



**Convention on the
Rights of the Child**

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COMMITTEE ON THE RIGHTS OF THE CHILD
CONSIDERATION OF REPORTS SUBMITTED BY STATES
PARTIES UNDER ARTICLE 8, PARAGRAPH 1, OF THE OPTIONAL
PROTOCOL TO THE CONVENTION ON THE RIGHTS
OF THE CHILD ON THE INVOLVEMENT OF CHILDREN
IN ARMED CONFLICT

Initial reports of States parties due in 2006

TURKEY

[20 November 2007]

Article 1

1. The Republic of Turkey signed the Convention on the Rights of the Child on 14 September 1990 and ratified it by decision of the Council of Ministers No. 4058 of 9 December 1994. The Convention came into force on 11 December 1994. The Optional Protocol to the Convention on the Rights of the Child on the involvement of children in the armed conflict was signed on 8 September 2000 and ratified by decision of the Council of Ministers No. 4991 of 16 October 2003. The Optional Protocol came into force on 18 March 2004.

2. Article 41/2 of the Constitution of the Republic of Turkey entrusts the State with the task of taking necessary measures for the protection of children. On the other hand, article 90 of the Constitution reads as follows: “International agreements duly put into effect bear the force of law. No appeal to the Constitutional Court shall be made with regard to these agreements, on the grounds that they are unconstitutional (Additional sentence inserted: 7.5.2004 – Article 5170/7). In the case of a conflict between international agreements in the area of fundamental rights and freedoms duly put into effect and the domestic laws due to differences in provisions on the same matter, the provisions of international agreements shall prevail”.

3. According to article 72 of the Constitution, “national service is the right and duty of every Turk. The manner in which this service shall be performed, or considered as performed, either in the Armed Forces or in public service shall be regulated by law”.

4. The principal laws regulating the military service are the “Law on Military Service” No. 1111 and the “Law for Reserve Officers and Reserve Military Servants” No. 1076.

5. The legislation of the Republic of Turkey on military service regulates the aforementioned national service as a compulsory service as a rule only for males. The military service commences for every male on the first day of the year he reaches the age of 20.

6. In the Turkish Armed Forces, there is no staff below the age of 18 under the obligation of military service. Therefore, it should be emphasized at the outset that no problem exists regarding the implementation of the Optional Protocol, as there is no provision in the military conscription system in Turkey allowing children to be called to arms apart from direct involvement of children in armed conflict.

Article 2

7. According to article 2 of Law No. 1111, the age of military service for every male starts on the first day of January of the year he reaches the age of 20, on the basis of the date of birth in the register of births, and ends on the first day of January of the year he reaches the age of 41. The deadline, if deemed necessary by the General Staff, can be extended up to five years or shortened upon the proposal of the Ministry of National Defence and a decision of the Council of Ministers. Therefore, under Turkish legislation, it is not possible for individuals under the age of 18 to be called to arms.

8. Article 5 of the “Regulation on the Initial Procedures of the First Call-up of Recruits of the Persons who are of Military Age” reads as follows: “The birth registration offices of provinces and public registration offices of districts send the names of the persons who will reach the military age that year, the names of their fathers and mothers, their dates and places of birth and other necessary information regarding their birth record, as indicated in the register of births, by writing them separately for each village and district and in two copies,

and also provide the Directorate of the Draft Office in the region with one of the said copies not later than 15th of January.” Therefore, the initial recruitment procedures of persons at military age are commenced by taking into account their age, calculated according to their date of birth as indicated in their birth records enunciated by the Birth Registration Offices.

9. Article 4 of Law No. 1111 provides that “the call-up period starts from the beginning of military service age and lasts until the attendance to the detachment. In the state of emergency and mobilization, those who are at the call-up age, but not of recruiting age pursuant to Article 8, as well as those who are 19 years old may also be recruited upon the request of the Ministry of National Defense, the acceptance of the Council of Ministers and the approval of the President”. According to this, Turkish citizens to be conscripted in states of emergency and mobilization should be those who underwent medical examination, but were not yet conscripted and who have reached at least the age of 19.

10. Under article 35 of Law No. 1111, the procedures and examinations of those who are considered to be incapable of accomplishing their military service during their last inspection due to the reasons prescribed by the law are postponed to the year after. Pursuant to the provision that reads “those who are not physically grown up enough for military service”, all military service procedures for those persons are postponed for one year, and they are reassessed the following year after having undergone medical examination. This process is repeated for a period of five years, and after five years, those who have not physically grown up enough for military service are exempted from military service.

