

## **National Legal Framework- Turkey**

### **International Agreements Signed and Ratified by Turkey**

Turkey has signed and ratified most of the key international human rights agreements that also protect the rights of the victims of human trafficking. These include among others,

- the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW);
- the International Covenant on Civil and Political Rights (ICCPR);
- the International Covenant on Economic, Social and Cultural Rights (ICESCR);
- the Convention of the Rights of the Child (CRC) (along with the Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography);
- The European Convention on Human Rights was ratified by Turkey in 1954 and the jurisdiction of the European Court of Human Rights to accept individual application was accepted some 15 years ago.

Turkey is also a party to a number of international instruments requiring the prohibition of slavery and forced labour, including the UN slavery conventions, the ILO Conventions 29 and 105 prohibiting forced labour and ILO Convention 182 outlawing the worst forms of child labour. It is also a party to the UN Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, which include provisions to protect both regular and irregular migrant workers.

With regard to international agreements specific to trafficking in human beings, Turkey ratified the United Nations Convention against Transnational Organized Crime and its smuggling and trafficking protocols (Palermo Protocol). The Convention and its protocols were ratified by decisions of the Cabinet and came into force on March 18th 2003, with the publication of the protocol and related decision in the Official Gazette.

Turkey has recently signed the Council of Europe Convention on Action against Trafficking in Human Beings (CETS No. 197) in March 2009, which entered into force (for countries that have ratified it) in February 2008.

With regard to specific international standards on victim rights and victim protection, Turkey has signed the European Convention on the Compensation of Victims of Violent Crimes.

### **Regional and Bilateral Agreements**

Turkey has signed a number of regional cooperation agreements (i.e., Agreement among the Governments of the Black Sea Economic Cooperation Participating states on Cooperation in Combating crime, in particular in its Organized Form and its Additional Protocol which entered into force for Turkey on January 9th 1999 and September 18th 2002 respectively) and bi-lateral cooperation agreements related to the fight against trafficking in human beings and to general cooperation in legal matters. The following bilateral agreements on human trafficking specifically have been signed:

- Memorandum of Understanding between the Ministry of Interior of the Republic of Turkey and the Ministry of Internal Affairs of the Republic of Belarus on Cooperation in the field of Combating Trafficking in Human Beings and Illegal Migration, signed on July 28<sup>th</sup> 2004;
- Additional Protocol on the Implementation of Article I of the Agreement Against Crime between the Republic of Turkey and the Government of Ukraine on Cooperation in Combating Crime, signed on July 7<sup>th</sup> 2005;
- Protocol between the Republic of Turkey and Georgia on the Implementation of Article Nine of the Agreement on Fighting Terrorism, Organized Crime and Other Important Crimes between the Republic of Turkey, Georgia and the Republic of Azerbaijan on Combating Organized and Other Serious Crimes, signed on March 10<sup>th</sup> 2005;
- Agreement on Police Cooperation between the Republic of Turkey and the Republic of Bulgaria, signed on February 2<sup>nd</sup> 2005;
- Protocol between the Republic of Turkey and the Republic of Moldova on Cooperation in the field of Trafficking in Human Beings in the framework of the Agreement on Fighting Against International Illicit Drug Trafficking, International Terrorism and other Organized Crime, signed on February 8<sup>th</sup> 2006;
- Protocol on Cooperation in the area of Combating Human Trafficking between the MoI of the Republic of Turkey and the MoI of the Republic of Kyrgyzstan, within the framework of Agreement on Cooperation in Combating Crime and Ensuring Public Safety, signed on September 5<sup>th</sup> 2006.

These agreements include a number of provisions related to victim protection, obliging the states to undertake measures to: protect the victims testifying at court, provide physical and psychological rehabilitation options, accept returning victims (as countries of origin), and facilitate the return of victims without undue delays.

Turkey has signed agreements on judicial/legal assistance and cooperation with Ukraine, Romania, Lithuania, Moldova, Georgia, Azerbaijan, and others. These agreements include provisions on cooperation on issues such as witness hearings, the serving of court documents, the conduct of investigations and the provision of expertise.

## **Turkish Criminal Code (CC)**

### ***Definition of trafficking***

The criminal offence of THB was introduced into the Turkish Criminal Code for the first time in 2002.

Article 80, as amended in December 2006 (by law no. 5560) reads:

- 1) Any person who procures, kidnaps, harbours or transports a person from one place to another or brings a person into the country or takes a person out of the country, by the use of threat, pressure, force or violence, employing deceit, abusing influence or obtaining consent of a person by exploiting control over another or the hopelessness of such other, for the purpose of forced labour, servitude, prostitution, slavery or obtaining human organs shall be sentenced to a penalty of imprisonment for a term of eight to twelve years and to a judicial fine of up to ten thousand days

- 2) Where acts are committed for the purposes, and where such acts constitutes an offence, referred to in paragraph one the consent of the victim is invalid.
- 3) Where a person under eighteen years of age is procured, kidnapped, harboured or transported from one place to another for the purposes described in paragraph one, the offender shall be sentenced to a penalty described in section one, even if non of the means mentioned in paragraph one have been resorted to.
- 4) Security measures shall be imposed upon legal entities in respect of the aforementioned offences.

The residence status of trafficking victims is regulated through circulars and internal regulations of the General Directorate of Security.

**Circulars No. 74 and 77** state that victims can be given a 6-month residence permit in order to ensure their cooperation in investigation of the crime or upon a victim's request, for the purposes of rehabilitation and treatment of the victim, or for the victim's participation in court proceedings. Victims of trafficking are exempted from paying fees usually charged for the issuance of residence permits.