where babies and mothers stayed together. The Committee asked if measures were taken to insure the correct identification and birth certificates. The delegation said hand and foot prints were taken in the hospital.

Child Pornography and Internet Crimes

The Committee asked if child pornography was included in the obscenity clause of the penal code, and the delegation responded that it was. The Committee enquired if the new information law made it a crime to use the internet to purvey child pornography. The delegation explained that child pornography was a crime in the draft law on cybercrimes. It added that the OPSC clearly defined forms of child pornography, so it was enforced by law. The Committee asked why the state had not ratified the EU convention on cybercrimes. The delegation explained that it was underway, but the process took time.

Prostitution

The Committee commented that adult prostitution was legal, but due to corruption in some brothels there were also children with forged documents. The Committee wanted to know what was being done to address this issue, but the delegation did not respond.

Adoption

The Committee noted that no effective monitoring was conducted on adoptions, and it was unclear how many children were adopted in Turkey and internationally. There was concern that this system could be abused, and the Committee asked what control mechanisms were in place for state adoptions and private organisations conducting international adoption. The delegation replied that the General Directorate carried out these activities in line with the Hague Convention, and monitoring was conducted for a year. It also stated that there had been 37 international adoptions.

Closing Remarks

Due to a shortage of time, the Chair briefly thanked the delegation, and Dr. Hanci thanked the Committee for its hospitality and pleasant dialogue.