11. According to article 81 of Law No. 1111, changes made in the ages after reaching the military age do not affect the military service. However, among the ones who did not pass through the last call-up and whose ages recorded in the register of births are considered not fitting their personalities, are submitted by the military committees, draft offices and top civil service superiors to the Public Prosecutor in order to demand from the competent court the correction of their age, and the military service for such persons is processed according to the age considered appropriate by the court. Pursuant to this provision, the recruitment operations take into account not only the persons’ ages registered in the birth records, but also the considerations as to whether their appearance match with their known ages. Those whose ages are found not matching with their appearances are referred to the Offices of the Public Prosecutor for rectification of their ages and the procedures concerning their military service are ceased or continued on the basis of the court decision.

12. According to article 27 of Law No. 1111, on the day determined, the names in the call-up list belonging to those living in the villages and areas where the call-up would be carried out are read out aloud. The board of aldermen and their friends are asked whether those whose names were read have showed up. Their identity cards are requested and compared with the names in the call-up list. If the names do not match, the reason for this situation is asked and they are legally corrected upon mutual agreement, and a medical examination is conducted by the board of physicians. Decision is made as to whether they are suitable for the military service or not and whether they fulfill the conditions of the shorter service. The decisions are notified to those who had their call-up completed and recorded as such in their call-up list at the Draft Office and the Registry Office, accordingly. This provision provides that due attention is paid to the determination of the actual age and the identity of citizens during the medical examination process, carried out to ascertain whether or not they are suitable for enrolment.

13. Article 4 of Law No. 1111 stipulates that persons who are 19 years of age can also be recruited during a mobilization or state of emergency, upon the request of the Minister of

National Defence, deemed necessary by the Council of Ministers and by the approval of the President.

14. On the other hand, in article 5 of Law No. 1111, the duration of military service in respect of noncommissioned officers and privates in the Land Forces Command, Naval Forces Command, Air Forces Command and the General Command of Gendarmerie is set at 18 months. The Council of Ministers may reduce this period to 15 months or to 12 months in times of peace, taking into account the needs of the armed forces.

15. The determination of the duration of compulsory military service starts from the date of induction by the Draft Office. The excessive term served in the army for more than the period specified is deducted as twice from the reserve military period. In Turkey, as of 15 July 2003, pursuant to decision No. 2003/5795 of the Council of Ministers of 23 June 2003 the period of military service is 15 months for noncommissioned officers and privates and 12 months for reserve officers.

16. According to article 49 of Law No. 1111, “Those individuals, whose call-ups are completed, are transferred on the date of their induction from the Draft Offices by the civil servants or gendarmerie, with their identity card marked and two separate copies of their post bills prepared according to their destination.”

17. In summary, under the existing legislation it is not possible for persons below the age of 18 to be recruited in the armed forces or involved in an armed conflict as a member. In Turkey, both the compulsory and voluntary military service age is above this limit.

Article 3, paragraph 1

18. According to article 11 of Law No. 1111, the age of at least 18 must be completed for admission to military service on a voluntary basis. As a matter of fact, voluntary recruitment does not take place in practice due to the sufficiency of resources in respect of the compulsory military service.

Article 3, paragraphs 2 and 4

19. In Turkish legislation, no problem exists concerning these provisions.

Article 3, paragraph 3

20. In Turkish legislation, no problem exists concerning this provision.

Article 3, paragraph 5

21. The Military Academies, the Military Medical Academy, and the NCO Corps Profession Colleges, within the organizational charter of the Turkish Armed Forces, are the actual source for training of officers and NCOs. These higher education institutions offer university education, and the education and instruction level is above the level of the military high schools and their equivalent military schools, where individuals below the age of 18 are educated.

22. Within the structure of and under the supervision of the Turkish Armed Forces, the Military High Schools and the NCO Preparatory School are schools attended by students who might be regarded as children. Admission to these secondary education institutions is on a voluntary basis and subject to the consent of families.

23. Students who wish to enter the Military High Schools and the NCO Preparatory School take the admission examinations of their own will. Those who succeed the examinations and enter the quota must pass a second phase of procedures (health examinations, tests for physical qualification and interview). The applicants who are successful in this process are then admitted to the schools. A “liability document” approved by the notary is requested from the parents for possible compensation claims.

24. The minimum age of admission to these secondary schools of the Turkish Armed Forces is 13 years and the maximum age is 16. Students who study at these schools are not, in any way, under any military liability under the military legislation such as the Law on Military Service No. 1111, the Law for Reserve Officers and Reserve Military Servants No. 1076, the Military Penal Law No. 1632 and the Law on the Establishment and Procedures of the Military Courts. They are not entrusted with any military service or duty, and therefore, not considered as soldiers. They are not entitled to hold a military status, authority or rank. They do not belong to any military unit other than being a military school student. Therefore, these students cannot be considered as members of the armed forces within the scope of the Convention on the Rights of the Child and its Optional Protocol.

25. Students who graduate from the Military High Schools and the NCO Preparatory School do not hold any military status. As graduates of high school and its equivalent schools, they are only entitled to become student candidates to the military schools providing higher education. In these schools, basic military training or military skills are not provided. However, in case they may wish to become candidates for professional soldier, education on military courtesy rules, elementary military general culture etc. is provided –provided that regular education and instruction are not hindered– in order to attach them to the profession of arms. Accordingly, these schools do not run counter to the contents of articles 28 and 29 of the Convention on the Rights of the Child.

26. The educational and instructional activities at such schools are conducted within the scope of the Personnel Law, the Military High Schools Regulation and the NCO Preparatory Schools Regulation of the Turkish Armed Forces. At these schools, educational activities are carried out within the framework of weekly course charts approved by the Instruction and Training Board of the Ministry of National Education. The duration of this education is four years (annex1). Moreover, these schools use the courses and textbooks which are approved by the Instruction and Training Board of the Ministry of National Education and included in the curriculum of secondary education institutions. Within this framework, human rights education is also provided. The courses in these institutions are delivered by army officers and civilian teachers, who have received their university education in this field.

27. The current number of students in military secondary schools is 1,817.

28. In case an actual military requirement or state of emergency arises in times of mobilization or military conflict, the military student status of the students being trained at the Turkish Armed Forces military institutes does not change, and they are not assigned to participate in combat or subsidiary operations.

29. These students are allowed to leave the Turkish Armed Forces secondary school institutions at any time, if they so wish. They do not assume any obligation other than the

matters specified in the letter of undertaking signed by their family concerning tort and law of damages.

30. Guidance activities in the Turkish Armed Forces military institutes are duly carried out. The military students may consult with the student adviser at any time and may share their problems. Furthermore, students are closely monitored by the military officers responsible, who may contact the families to discuss the situation of the student, if deemed necessary.

31. All students of a military institute within the establishment of and under the supervision of the Turkish Armed Forces have the opportunity to communicate claims, demands or complaints through appropriate application procedures within the scope of the right of petition. This right is guaranteed by both the Constitution and the In-Service Law.

Article 4

32. In Turkey, there exists no situation or issue concerning this matter.

Article 5

33. Information on Turkey's accession to the international instruments to which this report refers and/or are found to be related to the subject of the Optional Protocol is as follows:

- The domestic ratification process to the four Geneva Conventions of 12 August 1949 on the rules to be followed in armed conflicts was issued in the Official Gazette, No. 8322 of 30 January 1953, following the enactment of the approval law (Law No. 6020 of 21 January 1953). Ratification of the Geneva Conventions was made conditional to its being effective as of 10 August 1954. With this condition, Turkey ratified the four Geneva Conventions.

- The European Convention on the Exercise of Children's Rights was signed in Strasbourg on 9 June 1999 with a statement. Following the enactment of Law No. 4620 of 18 January 2001 regarding its ratification; Decree No. 2002/3910 of the Council of Ministers of 12 March 2002 was issued and the Convention came into force on 1 October 2002 upon its promulgation in the Official Gazette, No. 24743, dated 2 May 2002.

- In 2001, Turkey became a party to International Labour Organization Convention No.182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

Article 6, paragraph 1 and 2

34. The Social Services and Child Protection Institution was assigned as the "coordinator institution" to monitor the implementation of the Convention on the Rights of the Child in Turkey, by the instruction of the Office of the Prime Minister, on 11 January 1995.

35. As mentioned above, Turkey does not have a concrete problem with regard to the Optional Protocol and so far, no complaint has been made to the administration about its

implementation. Therefore, there is no need for special measures to be taken, as envisaged by this provision.

Article 6, paragraph 3

36. In Turkey, no situation or issue has arisen within the content of this Article.

Article 7

37. No technical cooperation or financial assistance programme, as referred to in this article, was requested by or provided to Turkey in the course of the preparation of this report.
